



# IOWA ADMINISTRATIVE BULLETIN

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## PREFACE

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

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

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

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

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**CITATION of Administrative Rules**

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

- 441 IAC 79 (Chapter)
- 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)

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## Schedule for Rule Making 2000

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

### PRINTING SCHEDULE FOR IAB

**ISSUE NUMBER**

**SUBMISSION DEADLINE**

**ISSUE DATE**

15

Friday, January 7, 2000

January 26, 2000

16

Friday, January 21, 2000

February 9, 2000

17

Friday, February 4, 2000

February 23, 2000

**PLEASE NOTE:**

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

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

## PUBLICATION PROCEDURES

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

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The Administrative Rules Review Committee will hold a special meeting on Tuesday, January 4, 2000, at 9 a.m. in Room 116, State Capitol, Des Moines, Iowa. The following rules will be reviewed:

Bulletin

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Rate of interest on interest-bearing taxes—calendar year 2000, 10.2(19), Filed ARC 9587A ..... 12/29/99

Administration; excise; use; cigarettes and tobacco, 10.76(1), 18.30(2) to 18.30(4), 33.5(2), 33.5(3), 81.1, 81.3, 81.4(10), 81.4(14), 81.6, 81.14, 82.1(5), 82.4(2), 82.4(5)"b," 82.5 to 82.7, 82.9, 82.9(4), 83.5 to 83.7, 83.11(2), Filed ARC 9586A ..... 12/29/99

Sales and use tax, 11.2, 13.1, 13.4, 15.3, 15.3(1), 15.3(2), 15.3(2)"b" to "d," 15.3(3)"c," 15.13, 17.8, 17.8(1), 17.33, 17.34, 18.40, 18.49, 18.60, 19.6(1), 19.6(2), 19.6(2)"b," 19.6(3)"d," 19.12, 19.13(2)"l," 26.2(3), 26.18(2)"c," 31.6, 32.3, 32.13, 33.9, 33.10, 34.3, Filed ARC 9589A ..... 12/29/99

Individual, corporation, and franchise taxes, 40.3"1," "4," and "9," 52.1, 52.5(2), 54.7(4), 54.7(7), 54.7(8), 54.9, 58.5(2), 59.29, Notice ARC 9590A ..... 12/29/99

Individual and corporation tax, 48.1, 52.1, 52.10(2), 52.16, 53.2(3)"d," 54.1, Filed ARC 9551A ..... 12/15/99

Death-related taxes, 86.1, 86.2(2)"d," 86.3(2), 86.3(6), 86.5(7)"d," 86.6(1)"g," 86.9(2)"f"(1), 86.12(5)"b," 87.3(4), 89.8(1), Filed ARC 9588A ..... 12/29/99

**SECRETARY OF STATE[721]**

Implementation of local option taxes after an election, 21.800(3)"b"(2), 21.803(4) Notice ARC 9560A ..... 12/29/99

**SOIL CONSERVATION DIVISION[27]**

AGRICULTURE AND LAND STEWARDSHIP DEPARTMENT[21]"umbrella"

Cost sharing on grade stabilization structures; summer construction incentive dates, 10.41, 10.41(10), 10.60(2), Notice ARC 9528A ..... 12/15/99

**TRANSPORTATION DEPARTMENT[761]**

General aviation airport infrastructure program, ch 717, Notice ARC 9527A ..... 12/15/99

**TREASURER OF STATE[781]**

LIFT—value-added agriculture linked investment loan program, 4.11, Filed Emergency After Notice ARC 9576A ..... 12/29/99

**UTILITIES DIVISION[199]**

COMMERCE DEPARTMENT[181]"umbrella"

Rule-making procedures, 1.3, ch 3, Filed ARC 9555A ..... 12/15/99

Refunds and back billing, 19.4(13)"a"(2) and (3), 19.4(13)"b"(1), 19.4(13)"d" and "e," 20.4(14)"b"(1) and (2), 20.4(14)"c" to "f," 21.4(6)"a," "d" and "e," 22.4(3)"k" and "l," Filed ARC 9561A ..... 12/29/99

**VETERANS AFFAIRS COMMISSION[801]**

Merchant marine war bonus, 1.11, Filed Emergency ARC 9559A ..... 12/29/99

**WORKFORCE DEVELOPMENT BOARD/SERVICES DIVISION[877]**

WORKFORCE DEVELOPMENT DEPARTMENT[871]"umbrella"

Requests for waiver of rules, 2.4, Notice ARC 9534A ..... 12/15/99



**ADMINISTRATIVE RULES REVIEW COMMITTEE MEMBERS**

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

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

Senator H. Kay Hedge  
3208 335th Street  
Fremont, Iowa 52561

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

Senator Patricia M. Harper  
3336 Santa Maria Drive  
Waterloo, Iowa 50702

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

Senator Sheldon Rittmer  
3539 230th Street  
DeWitt, Iowa 52742

Joseph A. Royce  
**Legal Counsel**  
Capitol, Room 116A  
Des Moines, Iowa 50319  
Telephone (515)281-3084  
Fax (515)281-5995

Representative Janet Metcalf  
12954 Oak Brook Drive  
Urbandale, Iowa 50323

Representative Clyde Bradley  
835 Blackhawk Lane  
Camanche, Iowa 52730

Representative Danny Carroll  
244 400th Avenue  
Grinnell, Iowa 50112

Representative Minnette Doderer  
2008 Dunlap Court  
Iowa City, Iowa 52245

Representative Geri Huser  
213 7th Street NW  
Altoona, Iowa 50009

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

## To All Agencies:

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

AGENCY	HEARING LOCATION	DATE AND TIME OF HEARING
<b>BLIND, DEPARTMENT FOR THE[111]</b>		
Variances and waivers of department for the blind administrative rules, ch 12 IAB 12/29/99 ARC 9574A	Director's Conference Room Department for the Blind 524 4th St. Des Moines, Iowa	January 18, 2000 1 p.m.
<b>DENTAL EXAMINERS BOARD[650]</b>		
Practice of dental hygiene, 1.1 IAB 12/15/99 ARC 9552A	Conference Room—Suite D 400 SW 8th St. Des Moines, Iowa	January 5, 2000 1 p.m.
Dental hygienists—monitoring of nitrous oxide inhalation analgesia, 10.3(1), 29.6(4), 29.6(5) IAB 12/15/99 ARC 9553A	Conference Room—Suite D 400 SW 8th St. Des Moines, Iowa	January 5, 2000 1 p.m.
<b>EDUCATION DEPARTMENT[281]</b>		
Open enrollment, 17.2 to 17.4, 17.7, 17.8, 17.10(7) IAB 12/15/99 ARC 9531A	State Board Room—2nd Floor Grimes State Office Bldg. Des Moines, Iowa	January 6, 2000 1 p.m.
Access to a school breakfast program, 69.11 to 69.16 IAB 12/15/99 ARC 9530A	State Board Room—2nd Floor Grimes State Office Bldg. Des Moines, Iowa	January 11, 2000 1 p.m.
<b>ENVIRONMENTAL PROTECTION COMMISSION[567]</b>		
Title V operating permit fee, 22.106(1) IAB 12/15/99 ARC 9536A	Conference Rooms 1 to 4 Air Quality Bureau 7900 Hickman Rd. Urbandale, Iowa	January 14, 2000 1 p.m.
Emission standards for contaminants, 23.1(4) IAB 12/15/99 ARC 9535A	Conference Rooms 1 to 4 Air Quality Bureau 7900 Hickman Rd. Urbandale, Iowa	January 14, 2000 10 a.m.
<b>HUMAN SERVICES DEPARTMENT[441]</b>		
Disability services management, 25.11 to 25.19 IAB 12/29/99 ARC 9562A	Conference Room—6th Floor Iowa Bldg., Suite 600 411 3rd St. SE Cedar Rapids, Iowa	January 19, 2000 10 a.m.
	Administrative Conference Room 417 E. Kanessville Blvd. Council Bluffs, Iowa	January 19, 2000 10 a.m.

**HUMAN SERVICES DEPARTMENT[441] (Cont'd)**

Large Conference Room—5th Floor Bicentennial Bldg. 428 Western Davenport, Iowa	January 19, 2000 10 a.m.
Conference Room 104 City View Plaza 1200 University Des Moines, Iowa	January 19, 2000 10 a.m.
Liberty Room Mohawk Square 22 N. Georgia Ave. Mason City, Iowa	January 19, 2000 9 a.m.
Conference Room 3 120 E. Main Ottumwa, Iowa	January 19, 2000 10 a.m.
Fifth Floor 520 Nebraska St. Sioux City, Iowa	January 20, 2000 1:30 p.m.
Conference Room 220 Pinecrest Office Bldg. 1407 Independence Ave. Waterloo, Iowa	January 19, 2000 10 a.m.

**NATURAL RESOURCE COMMISSION[571]**

Operation of motor vehicles in meandered streams, 49.5 IAB 12/29/99 ARC 9581A	West Conference Room—4th Floor Wallace State Office Bldg. Des Moines, Iowa	January 19, 2000 1 p.m.
Scuba and skin spearing of rough fish in meandered streams, 83.2(1) IAB 12/29/99 ARC 9582A	West Conference Room—4th Floor Wallace State Office Bldg. Des Moines, Iowa	January 19, 2000 2 p.m.

**PROFESSIONAL LICENSURE DIVISION[645]**

Speech pathology and audiology examiners, 300.6(2), 301.4 IAB 12/15/99 ARC 9547A	Board Conference Room—5th Floor Lucas State Office Bldg. Des Moines, Iowa	January 4, 2000 9 to 11 a.m.
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**RACING AND GAMING COMMISSION[491]**

Waivers or variances from rules; certified bleeder; evaluation of new gambling game, 1.8, 10.6(1), 26.18 IAB 12/15/99 ARC 9537A	Suite B 717 E. Court Ave. Des Moines, Iowa	January 4, 2000 9 a.m.
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**SECRETARY OF STATE[721]**

Local option tax election, 21.800(3), 21.803(4) IAB 12/29/99 ARC 9560A	Office of the Secretary of State Second Floor Hoover State Office Bldg. Des Moines, Iowa	January 18, 2000 1:30 p.m.
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**SOIL CONSERVATION DIVISION[27]**

Cost-sharing on grade stabilization structures; summer construction incentive dates, 10.41, 10.60(2) IAB 12/15/99 <b>ARC 9528A</b>	Conference Room—2nd Floor South Half Wallace State Office Bldg. Des Moines, Iowa	January 11, 2000 2 p.m.
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**TRANSPORTATION DEPARTMENT[761]**

General aviation airport infrastructure program, ch 717 IAB 12/15/99 <b>ARC 9527A</b>	Operations and Finance Division Conference Room—2nd Floor Administration Bldg. 800 Lincoln Way Ames, Iowa	January 6, 2000 10 a.m. (If requested)
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**WORKFORCE DEVELOPMENT BOARD/SERVICES DIVISION[877]**

Requests for waiver of rules, 2.4 IAB 12/15/99 <b>ARC 9534A</b>	Stanley Conference Room—1st Floor 1000 E. Grand Ave. Des Moines, Iowa	January 4, 2000 10 a.m.
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Due to reorganization of state government by 1986 Iowa Acts, chapter 1245, it was necessary to revise the agency identification numbering system, i.e., the bracketed number following the agency name.

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

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

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

The following list will be updated as changes occur:

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]

EMPOWERMENT BOARD, IOWA[349]

ETHICS AND CAMPAIGN DISCLOSURE BOARD, IOWA[351]

EXECUTIVE COUNCIL[361]

FAIR BOARD[371]

GENERAL SERVICES DEPARTMENT[401]

HUMAN INVESTMENT COUNCIL[417]

HUMAN RIGHTS DEPARTMENT[421]

Community Action Agencies Division[427]

Criminal and Juvenile Justice Planning Division[428]

Deaf Services Division[429]

Persons With Disabilities Division[431]

Latino Affairs Division[433]

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

Status of Women Division[435]

HUMAN SERVICES DEPARTMENT[441]

INSPECTIONS AND APPEALS DEPARTMENT[481]  
    Employment Appeal Board[486]  
    Foster Care Review Board[489]  
    Racing and Gaming Commission[491]  
    State Public Defender[493]  
LAW ENFORCEMENT ACADEMY[501]  
LIVESTOCK HEALTH ADVISORY COUNCIL[521]  
MANAGEMENT DEPARTMENT[541]  
    Appeal Board, State[543]  
    City Finance Committee[545]  
    County Finance Committee[547]  
NARCOTICS ENFORCEMENT ADVISORY COUNCIL[551]  
NATIONAL AND COMMUNITY SERVICE, IOWA COMMISSION ON[555]  
NATURAL RESOURCES DEPARTMENT[561]  
    Energy and Geological Resources Division[565]  
    Environmental Protection Commission[567]  
    Natural Resource Commission[571]  
    Preserves, State Advisory Board[575]  
PERSONNEL DEPARTMENT[581]  
PETROLEUM UNDERGROUND STORAGE TANK FUND  
    BOARD, IOWA COMPREHENSIVE[591]  
PREVENTION OF DISABILITIES POLICY COUNCIL[597]  
PUBLIC DEFENSE DEPARTMENT[601]  
    Emergency Management Division[605]  
    Military Division[611]  
PUBLIC EMPLOYMENT RELATIONS BOARD[621]  
PUBLIC HEALTH DEPARTMENT[641]  
    Substance Abuse Commission[643]  
    Professional Licensure Division[645]  
    Dental Examiners Board[650]  
    Medical Examiners Board[653]  
    Nursing Board[655]  
    Pharmacy Examiners Board[657]  
PUBLIC SAFETY DEPARTMENT[661]  
RECORDS COMMISSION[671]  
REGENTS BOARD[681]  
    Archaeologist[685]  
REVENUE AND FINANCE DEPARTMENT[701]  
    Lottery Division[705]  
SECRETARY OF STATE[721]  
SEED CAPITAL CORPORATION, IOWA[727]  
SHEEP AND WOOL PROMOTION BOARD, IOWA[741]  
TELECOMMUNICATIONS AND TECHNOLOGY COMMISSION, IOWA[751]  
TRANSPORTATION DEPARTMENT[761]  
    Railway Finance Authority[765]  
TREASURER OF STATE[781]  
TURKEY MARKETING COUNCIL, IOWA[787]  
UNIFORM STATE LAWS COMMISSION[791]  
VETERANS AFFAIRS COMMISSION[801]  
VETERINARY MEDICINE BOARD[811]  
VOTER REGISTRATION COMMISSION[821]  
WORKFORCE DEVELOPMENT DEPARTMENT[871]  
    Labor Services Division[875]  
    Workers' Compensation Division[876]  
    Workforce Development Board and  
    Workforce Development Center Administration Division[877]

## ARC 9574A

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 section 17A.4(1)“b.”

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

Pursuant to the authority of Iowa Code section 216B.6, the Commission for the Blind gives Notice of Intended Action to adopt Chapter 12, “Variances and Waivers of Department for the Blind Administrative Rules,” Iowa Administrative Code.

These rules provide the process and criteria for the waiver or variance of a departmental rule.

Any interested person may make written suggestions or comments on the new chapter on or before January 18, 2000. 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 January 18, 2000, 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 section 17A.3, Iowa Code chapters 216B and 216D, and Executive Order 11.

The following rules are proposed.

Adopt the following new chapter:

## CHAPTER 12

VARIANCES AND WAIVERS OF DEPARTMENT FOR  
THE BLIND ADMINISTRATIVE RULES

**111—12.1(216B) Applicability.** This chapter governs waivers or variances from department rules in the following circumstances: (1) the director of the department for the blind has the discretion to grant waivers or variances from rules upon consideration of all relevant factors or has final decision-making authority over a waiver or variance granted in a contested case proceeding; and (2) no statute or rule otherwise controls the grant of a waiver or variance from the rule from which waiver or variance is requested.

**111—12.2(216B) Director’s authority.** The director, or the presiding officer as part of the decision in a contested case, may grant a waiver of, or variance from, all or part of a rule.

**111—12.3(216B) Compliance with statute.** No waiver or variance may be granted from a requirement that is imposed by statute. Any waiver or variance must be consistent with statute.

**111—12.4(216B) Criteria.** A waiver or variance under this chapter may be granted only upon a showing that:

**12.4(1)** A waiver or variance in the specific case would not prejudice the substantial legal rights of any person; and

**12.4(2)** The waiver or variance will not harm other persons and will not adversely affect the public interest; and

**12.4(3)** Because of special circumstances, either the requester is unable to comply with the particular rule without undue hardship or compliance with the particular rule would be unnecessarily and unreasonably costly and serve no public benefit.

**111—12.5(216B) Request.** A request for a waiver or variance must be submitted in writing to the department with a copy to the director. Submissions to the department shall be directed within the department according to the nature of the proceeding to which the waiver or variance relates.

**12.5(1) License or formal agreement.** If the request relates to a limitation on a license or formal agreement, the request shall be made in accordance with the review process for the license or formal agreement in question.

**12.5(2) Contested cases.** If the request relates to a pending contested case, the request shall be filed in the contested case proceeding.

**12.5(3) Other.** If the request is not related to a pending contested case, the request may be submitted to the Coordinator for Administrative Rules, Department for the Blind, 524 Fourth Street, Des Moines, Iowa 50309-2364.

**111—12.6(216B) Elements.** A request for waiver or variance shall include the following information where applicable:

**12.6(1)** The name, address, and telephone number of the person requesting the waiver or variance and the person’s representative, if any.

**12.6(2)** The specific rule from which a waiver or variance is requested.

**12.6(3)** The nature of the waiver or variance requested, including any alternative means or other proposed condition or modification proposed to achieve the purpose of the rule.

**12.6(4)** An explanation of the reason for the waiver or variance, including all material facts relevant to the grant of the waiver or variance in question.

**12.6(5)** A description of any prior contacts between the department and the requester relating to the regulated activity or formal agreement affected by the proposed waiver or variance, including a list or description of department licenses or formal agreements held by the requester, any notices of violation, contested case hearings, or investigative reports relating to the regulated activity or formal agreement within the last five years.

**12.6(6)** The name, address, and telephone number of any public agency or political subdivision which also regulates the activity in question or which might be affected by the grant of a waiver or variance.

**12.6(7)** Any information known to the requester regarding the department’s treatment of similar cases.

**12.6(8)** The name, address, and telephone number of any person with knowledge of the relevant facts relating to the proposed waiver or variance.

**12.6(9)** Any necessary releases of information authorizing persons with knowledge to disclose relevant information to the department.

**111—12.7(216B) Ruling.** The department shall respond in writing to all requests. The ruling shall include the reason for granting or denying the request and, if approved, the time period during which the waiver or variance is effective. Rulings on a waiver or variance shall be made by the director in the following manner:

**12.7(1)** Agency staff to whom the request was properly directed shall make a recommendation to the director when the request relates to a limitation on a license or formal

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

agreement, or relates to any other matter except a contested case. The director shall respond to the request.

**12.7(2)** The presiding officer in a contested case shall respond to a request relating to a pending contested case proceeding in the proposed or final decision of the agency. The director may affirm, reverse, or modify the response.

**111—12.8(216B) Public availability.** All final rulings in response to requests for waivers or variances shall be indexed and available to members of the public in the Office of the Coordinator for Administrative Rules, Department for the Blind, 524 Fourth Street, Des Moines, Iowa 50309-2364. In addition, the director shall notify the commission for the blind of any ruling to grant a waiver or variance at its next regularly scheduled meeting following the ruling.

**111—12.9(216B) Conditions.** The director may condition the grant of a waiver or variance on such reasonable conditions as appropriate to achieve the objectives of the particular rule in question through alternative means.

**111—12.10(216B) Voiding or cancellation.** A waiver or variance is void if the material facts upon which the request is based are not true or if material facts have been withheld. The director may at any time cancel a waiver or variance upon appropriate notice and hearing if the director finds that the facts as stated in the request are not true, material facts have been withheld, the alternative means of compliance provided in the waiver or variance have failed to achieve the objectives of the statute, or the requester has failed to comply with conditions set forth in the waiver or variance approval.

**111—12.11(216B) Violations.** Violation of conditions in the waiver or variance approval is the equivalent of violation of the particular rule for which the waiver or variance is granted and is subject to the same remedies or penalties.

**111—12.12(216B) Appeals.** Any request for an appeal from a decision by the director granting or denying a variance or waiver shall be in accordance with the procedures provided in Iowa Code chapter 17A. An appeal shall be taken within 30 days of the issuance of the ruling in response to the request unless a contrary time is provided by rule.

Any request for an appeal from a decision by the presiding officer in a contested case proceeding granting or denying a variance or waiver shall be in accordance with the procedures provided in 111—Chapters 8, 10, and 11. An appeal shall be taken within ten days of the issuance of the presiding officer's proposed decision in response to the request unless a contrary time is provided by rule. Notwithstanding any departmental rule to the contrary, the director may, upon notice to the parties to a contested case given within ten days of the issuance of the presiding officer's proposed decision, review a presiding officer's proposed decision in which a variance or waiver has been granted or denied regardless of whether any party to the contested case proceeding requests an appeal. The director may then affirm, reverse, or modify the presiding officer's decision granting or denying a variance or waiver.

These rules are intended to implement Iowa Code section 17A.3, Iowa Code chapters 216B and 216D, and Executive Order 11.

**ARC 9562A**

## HUMAN SERVICES DEPARTMENT[441]

### Notice of Intended Action

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

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

Pursuant to the authority of Iowa Code section 331.439(1)"b" as amended by 1999 Iowa Acts, chapter 160, section 13, the Department of Human Services proposes to amend Chapter 25, "Disability Services Management," appearing in the Iowa Administrative Code.

These amendments rewrite the rules that define the standards for county management plans for mental health, mental retardation, and developmental disability services. Each county must complete a plan in order to meet the requirements of Iowa Code section 331.439. 1999 Iowa Acts, chapter 160, division IV, amended Iowa Code section 331.439 to implement a three-part plan for the county mental health, mental retardation, and developmental disability services. These amendments reflect the direction mandated by the General Assembly. Changes include:

- The management plan is separated into three separate pieces: the Policies and Procedures Manual, the Management Plan Review, and the Three-Year Strategic Plan. The "Policies and Procedures" part of the Management Plan will describe the system management and plan administration. The "Strategic Action Plan" shall describe the county's vision for its mental health, mental retardation and developmental disabilities system for the ensuing three years. The "Management Plan Annual Review" shall incorporate an analysis of the data associated with the services managed during the preceding fiscal year by the county or by the managed care entity on behalf of the county.

- The qualifications of the Central Point of Coordination Administrator are revised to require two years of experience working with people with disabilities and to provide a grandfathering clause for persons continually employed as Central Point of Coordination administrators prior to April 1, 1996.

- The definition of "Service coordinator" is expanded to include county caseworkers, county social workers, and qualified case managers as defined in rule 441—24.1(225C).

- Other definitions are revised for clarity and some definitions are removed that are no longer used in the body of the rules. Various Iowa Code and rule citations are corrected.

Both the Department of Human Services and county governments supported the changes to the Iowa Code regarding the county management plans. County and state governments discussed the ramifications requiring implementation of 1999 Iowa Acts, chapter 160, division IV, for Fiscal Year 2000 or Fiscal Year 2001. It was a group consensus that the plans should be changed for Fiscal Year 2001 with the understanding that the writing of the management plans would happen simultaneously with the approval process for the rules.

At the request of the State County Management Committee, a workgroup comprised of a consumer representative, a provider representative and county and state government



## HUMAN SERVICES DEPARTMENT[441](cont'd)

representatives addressed the task to rewrite the rules. Input was sought from all the represented groups and was considered for the rules. The final draft of the rules was presented to the State County Management Committee, which then requested that the Department of Human Services submit them to the Council on Human Services for consideration.

Consideration will be given to all written data, views, and arguments thereto received by the Office of Policy Analysis, Department of Human Services, Hoover State Office Building, Des Moines, Iowa 50319-0114, on or before January 19, 2000.

Oral presentations may be made by persons appearing at the following meetings. Written comments will also be accepted at these times.

Cedar Rapids - January 19, 2000 10 a.m.  
Cedar Rapids Regional Office  
Iowa Building - Suite 600  
Sixth Floor Conference Room  
411 Third St. S.E.  
Cedar Rapids, Iowa 52401

Council Bluffs - January 19, 2000 10 a.m.  
Administrative Conference Room  
Council Bluffs Regional Office  
417 E. Kanessville Boulevard  
Council Bluffs, Iowa 51501

Davenport - January 19, 2000 10 a.m.  
Davenport Area Office  
Bicentennial Building - Fifth Floor  
Large Conference Room  
428 Western  
Davenport, Iowa 52801

Des Moines - January 19, 2000 10 a.m.  
Des Moines Regional Office  
City View Plaza  
Conference Room 104  
1200 University  
Des Moines, Iowa 50314

Mason City - January 19, 2000 9 a.m.  
Mason City Area Office  
Mohawk Square, Liberty Room  
22 North Georgia Avenue  
Mason City, Iowa 50401

Ottumwa - January 19, 2000 10 a.m.  
Ottumwa Area Office  
Conference Room 3  
120 East Main  
Ottumwa, Iowa 52501

Sioux City - January 20, 2000 1:30 p.m.  
Sioux City Regional Office  
Fifth Floor  
520 Nebraska St.  
Sioux City, Iowa 51101

Waterloo - January 19, 2000 10 a.m.  
Waterloo Regional Office  
Pinecrest Office Building  
Conference Room 220  
1407 Independence Avenue  
Waterloo, Iowa 50703

Any persons who intend to attend a public hearing and have special requirements such as hearing or vision impair-

ments should contact the Office of Policy Analysis at (515)281-8440 and advise of special needs.

These amendments are intended to implement Iowa Code sections 331.424A, 331.439 as amended by 1999 Iowa Acts, chapter 160, and 331.440.

**Amend 441—Chapter 25**, by rescinding Division II and inserting the following **new** Division II:

DIVISION II  
COUNTY MANAGEMENT PLAN

PREAMBLE

These rules define the standards for county management plans for mental health, mental retardation, and developmental disability services, including the single point of entry process for accessing services and supports paid from the county mental health, mental retardation, and developmental disability services fund (Iowa Code section 331.424A). Each county must complete a plan in order to meet the requirements of Iowa Code section 331.439. The single point of entry process is hereinafter called the central point of coordination (CPC). The CPC is an administrative gatekeeper to the service's fund and is not meant to replace case management or service coordination. The county management plan describes how persons with disabilities receive appropriate services and supports within the financial limitations of federal, state, and county resources. In partnership with the state, the county develops a management plan that describes the capacities of the county to manage the county mental health, mental retardation, and developmental disability services fund in a manner that is cost-efficient. These rules are designed to give counties maximum flexibility to manage the public mental health and developmental disabilities (MH/DD) system themselves or, if a county so chooses, to contract with a private managed care company to manage all or part of the county's system. However, even when a county contracts with a private entity to manage its system, the county must approve the county management plan in which it defines the parameters of consumer eligibility and service criteria to be used by the contractor. The county management plan shall be guided by the following principles: choice, empowerment, and community.

**441—25.11(331) Definitions.**

"Access point" means a part of the service system or the community that shall be trained to complete applications for persons with a disability and forward them to the central point of coordination. Access points may include, but need not be limited to, providers, public or private institutions, advocacy organizations, legal representatives, and educational institutions.

"Applicant" means a person who applies to receive services and supports from the service system.

"Authorized representative" means a person designated by the consumer or by Iowa law to act on the person's behalf in specified affairs to the extent prescribed by law.

"Board" means a county board of supervisors.

"Central point of coordination (CPC)" means the administrative entity designated by a board, or the boards of a consortium of counties, to act as the single entry point to the service system as required in Iowa Code section 331.440.

"Clinical assessment" means those activities conducted by a qualified professional to identify the consumer's current level of functioning and to identify the appropriate type and intensity of services and supports.

## HUMAN SERVICES DEPARTMENT[441](cont'd)

“Consortium” means two or more counties that join together to carry out the responsibilities of this division.

“Consumer” means a person who is eligible to receive services and supports from the service system.

“County” means a single county or a consortium of counties legally organized to develop and implement the county management plan.

“County management plan” means the county plan, developed pursuant to Iowa Code section 331.439 as amended by 1999 Iowa Acts, chapter 160, division IV, for organizing, financing, delivering, and evaluating mental health, mental retardation, and developmental disability services and supports in a manner that deliberately seeks to control costs while delivering high-quality mental health, mental retardation, and developmental disability services and supports. The plan shall consist of three parts: (1) a policies and procedures manual, (2) a three-year strategic plan, and (3) an annual plan review.

“CPC administrator” means a person who possesses a baccalaureate degree from an accredited school and has demonstrated competency in human services program administration and planning and has two years of experience working with people with disabilities. A person continually employed by a county to implement a central point of coordination process or to perform similar duties, prior to April 1, 1996, shall be considered to be a qualified CPC administrator. This exemption shall only be valid for a person initially appointed as CPC administrator for fiscal year 1997. An individual employed under this exemption and continually employed as a CPC administrator may be employed by any county as a CPC administrator.

“Department” means the Iowa department of human services.

“Director” means the director of the Iowa department of human services.

“Emergency service” means a service needed immediately to protect the life or safety of a consumer or others.

“Evaluation” means evaluation services as described in 441—subrule 24.3(8).

“Individualized services” means services and supports that are tailored to meet the individual needs of the consumer.

“Legal settlement” is as defined in Iowa Code sections 252.16 and 252.17.

“Managed care” means a system that provides the coordinated delivery of services and supports that are necessary and appropriate, delivered in the least restrictive settings and in the least intrusive manner. Managed care seeks to balance three factors:

1. Achieving high-quality outcomes for participants.
2. Coordinating access.
3. Containing costs.

“Managed system” means a system that integrates planning, administration, financing, and service delivery. The system consists of the financing or governing organization, the entity responsible for care management, and the network of service providers.

“Management organization” means an organization contracted to manage part or all of the service system for a county.

“Provider” means a person or group of persons or agency providing services for people with disabilities.

“Qualified professional” means a person who has education, training, licensure, certification, or experience to make the particular decision at issue as required by federal or state law.

“Screening” means the process used by the central point of coordination to determine eligibility for the service system.

“Service coordinator” means a person as defined in rule 441—22.1(225C). For purposes of these rules this may include department social workers providing social casework as defined in rule 441—130.6(234), county caseworkers, county social workers, or qualified case managers as defined in rule 441—24.1(225C).

“Services fund” means the county mental health, mental retardation, and developmental disability services fund created in Iowa Code section 331.424A, subsection 2.

“Service system” refers to the services and supports administered and paid from the county mental health, mental retardation, and developmental disability services fund.

“State case status” is the status of a person who does not have a county of legal settlement as defined in Iowa Code sections 252.16 and 252.17.

“System principles” means:

1. “Choice” which means the consumer or authorized representative chooses the services, supports, and goods needed to best meet the consumer’s individual goals and accepts the responsibility and consequences of those choices.

2. “Community” which means that the system ensures the rights and abilities of all consumers to live, learn, work, and recreate in natural communities of their choice.

3. “Consumer empowerment” which means that the service system ensures the rights, dignity, and ability of consumers and their families to exercise choices, take risks, provide input, and accept responsibility.

“Unique identifier” means the social security number or the personal identifier for a consumer determined using a methodology adopted by the state-county management committee.

**441—25.12(331) County management plan—general criteria.** A county shall develop a plan for providing an array of cost-effective, individualized services and supports that assist the consumers to be as independent, productive, and integrated into the community as possible within the constraints of the service fund.

**25.12(1) Geographical area.** The plan shall define the geographical area covered by the plan.

**25.12(2) Three-part plan.** The plan shall consist of three parts:

- a. A policies and procedures manual.
- b. An annual plan review.
- c. A three-year strategic plan.

**441—25.13(331) Policies and procedures manual.** The policies and procedures manual shall describe system management and plan administration.

**25.13(1) System management section.** The system management section of the manual shall describe, but shall not be limited to, the following:

a. Plan development. The process for the development of the policies and procedures manual, the strategic plan, and amendments to those documents shall involve the various stakeholders in a meaningful way. These stakeholders shall include, but not be limited to, consumers, family members, county officials, advocates, and providers. The process used to involve the stakeholders shall be documented in the strategic plan including how stakeholder input was considered in the development of the final plan. Each process shall include at least one public hearing.

b. Plan administration. A statement that the county will directly administer the plan or a description of the manage-

## HUMAN SERVICES DEPARTMENT[441](cont'd)

ment organization responsible for plan administration shall be included in the plan. If the county contracts for plan administration, the plan shall contain a description of how the county will monitor the management organization's performance through designated county staff or through another contractor independent of the management organization. The management organization shall comply with Iowa Code section 331.439(1)"c."

c. The financial accountability process. The process to ensure the ongoing financial accountability of the plan shall be included. Financial accountability shall include the rate setting and reimbursement methods used to reimburse service and support providers, which may include vouchers and other nontraditional payment mechanisms.

d. Risk-bearing managed care contracts. A county that enters a risk-bearing contract shall include the methodology used to determine the solvency of any plan administered by a management organization in its policies and procedures manual. This shall include, but not be limited to:

(1) A required annual independent audit of the management organization responsible for plan administration.

(2) The rate-setting and reimbursement methods used by the county to reimburse the management organization.

(3) Description of contract requirements prohibiting a management organization from achieving administrative costs or profit from elimination or reduction of services appropriate to consumer needs.

e. A funding policy. A policy shall be included indicating that the county is responsible for funding only those services and supports that are authorized in accordance with the process described in the county management plan (including those that are required by law).

f. Conflict of interest policy. The manual shall describe a conflict of interest policy that shall, at a minimum, ensure that service authorization decisions are either made by individuals or organizations which have no financial interest in the services or supports to be provided, or that such interest is fully disclosed to consumers, counties, and other stakeholders. The process for this disclosure shall be described in the manual.

g. Provider network selection. The manual shall require that providers that are subject to license, accreditation or approval meet established standards. The manual shall detail the approval process, including criteria, developed to select providers that are not currently subject to license, accreditation or approval standards. The manual shall identify the process the county will use to contract with providers.

h. Delegated functions. A county may contract with providers to perform functions of the central point of coordination for persons coming to the designated provider for service or may contract with a management organization to carry out the functions of the central point of coordination. When delegation is made, the county shall be responsible for ensuring that the contractor complies with Iowa Code section 331.440 as well as 441—Chapter 25 for any delegated duties and responsibilities.

i. Access points. The county shall designate access points and their function in the enrollment process. A process shall be included to ensure that applications received by an access point are forwarded by the end of the working day during which they are received to the consumer's county of residence and, when known, county of legal settlement, or the county departmental office for those with state case status. The county shall provide training to designated access points on the intake process and use of the application form.

j. Staffing plan. The county shall employ, directly or through contract, an adequate number of staff persons to administer the plan. At least one person who meets the qualifications of a central point of coordination administrator shall be designated to implement the central point of coordination process. Elected county or state officials shall not be hired or appointed as the central point of coordination administrator.

k. Application form. The policies and procedures manual shall designate the use of an application form, which shall be available in formats and languages appropriate to consumers' needs.

l. Consumer access. The manual shall describe how the county will provide access to appropriate, flexible, cost-effective community services and supports to meet the consumer needs in the least restrictive environment possible. This may include guidelines for individualized services and supports and may vary by eligibility group and type of service and support. The manual shall describe how the county will ensure access to services and supports while legal settlement is determined or in dispute.

m. Consumer eligibility. The manual shall describe the eligibility criteria for services and supports. This description shall include, but not be limited to, a description of who is eligible to receive services and supports by eligibility group and type of service or support and the criteria for any consumer copayments that may be required. Any copayment requirements shall be related to the consumer's ability to pay for services and supports and be in compliance with all state and federal laws.

n. Confidentiality. The plan shall describe a confidentiality policy that shall ensure compliance with all applicable state and federal statutes on confidentiality.

o. Emergency services. The manual shall specify the policy for accessing emergency services, including the county's protocol for voluntary and involuntary commitments. The policy shall include the criteria and time frames for application for emergency services.

p. Waiting lists. The policies and procedures manual shall specify if the county will use waiting lists, when needed. If the policies and procedures manual specifies the use of waiting lists for funding services and supports, it shall specify criteria for the use and review of each waiting list, including the criteria to be used to determine how and when a consumer will be placed on a waiting list. The manual shall specify how waiting list data will be used in future planning. If the county enters into a risk-bearing contract with a management organization, the contract shall specify that the management organization shall not use waiting lists.

q. Quality assurance. The policies and procedures manual shall describe a detailed quality improvement process that provides for ongoing and periodic evaluation of the service system and of the providers of services and supports in the system. The stakeholders shall be involved in the development and implementation of the quality assurance process and evaluation of the system with emphasis on consumer input. The quality assurance policies shall include, but not be limited to, the following.

(1) System evaluation. The system evaluation shall include, but not be limited to, an evaluation of consumer satisfaction, including empowerment and quality of life; provider satisfaction; patterns of service utilization; responsiveness to consumer needs and desires; the number and disposition of consumer appeals and the implementation of corrective action plans based on these appeals; and cost-effectiveness.

(2) Quality of provider services. The services and supports evaluation shall include, but not be limited to, an evalu-

## HUMAN SERVICES DEPARTMENT[441](cont'd)

ation of the quality of provider services and supports based on consumer satisfaction and achievement of desired consumer outcomes; the number and disposition of appeals of provider actions and the implementation of corrective action plans based on these appeals; and the cost-effectiveness of the services and supports developed and provided by individual providers. The evaluation shall ensure that services and supports are provided in accordance with provider contracts.

r. Collaboration. The policies shall describe the county's collaboration with other funders, service providers, consumers and their families or authorized representatives, and advocates to ensure that authorized services and supports are responsive to consumers' needs and desires and are cost-efficient. The manual shall specifically describe the process for collaboration with the court to ensure that the court is aware of the services and supports available through the county management plan as alternatives to commitment and to coordinate funding for services to persons who are under court-ordered commitment pursuant to Iowa Code chapter 222 or 229.

s. The ongoing education process. The plan shall include the process the county will use to provide ongoing education, in various accessible formats, on its planning process and the intake and service authorization process to the community, including consumers, family members, and providers.

**25.13(2) Plan administration section.** The plan administration section of the policies and procedures manual shall specifically outline procedures for administering the plan at the consumer level. These procedures shall include, but shall not be limited to:

a. Application (intake) procedure. The plan administration section of the manual shall describe an application process that is readily accessible to applicants and their families or authorized representatives. This procedure shall describe where applicants can apply for services and how and when the applications will reach the CPC office. It shall outline an application review process including, but not limited to, how additional needed information shall be gathered to complete an application, a timeline for the review process, and qualifications of the professional reviewing the application.

b. Eligibility determination. Eligibility determination shall include, but not be limited to, the criteria used to authorize or deny funding for services and supports. This may include guidelines for individualized services and supports and may vary by eligibility group and type of service and support. The procedure shall specify the time frames for conducting eligibility determination that provides for timely access to services, including necessary and immediate services.

c. Notice of decision. The review process shall ensure a prompt screening for eligibility and initial decision to approve or reject the application or to gather more information. A written notice of decision which explains the action taken on the application and the reasons for that action shall be sent to the applicant or authorized representative or, in the case of minors, the family or the applicant's authorized representative. The time frame for sending a written notice of decision shall be included. If the consumer is placed on a waiting list for funding, the notice of decision shall include an estimate of how long the consumer is expected to be on the waiting list and the process for the consumer or authorized representative to obtain information regarding the consumer's status on the waiting list. The notice of decision shall outline the

applicant's right to appeal and include a description of the appeal process.

d. Referral. The plan administration section of the manual shall describe to whom and for what purpose referral of the application is made. This may include, but is not limited to, description of referral directly to a provider for services and supports, referral for service coordination, or referral for clinical assessment.

e. Consumer plan development. The plan administration section of the manual shall describe the role of the service coordinator in consumer plan development and how the service coordinator will interface with the CPC. If review of the service request is deemed necessary, a qualified professional shall do the review.

f. Request for funding. The plan administration section shall indicate the process and format for a funding request.

g. Service funding authorization. The plan administration section of the manual shall describe who makes the funding authorization decisions and the qualifications of that individual. The procedures shall describe the criteria for authorization of funding and a timeline for responding to the request for funding. The procedures shall describe a process for coordinating the authorization of payment for services and supports with the county of legal settlement for persons with legal settlement in another county, or with the county departmental office for those with state case status. If the county of legal settlement and the county of residence mutually decide, the county of legal settlement may perform the intake and enrollment procedures.

h. Service and cost tracking. The plan administration section of the manual shall include a description of a system to track services and supports and payments made on behalf of all approved consumers. The tracking system shall provide an unduplicated consumer count and expenditure data. The tracking system shall also record denials of services and supports and indicate the reason why the applications were denied.

i. Service monitoring. The plan administration section of the manual shall outline the process of service and funding monitoring.

j. Appeals. The county shall develop and implement a process for appealing the decisions of the county or its agent. This appeal process shall be based on objective criteria, specify time frames, provide for notification in accessible formats of the decisions to all parties, and provide some assistance to consumers in using the process. Responsibility for the final administrative decision on an appeal shall rest with the county board of supervisors. If the appellant has state case status, responsibility for the final administrative decision on an appeal shall rest with the department, following the procedures established in 441—Chapter 7.

**25.13(3) Annual review.** The policies and procedures manual shall address the process for preparation and distribution of the management plan annual review.

**25.13(4) Three-year strategic plan.** The policies and procedures manual shall address the process for development and approval of the three-year strategic plan.

**441—25.14(331) Policies and procedures manual review.** The policies and procedures manual shall be submitted by April 1, 2000, as a part of the county's management plan for the fiscal year beginning July 1, 2000. The director, in consultation with the state-county management committee, shall review all county management plans submitted by the dates specified. Based on the recommendations of the state-county management committee, and if the director finds the county policies and procedures manual in compliance with these

## HUMAN SERVICES DEPARTMENT[441](cont'd)

rules, state and federal laws, the director may approve the manual. A manual approved by the director for the fiscal year beginning July 1, 2000, shall remain in effect subject to amendment.

**25.14(1) Criteria for acceptance.** The director shall determine a manual is acceptable when it contains all the required information, meets the criteria described in this division, and is in compliance with all applicable state and federal law. The director may request additional information to determine whether or not the manual contains all the required information and meets criteria described in this division.

**25.14(2) Notification.** Except as specified in subrule 25.14(3), the director shall notify the county in writing of the decision on the manual by June 1, 2000. The decision shall specify that either:

a. The manual is approved as it was submitted, either with or without supplemental information already requested and received.

b. The manual will not be approved until revisions are made. The letter will specify the nature of the revisions requested and the time frames for their submission. The director may authorize a county to continue operation, for up to 90 days, using the previously approved county management plan. The extension begins on July 1, 2000.

**25.14(3) Review of late submittals.** The director may review manuals not submitted by April 1, 2000, after all manuals submitted by that date have been reviewed. The director will proceed with the late submittals in a timely manner.

**441—25.15(331) Amendments.** An amendment to the manual shall be submitted to the department at least 45 days prior to the date of implementation. Prior to implementation of any amendment to the manual, the director must approve the amendment. When an amendment substantially changes a county's policies and procedures manual, the department shall present the amendment to the state-county management committee.

**25.15(1) Criteria for acceptance.** The director shall determine an amendment is acceptable when it contains all the required information and meets the criteria described in this division for the applicable part of the policies and procedures manual and is in compliance with all applicable state and federal law. The director may request additional information to determine whether or not the amendment contains all the required information and meets criteria described in this division.

**25.15(2) Notification.** The director shall notify the county, in writing, of the decision on the amendment within 45 days of receipt of the amendment. The decision shall specify either that:

a. The amendment is approved as it was submitted, either with or without supplemental information already requested.

b. The amendment is not approved. The notification will include why the amendment is not approved.

**441—25.16(331) Reconsideration.** Counties dissatisfied with the director's decision on a manual or an amendment may file a letter with the director requesting reconsideration. The letter of reconsideration must be received within 30 working days of the date of the notice of decision and shall include a request for the director to review the decision and the reasons for dissatisfaction. Within 30 working days of the receipt of the letter requesting reconsideration, the director, in consultation with the state-county management committee, will review both the reconsideration request and evi-

dence provided. The director shall issue a final decision, in writing.

**441—25.17(331) Management plan annual review.** The county shall prepare an annual review for the county stakeholders, the department of human services and the state-county management committee. The annual review shall be submitted to the department for informational purposes by December 1. The annual review shall incorporate an analysis of the data associated with the services managed during the preceding fiscal year by the county or by a managed care entity on behalf of the county. The annual review shall include, but not be limited to:

1. Progress toward goals and objectives.
2. Documentation of stakeholder involvement.
3. Actual provider network.
4. Actual expenditures.
5. Actual scope of services.
6. Number, type, and resolution of appeals.
7. Quality assurance implementation, findings and impact on plan.
8. Waiting list information.

**441—25.18(331) Strategic plan.** The strategic plan shall describe the county's vision for its mental health, mental retardation, and developmental disabilities system for the ensuing three fiscal years. The strategic plan development shall follow the process outlined in the policies and procedures manual. The strategic plan shall be submitted, for informational purposes, to the department by April 1, 2000, and by April 1 of every third year thereafter. The strategic plan shall include, but not be limited to:

**25.18(1) Needs assessment.** The strategic plan shall include an assessment of current needs. This plan shall describe how information from the annual reports from the previous years was incorporated into the current strategic plan and how the information will be used to develop future plans for the funding and provision of services to eligible groups.

**25.18(2) Goals and objectives.** The strategic plan shall list goals and objectives that are guided by the system principles of choice, empowerment, and community. The goals and objectives shall reflect the system which the county plans to have in place in three years, the action steps which will be taken to develop the future system, and how progress toward implementation will be measured. Projected costs for future projects should be included.

**25.18(3) Services and supports.** The strategic plan shall list services and supports that the county will fund, when requested, by eligibility group.

**25.18(4) Provider network.** The strategic plan shall include a list of providers used to provide the scope of services and supports described in the plan.

**25.18(5) Access points.** The strategic plan shall list designated access points and their function in the enrollment process.

**441—25.19(331) Technical assistance.** The department shall provide technical assistance and other necessary support to counties to assist in the development and implementation of the county management plans and completion of reports.

These rules are intended to implement Iowa Code sections 331.424A, 331.439 as amended by 1999 Iowa Acts, chapter 160, and 331.440.

## ARC 9567A

HUMAN SERVICES  
DEPARTMENT[441]

## Notice of Intended Action

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

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

Pursuant to the authority of Iowa Code sections 217.6 and 249A.4 and 1999 Iowa Acts, chapter 203, section 11, subsections 1 and 2, section 33, subsection 13, and section 47, the Department of Human Services proposes to amend Chapter 51, "Eligibility," Chapter 52, "Payment," Chapter 75, "Conditions of Eligibility," and Chapter 177, "In-Home Health Related Care," appearing in the Iowa Administrative Code.

These amendments implement the annual adjustment in the maximum amount of resources to be attributed to the community spouse and the amount used for determining the community spouse's maintenance needs and the following changes to the State Supplementary Assistance Program:

- Pass along the January 1, 2000, Supplemental Security Income (SSI) cost-of-living adjustment increases.

The Department received confirmation from the Department of Health and Human Services (DHHS) that the social security cost-of-living increase which will become effective January 1, 2000, is established at 2.4 percent. The Department has decided to pass along this increase to recipients of State Supplementary Assistance. Therefore, the SSI increase of \$12 for an individual results in an increase in the total allowance in a family life home from \$582.20 to \$594.20. Individuals in family life homes will receive the same personal needs allowance as residents in residential care facilities. The benefit rate for an essential person increased by \$6 from \$251 to \$257 resulting in the same increase for a dependent person.

- Increase the personal needs allowance for residents of residential care facilities. The Seventy-eighth General Assembly in 1999 Iowa Acts, chapter 203, section 11, subsection 1, required the Department to increase the personal needs allowance for residents of residential care facilities (RCFs) by the same percentage and at the same time as federal Supplemental Security Income and federal social security benefits are increased due to a recognized increase in the cost of living. At the current time, residents of RCFs receive a total personal needs allowance of \$71, of which \$65.23 is for personal expenses and \$5.26 is for Medicaid copayment expenses. A 2.4 percent increase in the personal expenses part of the allowance increases that part of the allowance to \$66.80. This amount added to the average copayment expense of \$5.48 totals \$72.28. Thus, the personal needs allowance is rounded up to \$73 effective January 1, 2000.

- Increase the maximum and flat State Supplementary Assistance (SSA) residential care facility (RCF) and in-home health related care (IHHC) reimbursement rate by 1.8 percent. The maximum RCF reimbursement rate will be increased from \$23.83 to \$24.26 per day. The flat RCF reimbursement rate will be increased from \$17.05 to \$17.36 per day. The monthly IHHC reimbursement rate will be increased from \$458.20 to \$466.49.

The Seventy-eighth Iowa General Assembly in 1999 Iowa Acts, chapter 203, section 33, subsection 3, directed that the

Department increase the RCF and IHHC reimbursement rates to the amounts indicated in these amendments.

The maximum amount of resources to be attributed to a community spouse and the maintenance needs of a community spouse are indexed annually by the consumer price index. The Department has received confirmation from DHHS that the maximum amount of resources to be attributed to the community spouse has increased from \$81,960 to \$84,120 and the maintenance needs of the community spouse have increased from \$2,049 to \$2,103.

The substance of these amendments is also Adopted and Filed Emergency and is published herein as ARC 9568A. The purpose of this Notice is to solicit comment on that submission, the subject matter of which is incorporated by reference.

The amendments dealing with the cost-of-living increases do not provide for any waivers in specified situations because the amendments confer a benefit on those affected and were mandated by the General Assembly for all. There is no provision to provide a waiver of the attribution amounts as everyone should be subject to the same amounts set by these amendments. Individuals may request an exception of the attribution amounts under the Department's general rule on exceptions at rule 441—1.8(217).

Consideration will be given to all written data, views, and arguments thereto received by the Bureau of Policy Analysis, Department of Human Services, Hoover State Office Building, Des Moines, Iowa 50319-0114, on or before January 19, 2000.

These amendments are intended to implement Iowa Code sections 249.3, 249.4, and 249A.4 and 1999 Iowa Acts, chapter 203, section 11, subsections 1 and 2, and section 33, subsection 3.

## ARC 9563A

HUMAN SERVICES  
DEPARTMENT[441]

## Notice of Intended Action

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

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

Pursuant to the authority of Iowa Code section 249A.4, the Department of Human Services proposes to amend Chapter 75, "Conditions of Eligibility," appearing in the Iowa Administrative Code.

These amendments clarify what constitutes a complete quarterly report for transitional Medicaid.

Transitional Medicaid provides medical assistance for a period of up to 12 additional months to families who are canceled from the Family Medical Assistance Program (FMAP) because of increased earnings of the specified relative of the dependent child. A recipient of transitional Medicaid is required to submit a complete quarterly report in the fourth, seventh, and tenth months of the transitional Medicaid period.

Failure to return a completed form shall result in cancellation of assistance. A completed form is a form with all items answered, signed, dated no earlier than the first day of the

## HUMAN SERVICES DEPARTMENT[441](cont'd)

budget month, and accompanied by the requested verification.

These amendments align transitional Medicaid with FMAP-related policy to provide consistency with the public assistance eligibility report (PAER) requirements and the quarterly report requirements, thereby decreasing program complexity and potential for error.

These amendments do not provide for waiver in any specified situations because a complete quarterly report form should always be required. Individuals may request waivers in exceptional situations pursuant to the Department's general rule on exceptions at rule 441—1.8(217).

Consideration will be given to all written data, views, and arguments thereto received by the Bureau of Policy Analysis, Department of Human Services, Hoover State Office Building, Des Moines, Iowa 50319-0114, on or before January 19, 2000.

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

The following amendments are proposed.

ITEM 1. Amend subrule 75.1(31), paragraph "h," as follows:

h. If the family receives transitional Medicaid coverage during the entire initial six-month period and has returned, by the twenty-first day of the fourth month, a complete Notice of Decision/Quarterly Income Report, Form 470-2663, Medicaid shall continue for an additional six months, subject to paragraphs "g" and "i" of this subrule. *Failure to return a completed form shall result in cancellation of assistance. A completed form is a form with all items answered, signed, dated no earlier than the first day of the budget month, and accompanied by verification as required in paragraphs 75.57(1) "f" and 75.57(2) "l."*

ITEM 2. Amend subrule 75.1(31), paragraph "i," subparagraph (1), introductory paragraph, as follows:

(1) The family fails to return ~~the~~ a complete Notice of Decision/Quarterly Income Report, Form 470-2663, by the twenty-first day of the first month or the fourth month of the additional six-month period *as required in paragraph 75.1(31) "h,"* unless the family establishes good cause for failure to report on a timely basis. Good cause for failure to return the report timely shall be established when the family demonstrates one or more of the following conditions exist:

ARC 9564A

## HUMAN SERVICES DEPARTMENT[441]

### Notice of Intended Action

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

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

Pursuant to the authority of Iowa Code section 234.6, the Department of Human Services proposes to amend Chapter 170, "Child Care Services," appearing in the Iowa Administrative Code.

This amendment revises policy governing payment for child care when the parent is in academic or vocational training. Policy is being revised to clarify when child care assis-

tance will not be provided to be consistent with policy currently in PROMISE JOBS rules at 441—paragraph 93.114(11)"c." Payment shall not be approved for clients in academic or vocational training for the following:

1. When labor market statistics for a local area indicate low employment potential. Exceptions may be made when the client has a job offer prior to entering the training or if a client is willing to relocate after training to an area where there is employment potential. Clients willing to relocate must provide documentation from the department of workforce development, private employment agencies, or employers that jobs paying at least minimum wage for which training is being requested are available in the locale specified by the client.

2. Jobs paying less than minimum wage.

3. College coursework for a client who possesses a baccalaureate degree unless the coursework is to obtain a teaching certificate or complete continuing education units.

4. The course or training is one that the client has previously completed.

5. When the client was previously unable to maintain the cumulative grade point average required by the training or academic facility in the same training for which application is now being made. This does not apply to parents under the age of 18 who are enrolled in high school completion activities.

In addition, a policy which allowed child care assistance to be paid for study time for PROMISE JOBS participants if approved by the PROMISE JOBS worker and a policy which allowed child care assistance to be paid if a parent in a Family Investment Program (FIP) household remains in the household and receives social security are being deleted to make policy for PROMISE JOBS participants consistent with policy for other clients. PROMISE JOBS staff have indicated that they have very few, if any, clients using the study time policy. PROMISE JOBS participants are allowed an exemption for Supplemental Security Income, but not for social security.

This amendment does not provide for waivers in specified situations because individuals may request a waiver of child care assistance policies under the Department's general rule on exceptions at rule 441—1.8(217).

Consideration will be given to all written data, views, and arguments thereto received by the Office of Policy Analysis, Department of Human Services, Hoover State Office Building, Des Moines, Iowa 50319-0114, on or before January 19, 2000.

This amendment is intended to implement Iowa Code section 234.6(6)"a."

The following amendment is proposed.

Amend subrule 170.2(2), paragraph "b," subparagraph (1), as follows:

(1) The parent is in academic or vocational training. Child care provided while the parent participates in postsecondary education *leading up to and including a baccalaureate degree program* or vocational training shall be limited to a 24-month lifetime limit. A month is defined as a fiscal month or part thereof and shall generally have starting and ending dates ~~falling that fall~~ within two calendar months but shall only count as one month. Time spent in high school completion, adult basic education, GED, or English as a second language does not count toward the 24-month limit.

*Payment shall not be approved for the following:*

1. When labor market statistics for a local area indicate low employment potential. Exceptions may be made when the client has a job offer prior to entering the training or if a

## HUMAN SERVICES DEPARTMENT[441](cont'd)

*client is willing to relocate after training to an area where there is employment potential. Clients willing to relocate must provide documentation from the department of workforce development, private employment agencies, or employers that jobs paying at least minimum wage for which training is being requested are available in the locale specified by the client.*

2. *Jobs paying less than minimum wage.*

3. *College coursework for a client who possesses a baccalaureate degree unless the coursework is to obtain a teaching certificate or complete continuing education units.*

4. *The course or training is one that the client has previously completed.*

5. *When the client was previously unable to maintain the cumulative grade point average required by the training or academic facility in the same training for which application is now being made. This does not apply to parents under the age of 18 who are enrolled in high school completion activities.*

PROMISE JOBS child care allowances provided while the parent is a recipient of the family investment program and participating in PROMISE JOBS components in post-secondary education or training shall count toward the 24-month lifetime limit.

~~Child care assistance may be paid for study time for PROMISE JOBS participants if approved by the PROMISE JOBS worker.~~

Further amend subrule 170.2(2), paragraph "b," last unnumbered paragraph, as follows:

If a parent in a family investment program household remains in the home, child care assistance can be paid if that parent receives Supplemental Security Income ~~or social security.~~

## ARC 9581A

NATURAL RESOURCE  
COMMISSION[571]

## Notice of Intended Action

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

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

Pursuant to the authority of Iowa Code subsection 455A.5(6), the Natural Resource Commission hereby gives Notice of Intended Action to amend Chapter 49, "Operation of Motor Vehicles in Meandered Streams, Navigable Streams and Trout Streams," Iowa Administrative Code.

This amendment adds a segment of the Des Moines River to the existing list of Iowa meandered streams and corrects a previous omission.

Any interested person may make written suggestions or comments on the proposed amendment on or before January 18, 2000. Such written materials should be directed to the Law Enforcement Bureau, Department of Natural Resources, Wallace State Office Building, Des Moines, Iowa 50319-0034; fax (515)281-6794. Persons who wish to convey their views orally should contact the Law Enforcement Bureau at (515)281-4515 or at the Law Enforcement Bureau offices on the fourth floor of the Wallace State Office Building.

There will be a public hearing on January 19, 2000, at 1 p.m. in the Fourth Floor West Conference Room of the Wallace State Office Building at which time persons may present their views either orally or in writing. At the hearing, persons will be asked to give their names and addresses for the record and to confine their remarks to the subject of the amendment.

Any persons who intend to attend a public hearing and have special requirements such as hearing or mobility impairments should contact the Department of Natural Resources and advise of specific needs.

This amendment is intended to implement Iowa Code section 462A.34.

The following amendment is proposed.

Amend rule 571—49.5(462A) by adopting the following new paragraph and renumbering paragraphs "1" to "10" as "2" to "11":

1. Des Moines river. From Mississippi river to west line of T-95N, R-32W, Palo Alto county, west branch, and north line of T-95N, R-29W, Kossuth county, east branch at a point near Algona.

## ARC 9582A

NATURAL RESOURCE  
COMMISSION[571]

## Notice of Intended Action

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

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

Pursuant to the authority of Iowa Code subsection 455A.5(6), the Natural Resource Commission hereby gives Notice of Intended Action to amend Chapter 83, "Scuba and Skin Spearing of Rough Fish," Iowa Administrative Code.

This amendment corrects typographical errors in the legal description for locations of meandered streams, including the Wapsipinicon River and Little Maquoketa River.

Any interested person may make written suggestions or comments on the proposed amendment on or before January 18, 2000. Such written materials should be directed to the Law Enforcement Bureau, Department of Natural Resources, Wallace State Office Building, Des Moines, Iowa 50319-0034; fax (515)281-6794. Persons who wish to convey their views orally should contact the Law Enforcement Bureau at (515)281-4515 or at the Law Enforcement Bureau offices on the fourth floor of the Wallace State Office Building.

There will be a public hearing on January 19, 2000, at 2 p.m. in the Fourth Floor West Conference Room of the Wallace State Office Building at which time persons may present their views either orally or in writing. At the hearing, persons will be asked to give their names and addresses for the record and to confine their remarks to the subject of the amendment.

Any persons who intend to attend a public hearing and have special requirements such as hearing or mobility impairments should contact the Department of Natural Resources and advise of specific needs.



## NATURAL RESOURCE COMMISSION[571](cont'd)

This amendment is intended to implement Iowa Code section 481A.67.

The following amendment is proposed.

Amend subrule 83.2(1), paragraphs "e" and "k," as follows:

e. Wapsipinicon River—From Mississippi River to west line T-89N T-86N, R-6W, above Central City in Linn county.

k. Little Maquoketa River—From Mississippi River to west line Section 25-90-2 35-90N-2 east, Dubuque county.

ARC 9577A

## PROFESSIONAL LICENSING AND REGULATION DIVISION[193]

### Notice of Intended Action

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

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

Pursuant to the authority of Iowa Code section 546.2, the Professional Licensing and Regulation Division hereby gives Notice of Intended Action to adopt Chapter 5, "Waivers or Variances from Rules," Iowa Administrative Code.

Proposed Chapter 5 outlines a uniform process for the granting of waivers or variances from rules adopted by all boards of the Division. This chapter is proposed in response to Governor Vilsack's Executive Order Number Eleven.

Consideration will be given to all written suggestions or comments on the proposed chapter received on or before January 18, 2000. Comments should be addressed to Glenda Loving, Professional Licensing and Regulation Division, 1918 S.E. Hulsizer, Ankeny 50021, or faxed to (515) 281-7411. E-mail may be sent to [glenda.loving@max.state.ia.us](mailto:glenda.loving@max.state.ia.us).

This amendment is intended to implement Iowa Code chapter 546.

The following amendment is proposed.

Adopt the following new chapter:

### CHAPTER 5 WAIVERS OR VARIANCES FROM RULES

**193—5.1(546) Applicability.** This chapter outlines a uniform process for the granting of waivers or variances from rules adopted by all boards in the division.

**5.1(1) Board authority.** A waiver or variance from rules adopted by a division board may be granted in accordance with this chapter if: (a) the board has exclusive rule-making authority to promulgate the rule from which waiver or variance is requested or has final decision-making authority over a contested case in which a waiver or variance is requested; and (b) no statute or rule otherwise controls the grant of a waiver or variance from the rule from which waiver or variance is requested.

**5.1(2) Interpretive rules.** This chapter shall not apply to rules that merely define the meaning of a statute or other provisions of law or precedent if the board does not possess delegated authority to bind the courts to any extent with its definition.

**193—5.2(546) Compliance with statute.** No waiver or variance may be granted from a requirement which is imposed by statute. Any waiver or variance must be consistent with statute.

**193—5.3(546) Criteria for waiver or variance.** The board may issue an order, in response to a completed petition or on its own motion, granting a waiver or variance from a rule adopted by the board, in whole or in part, as applied to the circumstances of a specified person if the board finds that:

1. Application of the rule to the person at issue would result in hardship or injustice to that person; and

2. Waiver or variance on the basis of the particular circumstances relative to that specified person would be consistent with the public interest; and

3. Waiver or variance in the specific case would not prejudice the substantial legal rights of any person.

In determining whether waiver or variance would be consistent with the public interest under "2," the board shall consider whether, if the waiver or variance is granted, the public health and safety will be protected by other means that are substantially equivalent to full compliance with the rule.

**5.3(1) Board discretion.** The decision on whether the circumstances justify the granting of a waiver or variance shall be made at the discretion of the board, upon consideration of all relevant factors.

**5.3(2) Mandatory waivers or variances.** In response to the timely filing of a completed petition requesting a waiver or variance, the board shall grant a waiver or variance from a rule, in whole or in part, as applied to the particular circumstances of a specified person, if the board finds that the application of all or a portion thereof to the circumstances of that specified person would not, to any extent, advance or serve any of the purposes of the rule.

**5.3(3) Burden of persuasion.** The petitioner shall assume the burden of persuasion when a petition is filed for a waiver or variance from a board rule.

**5.3(4) Special waiver or variance rules not precluded.** This chapter shall not preclude the board from granting waivers or variances in other contexts or on the basis of other standards if a statute or other board rule authorizes the board to do so, and the board deems it appropriate to do so.

**5.3(5) Administrative deadlines.** When the rule from which a waiver or variance is sought establishes administrative deadlines, the board shall balance the special individual circumstances of the petitioner with the overall goal of uniform treatment of all licensees and license applicants.

**193—5.4(546) Filing of petition.** A petition for a waiver or variance must be submitted in writing to the board, as follows:

**5.4(1) License application.** If the petition relates to a license application, the petition shall be made in accordance with the filing requirements for the license in question.

**5.4(2) Contested cases.** If the petition relates to a pending contested case, the petition shall be filed in the contested case proceeding.

**5.4(3) Other.** If the petition does not relate to a license application or a pending contested case, the petition may be submitted to the board's executive secretary.

**193—5.5(546) Content of petition.** A petition for waiver or variance shall include the following information where applicable and known to the requester:

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

## PROFESSIONAL LICENSING AND REGULATION DIVISION[193](cont'd)

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

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

4. The relevant facts that the petitioner believes would justify a waiver or variance. This statement shall include a signed statement from the petitioner attesting to the accuracy of the facts provided in the petition, and a statement of reasons that the petitioner believes will justify a waiver or variance.

5. A history of any prior contacts between the board and the petitioner relating to the regulated activity or license affected by the proposed waiver or variance, including a description of each affected license held by the requester, any notices of violation, contested case hearings, or investigative reports relating to the regulated activity or license within the last five years.

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

7. The name, address, and telephone number of any public agency or political subdivision which also regulates the activity in question, or which might be affected by the grant of a waiver or variance.

8. The name, address, and telephone number of any person or entity that would be adversely affected by the grant of a petition.

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

10. Signed releases of information authorizing persons with knowledge regarding the request to furnish the board with information relevant to the waiver or variance.

**193—5.6(546) Additional information.** Prior to issuing an order granting or denying a waiver or variance, the board may request additional information from the petitioner relative to the petition and surrounding circumstances. If the petition was not filed in a contested case, the board may, on its own motion or at the petitioner's request, schedule a telephonic or in-person meeting between the petitioner and the board's executive secretary, a committee of the board, or a quorum of the board.

**193—5.7(546) Notice.** The board shall acknowledge a petition upon receipt. The board shall ensure that notice of the pendency of the petition and a concise summary of its contents have been provided to all persons to whom notice is required by any provision of law, within 30 days of the receipt of the petition. In addition, the agency may give notice to other persons. To accomplish this notice provision, the board may require the petitioner to serve the notice on all persons to whom notice is required by any provision of law, and provide a written statement to the agency attesting that notice has been provided.

**193—5.8(546) Hearing procedures.** The provisions of Iowa Code sections 17A.10 to 17A.18A regarding contested case hearings shall apply to any petition for a waiver or variance of rule filed within a contested case, and shall otherwise apply to agency proceedings for a waiver or variance only when the board so provides by rule or order or is required to do so by statute.

**193—5.9(546) Ruling.** An order granting or denying a waiver or variance shall be in writing and shall contain a reference to the particular person and rule or portion thereof to which the order pertains, a statement of the relevant facts and

reasons upon which the action is based, and a description of the precise scope and operative period of the waiver if one is issued.

**5.9(1) Conditions.** The board may condition the grant of the waiver or variance on such reasonable conditions as appropriate to achieve the objectives of the particular rule in question through alternative means.

**5.9(2) Time for ruling.** The board shall grant or deny a petition for a waiver or variance as soon as practicable but, in any event, shall do so within 120 days of its receipt, unless the petitioner agrees to a later date. However, if a petition is filed in a contested case, the board shall grant or deny the petition no later than the time at which the final decision in that contested case is issued.

**5.9(3) When deemed denied.** Failure of the board to grant or deny a petition within the required time period shall be deemed a denial of that petition by the board.

**5.9(4) Service of order.** Within seven days of its issuance, any order issued under this chapter shall be transmitted to the petitioner or the person to whom the order pertains, and to any other person entitled to such notice by any provision of law.

**193—5.10(546) Public availability.** Subject to the provisions of Iowa Code section 17A.3(1)"e," the board shall maintain a record of all orders granting and denying waivers and variances under this chapter. All final rulings in response to requests for waivers or variances shall be indexed and available to members of the public at the board office.

**193—5.11(546) Voiding or cancellation.** A waiver or variance is void if the material facts upon which the request is based are not true or if material facts have been withheld. The board may at any time cancel a waiver or variance upon appropriate notice and hearing if the board finds that the facts as stated in the request are not true, material facts have been withheld, the alternative means of compliance provided in the waiver or variance have failed to achieve the objectives of the statute, or the requester has failed to comply with the conditions of the order.

**193—5.12(546) Violations.** Violation of conditions in the waiver or variance approval is the equivalent of violation of the particular rule for which the waiver or variance is granted and is subject to the same remedies or penalties.

**193—5.13(546) Defense.** After the board issues an order granting a waiver or variance, the order is a defense within its terms and the specific facts indicated therein for the person to whom the order pertains in any proceeding in which the rule in question is sought to be invoked.

**193—5.14(546) Appeals.** Any request for an appeal from a decision granting or denying a waiver or variance shall be in accordance with the procedures provided in Iowa Code chapter 17A and board rules. An appeal shall be taken within 30 days of the issuance of the ruling in response to the request unless a contrary time is provided by rule or statute.

These rules are intended to implement Iowa Code chapter 546.

## ARC 9590A

REVENUE AND FINANCE  
DEPARTMENT[701]

## Notice of Intended Action

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

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

Pursuant to the authority of Iowa Code sections 421.14 and 422.68, the Department of Revenue and Finance hereby gives Notice of Intended Action to amend Chapter 40, "Determination of Net Income," Chapter 52, "Filing Returns, Payment of Tax and Penalty and Interest," Chapter 54, "Allocation and Apportionment," Chapter 58, "Filing Returns, Payment of Tax, Penalty and Interest, and Allocation of Tax Revenues," and Chapter 59, "Determination of Net Income," Iowa Administrative Code.

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

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

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

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

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

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

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

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

Item 9 amends rule 59.29(422) by adding a new unnumbered paragraph which clarifies that the rule takes precedence

over rule 701—7.60(17A) which implements the uniform waiver rule found in Executive Order Number Eleven issued by the Governor.

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

There are no waiver provisions reflected in Items 1, 2, 3, and 8 because the Department lacks the statutory authority to grant waivers where rules are mainly an interpretation of statutes.

The Department has determined that these proposed amendments may have an impact on small business. The Department has considered the factors listed in Iowa Code Supplement section 17A.4A [1998 Iowa Acts, chapter 1202, section 10]. The Department will issue a regulatory analysis as provided in Iowa Code Supplement section 17A.4A [1998 Iowa Acts, chapter 1202, section 10] if a written request is filed by delivery or by mailing postmarked no later than February 1, 2000, to the Policy Section, Compliance Division, Department of Revenue and Finance, Hoover State Office Building, P.O. Box 10457, Des Moines, Iowa 50306. The request may be made by the Administrative Rules Review Committee, the Administrative Rules Coordinator, at least 25 persons signing that request who qualify as a small business, or an organization representing at least 25 such persons.

Any interested person may make written suggestions or comments on these proposed amendments on or before January 28, 2000. Such written comments should be directed to the Policy Section, Compliance Division, Department of Revenue and Finance, Hoover State Office Building, P.O. Box 10457, Des Moines, Iowa 50306.

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

Requests for a public hearing must be received by January 21, 2000.

These amendments are intended to implement Iowa Code chapter 422.

The following amendments are proposed.

ITEM 1. Amend rule 701—40.3(422), numbered paragraphs "1," "4," and "9," as follows:

1. Board of Regents: Bonds issued under Iowa Code sections 262.41, 262.51, 262.60, and 262A.8, and 263A.6.

4. Subdistricts of soil conservation districts, revenue bonds: Bonds issued under Iowa Code section 467A.22 (*transferred to Iowa Code section 161A.22 in 1993 Iowa Code*).

9. Iowa Finance Authority, Sewage treatment works and drinking water facilities financing: Bonds issued under Iowa Code section 220.131(6) (*transferred to Iowa Code section 16.131(6) in 1993 Iowa Code*).

ITEM 2. Amend rule 701—52.1(422) by adopting the following **new** third and fourth unnumbered paragraphs:

Political organizations described in Internal Revenue Code Section 527 which are domiciled in this state and are required to file federal Form 1120POL and pay federal corporation income tax are subject to Iowa corporation income tax to the same extent as they are subject to federal corporation income tax.

Homeowners associations described in Internal Revenue Code Section 528 which are domiciled in this state and are

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

required to file federal Form 1120H and pay federal corporation income tax, are subject to Iowa corporation income tax to the same extent as they are subject to federal corporation income tax.

ITEM 3. Amend subrule 52.5(2), introductory paragraph, as follows:

**52.5(2)** *For tax years beginning after 1997, a small business corporation or a new corporation for its first year of existence, which through the operation of Internal Revenue Code Section 55(e) is exempt from the federal alternative minimum tax, is not subject to Iowa alternative minimum tax. A small business corporation may apply any alternative minimum tax credit carryforward to the extent of its regular corporation income tax liability.*

For tax years beginning on or after January 1, 1987, the minimum tax is imposed only to the extent that it exceeds the taxpayer's regular tax liability computed under Iowa Code subsection 422.33(1). The minimum tax rate is 60 percent of the maximum corporate tax rate rounded to the nearest one-tenth of 1 percent or 7.2 percent. Minimum taxable income is computed as follows:

ITEM 4. Amend subrule 54.7(4) to read as follows:

**54.7(4)** Telecommunications companies shall determine the Iowa proportion of gross receipts or gross revenues from telecommunication operations by the following methodology:

- a. to d. No change.
- e. *Gross receipts or gross revenues from the sale of phone cards in this state are attributable to this state.*
- f. *Gross receipts or gross revenues from the sale of telecommunication services to resellers of telecommunication services for telecommunication services used for local service in this state are attributable to this state.*
- g. *Gross receipts or gross revenues from the sale of telecommunication services to resellers of telecommunication services for telecommunication services used for toll services originating and terminating in this state are attributable to this state.*
- h. *Gross receipts or gross revenues from the sale of telecommunication services to resellers of telecommunication services for telecommunication services used for interstate toll services originating in this state are attributable to this state.*
- i. *Gross receipts or gross revenues from Internet access originating in this state and charged to an Iowa service address are attributable to this state.*
- j. *Gross receipts or gross revenues from cellular phone services originating in this state and charged to an Iowa service address are attributable to this state.*
- k. *Gross receipts or gross revenues from personal communication services originating in this state and charged to an Iowa service address are attributable to this state.*
- l. *Gross receipts or gross revenues from paging services originating in this state and charged to an Iowa service address are attributable to this state.*
- m. *Services originating in this state and charged to an Iowa service address are attributable to this state.*
- n. *Gross receipts from cable television, satellite television, and community antenna television services, including gross receipts from providing Internet access, charged to an Iowa service address are attributable to this state.*
- o. Any other gross receipts or gross revenues from fees, access charges, toll services or other charges for communication services charged to an Iowa service address are

attributable to this state. See *Goldberg v. Sweet*, 488 U.S. 252, 102 L.Ed. 2d 607, 109 S.Ct. 582(1989).

f.p. All of the above classes of revenues shall be aggregated and combined with other gross receipts or gross revenues from sources within Iowa to compose the numerator. The denominator shall be computed in accordance with 701—subrule 54.2(2).

q. *“Telecommunications” is an electronic mode of transmitting data, information, and audio and video signals and includes but is not limited to both one-way and two-way signals using land-line phones, cellular phones, paging devices, satellites, and microwave systems. Telecommunications is a medium or mode of delivery, not the actual content of the information transmitted over the medium. Telecommunications does not include broadcast radio and television. See subrule 54.7(5).*

r. *The term “telecommunication companies” includes but is not limited to: telephone companies; resellers of telephone services; cellular phone companies; personal communication service providers; paging service providers; radio communication providers; Internet access providers; cable television, satellite television, community antenna television companies; and other companies of a similar type.*

*If a taxpayer feels that the allocation and apportionment method as prescribed by Iowa Code subsection 422.33(2) and in this subrule, in the taxpayer's case, results in an injustice, the taxpayer may petition the department for permission to determine the taxable net income, both allocable and apportionable, to this state on some other basis. See rule 701—54.9(422).*

ITEM 5. Amend rule 701—54.7(422) by adopting the following new subrule:

**54.7(7)** Utility companies shall determine their Iowa gross receipts or gross revenues from transporting natural or casinghead gas for others that is attributable to Iowa by the proportion of Iowa traffic units to total traffic units. The “traffic unit” is defined to be the transportation of 1,000 cubic feet or one dekatherm of natural or casinghead gas for a distance of one mile. Where the transportation is less than one mile, the taxpayer must accumulate the fractions of one mile into one-mile increments for purposes of computing “traffic units.” The taxpayer may use either 1,000 cubic feet or one dekatherm as a “traffic unit” as long as the numerator and denominator are computed on the same basis.

If a taxpayer feels that the allocation and apportionment method as prescribed by Iowa Code subsection 422.33(2) and in this subrule, in the taxpayer's case, results in an injustice, the taxpayer may petition the department for permission to determine the taxable net income, both allocable and apportionable, to this state on some other basis. See rule 701—54.9(422).

ITEM 6. Amend rule 701—54.7(422) by adopting the following new subrule:

**54.7(8)** Utility companies shall determine their Iowa gross receipts or gross revenues from transporting electricity for others that is attributable to Iowa by the proportion of Iowa traffic units to total traffic units. The “traffic unit” is defined to be the transportation of 1,000 kilowatt-hours of electricity for a distance of one mile. Where the transportation is less than one mile, the taxpayer must accumulate the fractions of one mile into one-mile increments for purposes of computing “traffic units.”

If a taxpayer feels that the allocation and apportionment method as prescribed by Iowa Code subsection 422.33(2) and in this subrule, in the taxpayer's case, results in an injus-

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

tice, the taxpayer may petition the department for permission to determine the taxable net income, both allocable and apportionable, to this state on some other basis. See rule 701—54.9(422).

ITEM 7. Amend rule 701—54.9(422) by adopting the following new unnumbered paragraph as the first unnumbered paragraph:

This rule takes precedence over rule 701—7.60(17A) which implements the uniform waiver rule found in Executive Order Number Eleven issued by the governor.

ITEM 8. Amend subrule 58.5(2), introductory paragraph, as follows:

**58.5(2)** *For tax years beginning after 1997, a small business corporation or a new corporation, that is a financial institution, for its first year of existence, that through the operation of Internal Revenue Code Section 55(e) is exempt from the federal alternative minimum tax, is not subject to Iowa alternative minimum tax. A small business corporation that is a financial institution may apply any alternative minimum tax credit carryforward to the extent of its regular Iowa franchise tax liability.*

For tax years beginning on or after January 1, 1987, the minimum tax is imposed only to the extent that it exceeds the taxpayer's regular tax liability computed under Iowa Code subsection 422.63. The minimum tax rate is 60 percent of the maximum franchise tax rate rounded to the nearest one-tenth of 1 percent or 3 percent. Minimum taxable income is computed as follows:

ITEM 9. Amend rule 701—59.29(422) by adopting the following new unnumbered paragraph as the first unnumbered paragraph:

This rule takes precedence over rule 701—7.60(17A) which implements the uniform waiver rule found in Executive Order Number Eleven issued by the governor.

is required to be given within 10 days after the election, references to the 40-day notice period are irrelevant.

Any interested person may make written suggestions or comments on the proposed amendments on or before Tuesday, January 18, 2000. Written comments should be sent to the Elections Division, Office of the Secretary of State, Second Floor, Hoover State Office Building, Des Moines, Iowa 50319-0138; fax (515)242-3932. Anyone who wishes to comment orally may telephone the Elections Division at (515)281-5823 or visit the office on the second floor of the Hoover Building.

There will be a public hearing on Tuesday, January 18, 2000, at 1:30 p.m. at the Office of the Secretary of State, Second Floor, Hoover State Office Building. Persons may comment orally or in writing. All who speak at the hearing will be asked to give their names and addresses for the record and to confine their remarks to the subject of the amendments.

These amendments are intended to implement Iowa Code chapter 422B as amended by 1999 Iowa Acts, chapter 156, sections 9 and 13, and Iowa Code chapter 455E as amended by 1999 Iowa Acts, chapter 156, section 15.

The following amendments are proposed.

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

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

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

**21.803(4)** Notice to the department of revenue and finance. Within 10 days after an election where a local sales and services tax for school infrastructure projects has been adopted, repealed or where the rate of the tax has been changed, the county auditor shall provide written notice by sending a copy of the abstract of votes to the director of the department of revenue and finance. ~~This notice shall be given at least 40 days before the implementation date of the tax.~~

## ARC 9560A

## SECRETARY OF STATE[721]

## Notice of Intended Action

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

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

Pursuant to the authority of Iowa Code section 47.1, the Secretary of State hereby gives Notice of Intended Action to amend Chapter 21, “Election Forms and Instructions,” Iowa Administrative Code.

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

NOTICE—PUBLIC FUNDS  
INTEREST RATES

In compliance with Iowa Code chapter 74A and section 12C.6, the committee composed of Treasurer of State Michael L. Fitzgerald, Superintendent of Credit Unions James E. Forney, Superintendent of Banking Holmes Foster, and Auditor of State Richard D. Johnson have established today the following rates of interest for public obligations and special assessments. The usury rate for December is 8.00%.

NOTICE—PUBLIC FUNDS INTEREST RATES(cont'd)

INTEREST RATES FOR PUBLIC OBLIGATIONS AND ASSESSMENTS

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

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

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

New official state interest rates, effective December 10, 1999, setting the minimums that may be paid by Iowa depositories on public funds are listed below.

TIME DEPOSITS

- 7-31 days . . . . . Minimum 5.10%
- 32-89 days . . . . . Minimum 5.10%
- 90-179 days . . . . . Minimum 5.30%
- 180-364 days . . . . . Minimum 5.40%
- One year . . . . . Minimum 5.40%
- Two years or more . . . . . Minimum 5.75%

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

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

## ARC 9568A

HUMAN SERVICES  
DEPARTMENT[441]

## Adopted and Filed Emergency

Pursuant to the authority of Iowa Code sections 217.6 and 249A.4 and 1999 Iowa Acts, chapter 203, section 11, subsections 1 and 2, section 33, subsection 13, and section 47, the Department of Human Services hereby amends Chapter 51, "Eligibility," Chapter 52, "Payment," Chapter 75, "Conditions of Eligibility," and Chapter 177, "In-Home Health Related Care," appearing in the Iowa Administrative Code.

These amendments implement the annual adjustment in the maximum amount of resources to be attributed to the community spouse and the amount used for determining the community spouse's maintenance needs and the following changes to the State Supplementary Assistance Program:

- Pass along the January 1, 2000, Supplemental Security Income (SSI) cost-of-living adjustment increases.

The Department received confirmation from the Department of Health and Human Services (DHHS) that the social security cost-of-living increase which will become effective January 1, 2000, is established at 2.4 percent. The Department has decided to pass along this increase to recipients of state supplementary assistance. Therefore, the SSI increase of \$12 for an individual results in an increase in the total allowance in a family life home from \$582.20 to \$594.20. Individuals in family life homes will receive the same personal needs allowance as residents in residential care facilities. The benefit rate for an essential person increased by \$6 from \$251 to \$257 resulting in the same increase for a dependent person.

- Increase the personal needs allowance for residents of residential care facilities. The Seventy-eighth General Assembly in 1999 Iowa Acts, chapter 203, section 11, subsection 1, required the Department to increase the personal needs allowance for residents of residential care facilities (RCFs) by the same percentage and at the same time as federal Supplemental Security Income and federal social security benefits are increased due to a recognized increase in the cost of living. At the current time, residents of RCFs receive a total personal needs allowance of \$71, of which \$65.23 is for personal expenses and \$5.26 is for Medicaid copayment expenses. A 2.4 percent increase in the personal expenses part of the allowance increases that part of the allowance to \$66.80. This amount added to the average copayment expense of \$5.48 totals \$72.28. Thus, the personal needs allowance is rounded up to \$73 effective January 1, 2000.

- Increase the maximum and flat State Supplementary Assistance (SSA) residential care facility (RCF) and in-home health related care (IHRC) reimbursement rate by 1.8 percent. The maximum RCF reimbursement rate will be increased from \$23.83 to \$24.26 per day. The flat RCF reimbursement rate will be increased from \$17.05 to \$17.36 per day. The monthly IHRC reimbursement rate will be increased from \$458.20 to \$466.49.

The Seventy-eighth Iowa General Assembly in 1999 Iowa Acts, chapter 203, section 33, subsection 3, directed that the Department increase the RCF and IHRC reimbursement rates to the amounts indicated in these amendments.

The maximum amount of resources to be attributed to a community spouse and the maintenance needs of a community spouse are indexed annually by the consumer price index. The Department has received confirmation from

DHHS that the maximum amount of resources to be attributed to the community spouse has increased from \$81,960 to \$84,120 and the maintenance needs of the community spouse have increased from \$2,049 to \$2,103.

The Department of Human Services finds that notice and public participation are impracticable and contrary to the public interest. These amendments merely pass along an increase established at the federal level and by state statute. If the Department were to follow regular rule-making procedures, it would be several months before the public would feel the benefits of these amendments. Therefore, these amendments are filed pursuant to Iowa Code section 17A.4(2).

These amendments are being published under Notice of Intended Action to allow for public comment as ARC 9567A herein.

The Department finds that these amendments confer a benefit on the public by passing along the SSI increase to state supplementary assistance recipients and by increasing the maximum amount of resources to be attributed to the community spouse, the maintenance needs of the community spouse, and the personal needs allowance for residents of residential care facilities. 1999 Iowa Acts, chapter 203, section 11, subsections 1 and 2, section 33, subsection 13, and section 47, allow the increase in the personal needs allowance and the increase in the maximum cost reimbursement rate for residential care facilities and in-home health related providers to be effective immediately upon filing unless a later date is specified. Therefore, these amendments are filed pursuant to Iowa Code sections 17A.5(2)"b"(1) and 17A.5(2)"b"(2).

The amendments dealing with the cost-of-living increases do not provide for any waivers in specified situations because the amendments confer a benefit on those affected and were mandated by the General Assembly for all. There is no provision to provide a waiver of the attribution amounts as everyone should be subject to the same amounts set by these amendments. Individuals may request an exception of the attribution amounts under the Department's general rule on exceptions at rule 441—1.8(217).

The Council on Human Services adopted these amendments December 8, 1999.

These amendments are intended to implement Iowa Code sections 249.3, 249.4, and 249A.4 and 1999 Iowa Acts, chapter 203, section 11, subsections 1 and 2, and section 33, subsection 3.

These amendments shall become effective January 1, 2000.

The following amendments are adopted.

ITEM 1. Amend subrule 51.4(1) as follows:

51.4(1) Income. Income of a dependent relative shall be less than ~~\$251~~ \$257. When the dependent's income is from earnings, an exemption of \$65 shall be allowed to cover work expense.

ITEM 2. Amend rule 441—51.7(249) as follows:

441—51.7(249) Income from providing room and board. In determining profit from furnishing room and board or providing family life home care, ~~\$251~~ \$257 per month shall be deducted to cover the cost, and the remaining amount treated as earned income.

This rule is intended to implement Iowa Code sections 249.3 and 249.4.

ITEM 3. Amend rule 441—52.1(249) as follows:

Amend subrules 52.1(1) and 52.1(2) as follows:

HUMAN SERVICES DEPARTMENT[441](cont'd)

52.1(1) Protective living arrangement. The following assistance standards have been established for state supplementary assistance for persons living in a protective living arrangement:

Family life home certified under rules in 441—Chapter 111.

<del>\$511.20</del>	\$521.20	care allowance	
<del>71.00</del>	73.00	personal allowance	
<del>\$582.20</del>	\$594.20	Total	

52.1(2) Dependent relative. The following assistance standards have been established for state supplementary assistance for dependent relatives residing in a recipient's home.

- a. Aged or disabled client and a dependent relative ..... \$751 \$769
- b. Aged or disabled client, eligible spouse, and a dependent relative .... \$1002 \$1026
- c. Blind client and a dependent relative ..... \$773 \$791
- d. Blind client, aged or disabled spouse, and a dependent relative .... \$1024 \$1048
- e. Blind client, blind spouse, and a dependent relative ..... \$1046 \$1070

Amend subrule 52.1(3), introductory paragraph, as follows:

52.1(3) Residential care. Payment to a recipient in a residential care facility shall be made on a flat per diem rate of ~~\$17.05~~ \$17.36 or on a cost-related reimbursement system with a maximum reimbursement per diem rate of ~~\$23.83~~ \$24.26. A cost-related per diem rate shall be established for each facility choosing this method of payment according to rule 441—54.3(249).

Further amend subrule 52.1(3), paragraph "a," subparagraph (2), as follows:

(2) Effective ~~January 1, 1999~~ January 1, 2000, a ~~\$71~~ \$73 allowance to meet personal expenses and Medicaid copayment expenses.

ITEM 4. Amend subrule 75.5(3), paragraph "d," as follows:

d. Method of attribution. The resources attributed to the institutionalized spouse shall be one-half of the documented resources of both the institutionalized and community spouse as of the first moment of the first day of the month of the spouse's first entry to a medical facility. However, if one-half of the resources is less than \$24,000, then \$24,000 shall be protected for the community spouse. Also, when one-half the resources attributed to the community spouse exceeds ~~\$81,960~~ \$84,120, the amount over ~~\$81,960~~ \$84,120 shall be attributed to the institutionalized spouse. (The maximum limit shall be indexed annually by the consumer price index.)

If the institutionalized spouse has transferred resources to the community spouse under a court order for the support of the community spouse, the amount transferred shall be the amount attributed to the community spouse if it exceeds the specified limits above.

ITEM 5. Amend subrule 75.16(2), paragraph "d," subparagraph (3), as follows:

(3) Needs of spouse. The maintenance needs of the spouse shall be determined by subtracting the spouse's gross income from ~~\$2,049~~ \$2,103. (This amount shall be indexed

for inflation annually according to the consumer price index.)

However, if either spouse established through the appeal process that the community spouse needs income above ~~\$2,049~~ \$2,103, due to exceptional circumstances resulting in significant financial duress, an amount adequate to provide additional income as is necessary shall be substituted.

Also, if a court has entered an order against an institutionalized spouse for monthly income to support the community spouse, then the community spouse income allowance shall not be less than this amount.

ITEM 6. Amend rule 441—177.4(249) as follows:  
Amend subrule 177.4(3) as follows:

177.4(3) Maximum costs. The maximum cost of service shall be ~~\$458.20~~ \$466.49. The provider shall accept the payment made and shall make no additional charges to the recipient or others.

Amend subrule 177.4(7), introductory paragraph, as follows:

177.4(7) Income for adults. The gross income of the individual and spouse, living in the home, shall be limited to ~~\$458.20~~ \$466.49 per month if one needs care or ~~\$916.40~~ \$932.98 if both need care, with the following disregards:

Amend subrule 177.4(8), paragraph "b," introductory statement, as follows:

b. The income of the child shall be limited to ~~\$458.20~~ \$466.49 per month with the following disregards:

[Filed Emergency 12/8/99, effective 1/1/00]  
[Published 12/29/99]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 12/29/99.

ARC 9573A

MEDICAL EXAMINERS BOARD[653]

Adopted and Filed Emergency After Notice

Pursuant to the authority of Iowa Code sections 147.76, 147.80 and 272C.3, the Board of Medical Examiners hereby amends Chapter 11, "Licensure Requirements," Iowa Administrative Code.

Notice of Intended Action was published in the Iowa Administrative Bulletin on November 3, 1999, as ARC 9448A. These amendments are identical to those published under Notice.

These amendments revise the license fees to provide the revenue needed to operate the Board of Medical Examiners as required by statute. The revision raises the fees to renew an active license by \$125, to issue a temporary license by \$50, to renew a temporary license by \$25, and to issue a special license by \$25. Currently, the Board charges inactive physicians \$200 per biennial period to remain inactive; this amendment would charge a one-time fee of \$325 to become inactive and no continuing fee to remain in that status.

Subrule 11.31(4) provides additional fee revisions needed to provide the revenue necessary to operate the Board of Medical Examiners as required by statute.

• The verification and certification of examination fees are being increased to offset the increased cost of labor involved in the procedures and the costs to maintain the computers and programs that store the data. Likewise, the certifi-



## MEDICAL EXAMINERS BOARD[653](cont'd)

cation of examination fees requires long-term storage of the examination score records in the agency. The subscription deadline for unlimited verifications is being removed; the subscriptions are handled on an annual basis whenever that falls.

- New fees are being established for mailing lists because the Board has not previously sold lists and labels directly. Prior to the Board's change to an on-site database, the Department of Public Health sold the lists and labels directly to customers. Since late October 1999, the Board has managed its own data from an on-site local area network.

- The Board has not previously charged for returned checks; however, it receives several per year.

- The Board has not previously charged for copies of its administrative rules or the various laws related to medicine and surgery, osteopathic medicine and surgery, and osteopathy. The Board has been receiving an increasing number of requests and must offset the expense involved in duplication and keeping the copies current. The relevant rules involve nearly 100 pages and the statutes are at least 35 pages.

The Board 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 December 8, 1999, as they confer a benefit upon the medical community and the general public. Higher fees will generate sufficient revenue to cover the Board's FY'00 supplemental budget request, which will enable the Board to provide improved service in licensing and compliance. Physicians will be licensed and available to see patients sooner. The Board will more quickly act on cases, sanctioning physicians who are a threat to the public and relieving physicians who have had unfounded complaints.

These amendments are intended to implement Iowa Code sections 147.10, 147.25, 147.76 and 147.80.

These amendments became effective on December 8, 1999.

The following amendments are adopted.

Amend rule 653—11.31(147) to read as follows:

**653—11.31(147) Fees.** The following fees shall be collected by the board and shall not be refunded except by board action in unusual instances such as documented illness of the applicant, death of the applicant, inability of the applicant to comply with the rules of the board, or withdrawal of the application provided such withdrawal is received in writing by the cancellation date specified by the board. Examination fees shall be nontransferable from one examination to another. Refunds of examination fees shall be subject to a nonrefundable administrative fee of \$75 per application. The administrative fee shall be deducted by the board or its designated testing service prior to actual refund.

**11.31(1) and 11.31(2)** No change.

**11.31(3)** For a renewal of a *an active* license to practice medicine and surgery, osteopathic medicine and surgery or osteopathy, ~~\$200~~ \$325 per biennial period or a prorated portion thereof for a period of less than two years as determined by the board to facilitate biennial renewal according to month and year of birth.

**11.31(4)** Upon written request, the board may provide the following information about the status of licensees or examinees for the designated fees:

a. Written verification that a licensee in this state is licensed.

(1) For a certified statement verifying licensure including the board seal or a letter of good standing, ~~\$25~~ \$40;

(2) For verification of licensure status not requiring certified statements or letters of up to ten licensees, \$15.

(3) For an unlimited number of verifications of licensure status in a 12-month period, an annual subscription fee of \$2000. ~~After June 30, 1994, the annual subscription fee shall be submitted prior to July 31.~~

b. Written certification of scores of an examination given by the board in this state as permitted under Iowa Code section 147.21 and 653 IAC 1.13(2)"f" and "g."

(1) For a certified statement of grades attained by examination, ~~\$35~~ \$45.

(2) For a certified statement of grades attained by examination including examination history or other additional documentation, ~~\$45~~ \$55.

c. No change.

d. *Mailing lists.*

(1) *For printed mailing list of physicians, \$65.*

(2) *For a mailing list on diskette, \$40.*

(3) *For a mailing list in an electronic file, \$35.*

e. *Returned checks. For a check returned for any reason, \$25. If a license had been issued by the board office based on a check which is later returned by the bank, the board shall request payment by certified check or money order. If the fees are not paid within two weeks of notification by certified mail of the returned check, the licensee shall be subject to disciplinary action for noncompliance with board rules.*

f. *Copies of the Iowa Code chapters that pertain to the practice of medicine, \$10.*

g. *Copies of the Medical Examiners Board[653] rules in the Iowa Administrative Code, \$10.*

**11.31(5) to 11.31(7)** No change.

**11.31(8)** For a temporary license, ~~\$150~~ \$200.

**11.31(9)** For renewal of a temporary license, ~~\$175~~ \$200.

**11.31(10)** *For a license to be placed on inactive status, \$325.*

**11.31(11) and 11.31(12)** No change.

**11.31(13)** For a special license to practice medicine and surgery or osteopathic medicine and surgery, an annual fee of ~~\$175~~ \$200.

**11.31(14) and 11.31(15)** No change.

[Filed Emergency After Notice 12/8/99, effective 12/8/99]  
[Published 12/29/99]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 12/29/99.

**ARC 9585A**

## NATURAL RESOURCE COMMISSION[571]

### Adopted and Filed Emergency

Pursuant to the authority of Iowa Code subsection 455A.5(6), the Natural Resource Commission hereby adopts amendments to Chapter 28, "Snowmobile and All-Terrain Vehicle Registration Revenue Cost-Share Program," Iowa Administrative Code.

These amendments accomplish the following:

1. Allow for other agencies to hold title to lands purchased for the ATV cost-share program.

2. Add leasing of snow grooming equipment as an item eligible for funding.

NATURAL RESOURCE COMMISSION[571](cont'd)

3. Approve reimbursement for expenses incurred by the State ATV or Snowmobile Association officers when in conjunction with grant application reviews and riding area development.

In compliance with Iowa Code section 17A.4(2), the Department finds that notice and public participation are unnecessary as changes confer a benefit for the associations and clubs involved with the grant programs and do not affect the general public as a whole. The associations have approved the changes prior to publication.

The Department finds, pursuant to Iowa Code section 17A.5(2)"b"(2), that the normal effective date of the amendments should be waived and the amendments made effective upon filing with the Administrative Rules Coordinator because the amendments confer a benefit on the public by allowing expenses to be reimbursed and by allowing agencies other than a local sponsor to hold title to land for off-highway vehicle riding areas.

These amendments are intended to implement Iowa Code section 321G.7.

These amendments became effective December 10, 1999. The following amendments are adopted.

ITEM 1. Amend subrule 28.8(2) as follows:
28.8(2) Title to property acquired using the local cost-share portion of registration revenues shall be in the name of the sponsor receiving the grant or subgrant unless otherwise approved by the DNR. All such property is to be available for use by the general public without fee except during special events or unless otherwise approved by the director.

ITEM 2. Amend subrule 28.13(2) by adopting the following new paragraph "e":

e. Cost of leasing equipment used to groom snowmobile trails as approved by the snowmobile review and selection committee. The actual per hour cost for the machine up to \$50 an hour may be reimbursed.

ITEM 3. Amend rule 571—28.13(321G) by adopting the following new subrule:

28.13(5) Other expenses. Pursuant to an agreement between the department and the ATV or snowmobile association, miscellaneous personal expenses for association officers incurred in the review of grant applications and development of riding parks may be reimbursed.

[Filed Emergency 12/10/99, effective 12/10/99]
[Published 12/29/99]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 12/29/99.

ARC 9584A

NATURAL RESOURCE COMMISSION[571]

Adopted and Filed Emergency After Notice

Pursuant to the authority of Iowa Code subsection 455A.5(6), the Natural Resource Commission hereby adopts amendments to Chapter 61, "State Parks and Recreation Areas," Iowa Administrative Code.

These amendments accomplish the following:

- 1. Define the term "yurt."

2. Delete the old cabins at Backbone State Park from the list of cabins available to rent.

3. Increase the rental fee for cabins at some state parks.

4. Set fees and reservation policy for renting yurts.

Notice of Intended Action was published in the Iowa Administrative Bulletin on November 3, 1999, as ARC 9461A. A public hearing was held on November 23, 1999. No public comments were received. No changes were made from the original Notice.

The Department of Natural Resources finds that implementation of the fee amendments after January 1, 2000, would cause confusion for the general public when making cabin and yurt rental reservations. Reservations for the rental facilities are taken beginning on the first business day following January 1 of each year. Cabin and yurt rental reservation requests must be accompanied with a reservation deposit equivalent to one day of the daily rate for that facility. Following the normal rule-making schedule, the fee amendments would not go into effect until February 2, 2000, causing fee changes to facilities already reserved prior to February 2, 2000. Also, new facilities would not have fees established in order to accept reservations beginning in January. Making the amendments effective on January 1, 2000, will confer a benefit on the public as it will decrease confusion as to which rental rate is in effect and make new facilities available for reservations in January. Therefore, these amendments are filed pursuant to Iowa Code section 17A.5(2)"b"(2).

These amendments are intended to implement Iowa Code sections 461A.3, 461A.35, 461A.46 to 461A.51, and 461A.57.

These amendments will become effective January 1, 2000.

The following amendments are adopted.

ITEM 1. Amend 571—61.2(461A) by adopting the following new definition in alphabetical order:

"Yurt" means a one-room circular fabric structure built on a platform which is available for rental on a daily or weekly basis.

ITEM 2. Amend subrule 61.3(2) as follows:
61.3(2) Cabin rental. This fee does not include tax.

Table with 3 columns: Location, Per Day (Minimum two nights), Per Week. Rows include Backbone State Park (Delaware County renovated cabins), Backbone State Park (Delaware County old cabins), Backbone State Park (Delaware County new cabins), Dolliver State Park (Webster County), Green Valley State Park (Union County), Lacey-Keosauqua (Van Buren County), and Lake Darling State Recreation Area (Washington County).

NATURAL RESOURCE COMMISSION[571](cont'd)

	Per Day (Minimum <u>two nights</u> )	Per Week
Lake of Three Fires State Park, Taylor County	22	120
Lake Wapello, Davis County (except Cabin No. 13)	30	175
Lake Wapello, Davis County, Cabin No. 13	35	200
Palisades-Kepler, Linn County	30	175
Pine Lake State Park, Hardin County		
Sleeping area cabins (four-person occupancy limit)	40	200
One-bedroom cabins	<del>50.00</del> 55	<del>300</del> 330
Pleasant Creek Recreation Area, Linn County	<del>20.00</del> 30	<del>120</del> 175
Springbrook State Recreation Area, Guthrie County	22	120
Wilson Island Recreation Area, Pottawattamie County (#1)	18	110
Extra cots, where available	1	

ITEM 3. Adopt new subrule 61.3(3) as follows and re-number subrules **61.3(3)** to **61.3(7)** as **61.3(4)** to **61.3(8)**.  
**61.3(3)** Yurt rental. This fee does not include tax.

	Per Day (Minimum <u>two nights</u> )	Per Week
McIntosh Woods State Park, Cerro Gordo County	\$30	\$175

ITEM 4. Amend subrule **61.4(2)**, introductory paragraph, as follows:

**61.4(2)** Lodge, cabin, *yurt*, open shelter, group camp and designated organized youth camp site reservations and rental.

ITEM 5. Amend subrule **61.4(2)**, paragraph "b," as follows:

b. Telephone and walk-in reservations will not be accepted until the first business day following November 1 of each year for the heated cabins and the first business day after January 1 of each year for all other cabins, *yurts*, group camps, open and enclosed shelters, designated organized youth camp sites, or lodges.

ITEM 6. Amend subrule **61.4(2)**, paragraph "f," as follows:

f. Except as provided in 61.4(2)"m" and "n," cabin and group camp reservations must be for a minimum of one week (Saturday p.m. to Saturday a.m.). Reservations for more than a two-week stay will not be accepted *for any facility*. These facilities, if not reserved, may be rented for a minimum of two nights on a walk-in, first-come, first-served basis. No walk-in rentals will be permitted after 6 p.m. of the first night of the rental period.

ITEM 7. Amend subrule **61.4(2)**, paragraph "g," as follows:

g. Persons renting cabins, *yurts* or group camp facilities must check in at or after 4 p.m. on Saturday. Check-out time is 11 a.m. or earlier on Saturday.

ITEM 8. Amend subrule **61.4(2)**, paragraph "h," as follows:

h. Except by arrangement with the park ranger for late arrival, no cabin, *yurt* or group camp reservation will be held past 6 p.m. on the first night of the reservation period if the person reserving the facility does not appear. When late arrival arrangements have been made, the person must appear prior to the park closing time established by Iowa Code section 461A.46 and Iowa Administrative Code subrule 61.5(3) or access will not be permitted to the facility until 8 a.m. the following day. Arrangements must be made with the park ranger if next-day arrival is to be later than 9 a.m.

ITEM 9. Amend subrule **61.4(2)**, paragraph "k," as follows:

k. The number of persons occupying rental cabins is limited to six in cabins which contain one bedroom or less and eight in cabins with two bedrooms. Occupancy of the sleeping area cabins located at Pine Lake State Park and Wilson Island State Recreation Area is limited to four persons. *Occupancy of the yurts is limited to four persons.*

ITEM 10. Amend subrule **61.4(2)**, paragraph "n," as follows:

n. The sleeping room cabin at Wilson Island State Recreation Area, ~~and the cabin and group camp at Dolliver, the cabins at Pleasant Creek, the yurts at McIntosh Woods, and the group camp at Springbrook State Recreation Area~~ may be reserved for a minimum of two days throughout the rental season.

ITEM 11. Amend subrule **61.4(5)**, paragraph "a," subparagraph (1), as follows:

(1) All cabin, *yurt* and group camp reservation requests must be accompanied by a reservation deposit equivalent to one day of the daily rate for that rental unit as provided in 61.3(2) and 61.3(4) (no sales tax shall be included). The deposit shall be required for each rental unit and rental period requested. The reservation deposit will be applied toward the total rental fee when the rental fee is due. Reservations made by telephone will be tentatively scheduled and held for seven working days. If written confirmation and reservation deposit are not received by the end of the seventh working day, the reservation will be canceled.

ITEM 12. Amend subrule **61.4(5)**, paragraph "b," subparagraph (1), as follows:

(1) Upon arrival for the cabin *or yurt* rental period, a damage deposit in the amount of \$50 and the remainder of the applicable rental fee, including all sales tax, shall be paid in full. This damage deposit shall be paid by use of a separate financial instrument (e.g., check, money order, or cash) from the rental fee.

ITEM 13. Amend subrule **61.4(5)**, paragraph "b," subparagraph (7), numbered paragraph "1," as follows:

1. Inclement weather prohibits arrival at or entrance to the state park cabin, *yurt*, group camp, open or enclosed shelter or lodge area.

[Filed Emergency After Notice 12/10/99, effective 1/1/00]  
 [Published 12/29/99]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 12/29/99.

**ARC 9576A****TREASURER OF STATE[781]****Adopted and Filed Emergency After Notice**

Pursuant to the authority of 1999 Iowa Acts, chapter 177, section 5, the Treasurer of State hereby amends Chapter 4, "Linked Investments for Tomorrow (LIFT)," Iowa Administrative Code.

New rule 4.11(12) establishes procedures governing the participation, forms, and use of proceeds in the Value-Added Agriculture LIFT program.

Notice of Intended Action was published in the Iowa Administrative Bulletin on November 3, 1999, as **ARC 9449A**. No comments were received.

The amendment is identical to the Notice of Intended Action.

Pursuant to Iowa Code section 17A.5(2)"b"(2), this amendment became effective on December 10, 1999. The Treasurer finds that this amendment confers a benefit on the people of Iowa by providing producers with access to capital for value-added agriculture as quickly as possible, due to the state of the agricultural economy at the current time.

This amendment is intended to implement Iowa Code Supplement section 12.43B [1999 Iowa Acts, chapter 177, section 5].

The amendment became effective December 10, 1999.

The following new rule is adopted.

**781—4.11(12) LIFT—value-added agriculture linked investment loan program.**

**4.11(1)** "Value-added agriculture" means processing agricultural commodities raised in Iowa into a more highly valued state by the addition of capital and labor inputs in which the form of the original agricultural commodity is changed or the agricultural commodity is produced for a new market.

**4.11(2)** "Value-added project" means specific company or business operation that qualifies for the value-added linked investment program.

**4.11(3)** "Agricultural commodities" means corn, soybeans, oats, hay, hogs, cattle, dairy cattle, milk, sheep, chicken, turkey and eggs.

**4.11(4)** The treasurer of state recognizes this program is part of a state effort to develop and promote value-added agriculture. The treasurer will give stronger consideration to projects developed in conjunction with or recommended by the Iowa department of economic development, the department of agriculture and land stewardship or any other state-sponsored value-added program.

**4.11(5)** The value-added project, business or farming operation, borrower, and lender must be located in Iowa.

**4.11(6)** The borrower must be at least 18 years of age.

**4.11(7)** A borrower that is currently participating or that has previously participated in any other LIFT program in the state treasurer's office is not eligible.

**4.11(8)** A borrower who qualifies for a value-added linked investment loan may use the loan proceeds for new debt directly related to a value-added agriculture project approved by the state treasurer's office. The borrower may not refinance debt under this program.

**4.11(9)** A borrower who qualifies for a value-added linked investment loan may not use the loan proceeds for financing of vehicles.

**4.11(10)** The maximum amount any value-added project can receive from all borrowers shall be \$1,000,000. The treasurer can increase this limit at the governor's request.

**4.11(11)** The maximum amount that a borrower may borrow from this program is \$250,000.

**4.11(12)** For a value-added linked investment, the initial certificate of deposit for a given borrower shall have a maturity of one year. The certificate of deposit may be renewed on an annual basis for a total term not to exceed five years.

**4.11(13)** A lender shall use Form 655-0217 to apply for the program and verify that the borrower qualifies for the program.

[Filed Emergency After Notice 12/8/99, effective 12/10/99]

[Published 12/29/99]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 12/29/99.

**ARC 9559A****VETERANS AFFAIRS  
COMMISSION[801]****Adopted and Filed Emergency**

Pursuant to the authority of Iowa Code section 35A.3(2), the Commission of Veterans Affairs hereby amends Chapter 1, "Organization and Procedures," Iowa Administrative Code.

These amendments are necessary because of changes in the law in 1999 Iowa Acts, chapter 180, that provide for a World War II Oceangoing Merchant Marines bonus for veterans and their beneficiaries and to be in concert with other World War II veteran bonuses. This group of WWII veterans was omitted from the original WWII bonuses.

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

The Commission of Veterans Affairs also finds, pursuant to Iowa Code section 17A.5(2)"b"(2), that the normal effective date of the amendment should be waived and the amendment should be made effective upon filing with the Administrative Rules Coordinator on December 3, 1999, as the amendment will affect older Americans of this eligible group that are dying nationally at a rate of 1000 per day.

The Commission of Veterans Affairs adopted this amendment on November 12, 1999.

This amendment became effective December 3, 1999.

This amendment is intended to implement 1999 Iowa Acts, chapter 180, sections 2 and 5.

The following new rule is adopted.

**801—1.11(35) Merchant marine war bonus.** The merchant marine war bonus shall be administered in accordance with 1999 Iowa Acts, chapter 180, sections 2 and 5.

**1.11(1) Eligibility.** This rule applies to former members of the active, oceangoing merchant marines who served during World War II at any time between December 7, 1941, and December 31, 1946, both dates inclusive, and who had maintained residence in this state for a period of at least six months immediately before entering the merchant marine service, and who were discharged under honorable conditions.

## VETERANS AFFAIRS COMMISSION[801](cont'd)

**1.11(2)** Application procedures. The application is available at the commission of veterans affairs. The application may be submitted to the commission with name, address and telephone number, along with required document DD-214.

**1.11(3)** Department processing and investigation.

a. The time period for filing applications shall be from July 1, 1999, to July 1, 2004.

b. The executive director of the commission of veterans affairs will approve or disapprove the application.

**1.11(4)** Appeals procedure. Decisions of the executive director are subject to review by the commission. Applicants may appeal the decisions of the commission as provided by Iowa Code section 17A.19.

**1.11(5)** Office address. The office of the commission of veterans affairs is located at 7700 NW Beaver Drive, Building A6A, Johnston, Iowa 50131-1902.

**1.11(6)** Qualified recipient and amount of payment. The former merchant marine or surviving unmarried widow or widower, child or children, mother, father, or person standing in loco parentis, in the order named and none other, of any deceased person, shall be paid and entitled to receive from moneys appropriated for that purpose the sum of \$12.50 for each month that the person was on active duty in the merchant marine service, all before December 31, 1946, not to exceed a total sum of \$500.

[Filed Emergency 12/3/99, effective 12/3/99]

[Published 12/29/99]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 12/29/99.

## ARC 9575A

BLIND, DEPARTMENT  
FOR THE[111]

## Adopted and Filed

Pursuant to the authority of Iowa Code section 216B.6, the Commission for the Blind hereby amends Chapter 10, "Vocational Rehabilitation Services," Iowa Administrative Code.

Notice of Intended Action was published in the Iowa Administrative Bulletin on October 20, 1999, as ARC 9428A. No public comments were received on this amendment. The adopted amendment is identical to the one published under Notice.

The amendment provides information regarding the dispute resolution process made available as part of vocational rehabilitation services and required by the federal Vocational Rehabilitation Act of 1973 as amended through 1998.

The Commission believes this amendment will bring the Department into compliance with the requirements of the federal Vocational Rehabilitation Act of 1973 as amended through 1998.

This amendment was approved during the December 8, 1999, meeting of the Commission for the Blind.

The amendment will become effective February 2, 2000.

The amendment is intended to implement Iowa Code section 17A.3 and Iowa Code chapter 216B.

The following amendment is adopted.

Rescind rule 111—10.8(216B) and adopt the following new rule in lieu thereof:

**111—10.8(216B) Dispute resolution process.** This rule defines the procedures under which the dispute resolution process, required by the federal Vocational Rehabilitation Act of 1973 as amended through 1998, shall be conducted by the department.

**10.8(1) Definitions:**

"Administrative review" means a procedure by which the department may provide an opportunity for an applicant or eligible individual to express and seek remedy for dissatisfaction with a decision regarding the furnishing or denial of services.

"Formal hearing" means a procedure whereby an applicant or eligible individual who is dissatisfied with the findings of an administrative review or mediation concerning the furnishing or denial of services may request a timely review of those determinations before an impartial hearing officer.

While the department encourages the use of the administrative review process to resolve grievances, the administrative review process is not to be used as a means to delay mediation or a formal hearing before an impartial hearing officer unless the parties jointly agree to a delay. An applicant or eligible individual may elect to proceed directly either to mediation or to the formal hearing process. The department will not suspend, reduce, or terminate vocational rehabilitation services to any applicant or eligible individual throughout the administrative review, mediation or formal hearing process before a final agreement or decision is made, unless the applicant or eligible individual or, as appropriate, the applicant's or eligible individual's representative so requests, or the department has evidence that the services have been obtained through misrepresentation, fraud, collusion, or

criminal conduct on the part of the applicant or eligible individual.

"Mediation" means an alternative which an applicant or eligible individual may choose if the applicant or eligible individual is dissatisfied with the findings of an administrative review concerning the furnishing or denial of services.

**10.8(2) Administrative review.** An applicant or eligible individual may request review of a decision regarding furnishing or denial of services with which the applicant or eligible individual is dissatisfied by submitting a letter to the program administrator of field operations.

a. The program administrator shall acknowledge receipt of the letter and arrangements shall be made for the administrative review to be held at a mutually convenient date, time, and place which shall be within ten days after receipt of the request for review. The applicant or eligible individual shall also be notified of the applicant's or eligible individual's right to obtain assistance through the Iowa client assistance program.

b. The administrative review shall consist of review of the case file and any other documentation involved in the subject matter of the review; interviews with the service specialists for the blind and any others directly involved with the subject matter of the review; and an interview with the applicant or eligible individual or, as appropriate, a representative of the applicant or eligible individual.

c. The program administrator shall issue a written decision within five days of the review. The decision shall set forth the issue, principle, and relevant facts established during the review; pertinent provision of law, administrative rule or department policy; and the reasoning upon which the decision is based. The letter transmitting the decision shall advise the applicant or eligible individual that the applicant or eligible individual shall inform the program administrator within seven days that either: (1) the applicant or eligible individual accepts the decision; or (2) the applicant or eligible individual does not accept the decision and wishes to proceed either to mediation or to a formal hearing.

d. A record of the decision and any action resulting from the decision shall be sent to the applicant or eligible individual by mail. The decision and a record of any action resulting from the decision shall be entered into the case file.

**10.8(3) Mediation.** An applicant or eligible individual who is dissatisfied with the findings of an administrative review or who has elected to bypass the administrative review process may request mediation by submitting a letter to the program administrator. This letter must be received within seven days of the date of determination of the administrative review, if an administrative review has been conducted.

a. The program administrator shall acknowledge receipt of the request for mediation and shall make arrangements for mediation to occur within 30 days of the request to initiate the dispute resolution process. The date, time, and place shall be mutually agreeable to all parties. The applicant or eligible individual shall be notified in writing of the right to submit evidence or information to support the applicant's or eligible individual's position and to obtain representation to be present during the mediation sessions. The applicant or eligible individual shall also be notified of the applicant's or eligible individual's right to obtain assistance through the Iowa client assistance program. All mediation sessions shall be held in a timely manner and shall be concluded within 45 days of the date that the applicant or eligible individual initiated the dispute resolution process, unless an extension of this time is agreed upon by all parties. The department will pay costs for the mediator and, when appropriate, transporta-

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

tion, meals and lodging expenses for the applicant or eligible individual which are directly associated with the mediation process. The program administrator will determine who will represent the department during mediation sessions.

b. The department, in conjunction with the Iowa department of education, division of vocational rehabilitation services, will maintain a list of individuals who are impartial, qualified mediators and knowledgeable in laws (including regulations) relating to the provision of vocational rehabilitation services. Potential mediators will be identified by the division of vocational rehabilitation services utilizing three primary sources: mediators used by the department of education, the Iowa peace institute, and the Iowa extension service. The department and the division of vocational rehabilitation services will train potential mediators in the laws and regulations governing vocational rehabilitation.

c. A mediator will be selected at random or by agreement of the director and the applicant or eligible individual or, as appropriate, the applicant's or eligible individual's representative from the list described in paragraph "b."

d. Discussions which occur during the mediation process shall be confidential and shall not be used as evidence in any subsequent due process hearing or civil proceeding.

e. All agreements reached by the parties to the dispute in the mediation process shall be set forth in a written mediation agreement. This agreement shall be prepared by the mediator and mailed within seven days to all parties.

f. Either party to the dispute may request a formal hearing. This request must be in writing and must be submitted to the director within seven days of the date of the written mediation agreement.

**10.8(4) Formal hearing.** An applicant or eligible individual who is dissatisfied with any determinations made concerning the furnishing or denial of vocational rehabilitation services, or the findings of an administrative review or mediation if an administrative review or mediation took place, may request a formal hearing by submitting a letter to the director.

a. The director shall acknowledge receipt of the request and make arrangements for a formal hearing to be held within 45 days of the request of the applicant or eligible individual to initiate the dispute resolution process at a date, time, and place mutually agreeable to both parties. The applicant or eligible individual shall also be notified of the right to have a representative present at the formal hearing and to seek assistance through the Iowa client assistance program. Reasonable time extensions shall be granted for good cause shown at the request of a party or at the request of both parties.

b. The impartial hearing officer shall be an individual who is not an employee of a public agency other than an administrative law judge, hearing examiner, or employee of an institution of higher education. (An individual is not an employee of a public agency solely because the individual is paid by that agency to serve as a hearing officer.) The hearing officer (1) is not a member of the commission for the blind; (2) has not been involved in previous decisions regarding the vocational rehabilitation of the applicant or eligible individual; (3) has knowledge of the delivery of vocational rehabilitation services, the state plan, and the federal and state regulations governing the provision of services; (4) has received training with respect to the performance of official duties; and (5) has no personal, professional, or financial interest that would be in conflict with the hearing officer's objectivity. The director may also request that other designated department personnel be present at the formal hearing. At the request of the applicant or eligible individual, a representative of the applicant or eligible individual and a repre-

sentative of the Iowa client assistance program may also be present. Any of these persons shall have the opportunity to present relevant evidence.

c. An impartial hearing officer must be selected on a random basis or by agreement between the director and the applicant or eligible individual or, as appropriate, the applicant's or eligible individual's representative from a pool of persons qualified to be an impartial hearing officer.

d. The impartial hearing officer shall inform those present of the confidentiality of matters discussed. The proceedings shall be recorded and, if necessary, transcribed.

e. Within 30 days of the completion of the formal hearing, the decision of the impartial hearing officer shall be mailed to the applicant or eligible individual or, if appropriate, the applicant's or eligible individual's representative, and the director. A representative of the Iowa client assistance program who has attended the formal hearing shall also receive a copy of the decision. The applicant or eligible individual may receive a copy of the transcript of the hearing upon written request to the director.

The decision of the impartial hearing officer shall be based upon the provisions of the approved state plan, the federal Vocational Rehabilitation Act of 1973 as amended through 1998, federal vocational rehabilitation regulations, and state regulations and policies.

f. The decision of the hearing officer is final.

**10.8(5)** Transcripts, notices, responses, and other documents which are an integral part of the dispute resolution process shall be provided to involved parties in standard print format. An applicant or eligible individual, or representative of an applicant or eligible individual, or other involved party may request provision of documents in the alternative medium of braille, cassette tape, or large-type format. Documents in the alternative medium shall be provided in a timely manner.

[Filed 12/8/99, effective 2/2/00]  
[Published 12/29/99]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 12/29/99.

ARC 9591A

## EDUCATION DEPARTMENT[281]

### Adopted and Filed

Pursuant to the authority of Iowa Code sections 256.7(5) and 256B.3(15), the State Board of Education hereby amends Chapter 41, "Special Education," Iowa Administrative Code.

Notice of Intended Action was published in the Iowa Administrative Bulletin on October 6, 1999, as **ARC 9375A**. Public comment was solicited through October 29, 1999. Four public hearings were held October 20, 21, 26 and 28, 1999. Comments were received and taken into consideration.

These rules conform to federal special education regulations; therefore, waivers cannot be granted by state rule-making authority.

Amendments to this chapter implement Iowa Code chapters 256B and 273, 20 U.S.C. §1401 et seq., and the regulations adopted thereunder found at 34 CFR Part 300. The amendments bring these rules in alignment with new federal regulations at 34 CFR Part 300 that implement the Individu-

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

als with Disabilities Education Act of 1997. To the maximum extent possible, these amendments incorporate the language of the new federal regulations.

The following changes were made in response to public comment:

- Rule 41.5(256B,34CFR300), definition of "related services," is amended to include transportation:

"Related services" ~~mean~~ *means transportation and* such developmental, corrective and other services as are required to assist an individual with a disability to benefit from special education.

- Paragraph 41.10(2)"j" is amended by replacing the word "instructional" with the word "educational" to be consistent with Iowa Administrative Code 281—subrule 12.4(9):

i j. "Others" as approved by the department, *such as educational assistants described in Iowa Administrative Code 281—subrule 12.4(9).*

- Subrule 41.50(5) is added to clarify that decisions about placement are to be made by a group of persons and others knowledgeable about the child and that such decisions must address the least restrictive environment provisions of these rules. Subrule 41.50(5) reads as follows:

"**41.50(5)** Placement decision. In determining the educational placement of an eligible individual, each public agency shall ensure that the placement decision is made by a group of persons, including the parent and other persons knowledgeable about the child, the meaning of the evaluation data, and the placement options. The placement decision shall be made in conformity with least restrictive environment provisions described in Division VI."

- Rule 41.75(256B,34CFR300,303) is amended by deleting the word "eligible" to clarify that the individuals referred to are not eligible individuals under Part B.

- Subrule 41.75(2) is amended by replacing the phrase "eligible individual" with the word "child" to clarify that the individuals referred to are not eligible individuals under Part B and by adding the word "service" to clarify that the reference is to the IFSP service coordinator under Part C.

- Subrule 41.75(3) is amended by replacing the phrase "eligible individual" with the word "child" to clarify that the individuals referred to are not eligible individuals under Part B and by adding the word "service" to clarify that the reference is to the IFSP service coordinator under Part C.

- Subrule 41.75(4) is amended by replacing the word "individual" with the word "child" to be consistent with amendments to subrule 41.75(2) and subrule 41.75(3).

- Rule 41.77(256B,34CFR300) is amended by replacing the phrase "an evaluation" with the phrase "a reevaluation" to clarify that the evaluation to which the rule refers is a reevaluation, not an initial evaluation.

- Rule 41.98(256B,34CFR300) is amended by deleting the phrase "a related service" to clarify that transportation is a related service only when determined as needed for an eligible individual.

- Subrule 41.103(2) is amended by adding the following sentence to clarify that consent is required both for initial placement and for initial evaluation: "Consent for initial evaluation may not be construed as consent for initial placement described in this subrule."

- Subrule 41.104(3) is amended by adding the following sentence to clarify the specific instances in which parents must be provided a copy of procedural safeguards: "A copy of the procedural safeguards available to the parents of a child with a disability must be given to the parents, at a minimum, upon initial referral for evaluation; upon each notification

of an IEP meeting; upon reevaluation of the child; and upon receipt of a request for due process under rule 41.107(256B,34CFR300)."

- Rule 41.108(34CFR300) is amended by adding the following sentence to clarify the prohibition of the use of federal funds for attorney fees under Part B: "Funds under 20 U.S.C. Chapter 33, Part B, may not be used to pay attorney fees or costs of a party related to an action or proceeding described in Division XI."

These amendments will become effective February 2, 2000.

These amendments are intended to implement Iowa Code chapters 256B and 273, 20 U.S.C. §1401 et seq., and the regulations adopted thereunder found at 34 CFR Part 300.

EDITOR'S NOTE: Pursuant to recommendation of the Administrative Rules Review Committee published in the Iowa Administrative Bulletin, September 10, 1986, the text of these rules [amendments to Ch 41] is being omitted. With the exception of the changes noted above, these amendments are identical to those published under Notice as **ARC 9375A**, IAB 10/6/99.

[Filed 12/10/99, effective 2/2/00]  
[Published 12/29/99]

[For replacement pages for IAC, see IAC Supplement 12/29/99.]

**ARC 9592A****ELDER AFFAIRS  
DEPARTMENT[321]****Adopted and Filed**

Pursuant to the authority of Iowa Code section 231C.3, the Department of Elder Affairs hereby amends Chapter 27, "Assisted Living Programs," Iowa Administrative Code.

These amendments are intended to bring Chapter 27 into compliance with Iowa Code chapter 17A by adopting a new subrule 27.2(3) that provides a specific dollar amount for certification and recertification fees and by adopting new subrules 27.2(4) and 27.2(5) that provide for blueprint review fees and specific dollar amounts.

The amendments to Chapter 27 will not be subject to waiver due to the need for consistent application of fees. Waiver of fees would limit the Department's ability to cover the cost of processing assisted living program applications and blueprints. Fees have been set at a level that is not expected to be prohibitive for potential providers. Special provision has been made for small assisted living programs.

Notice of Intended Action was published in the Iowa Administrative Bulletin on October 20, 1999, as **ARC 9423A**. A public hearing was held on November 9, 1999. No written or oral comments were received by the Department during the comment period or at the public hearing. These amendments are identical to those published under Notice.

These amendments are intended to implement Iowa Code section 231C.3.

The amendments will become effective February 2, 2000. The following amendments are adopted.

Adopt **new** subrules 27.2(3) to 27.2(5) as follows and renumber current subrules 27.2(3) to 27.2(5) as 27.2(6) to 27.2(8).



ELDER AFFAIRS DEPARTMENT[321](cont'd)

27.2(3) Certification fees.

a. The certification fee is to accompany the application for certification.

b. The application and certification fee are to be sent to Assisted Living Certification, Department of Elder Affairs, Clemens Building, Third Floor, 200 Tenth Street, Des Moines, Iowa 50309-3609.

c. Initial 2-year certification fees for assisted living programs are as follows:

(1) Small Assisted Living Programs . . . . . \$500 (maximum occupancy is less than 16 individuals)

(2) Large Assisted Living Programs . . . . . \$750 (maximum occupancy is 16 or more tenants)

d. Fees for renewal of certification are as follows:

(1) Small Assisted Living Programs

Standard 2-year . . . . . \$750

Expanded 3-year . . . . . \$750

Expanded 4-year . . . . . \$1,000

(2) Large Assisted Living Programs

Standard 2-year . . . . . \$1,000

Expanded 3-year . . . . . \$1,000

Expanded 4-year . . . . . \$1,250

27.2(4) Blueprint reviews for assisted living programs.

a. Blueprints must be reviewed prior to construction or remodeling of a building for use as an assisted living program.

b. The blueprint review fee must accompany the blueprints.

c. Blueprints must be wet-sealed by an Iowa-licensed architect or engineer and must include all supporting plumbing, electrical and mechanical system documentation. Other documentation that must be provided with the blueprints for review prior to construction or remodeling includes:

- (1) The evacuation/emergency plan;
(2) The product data and shop drawings for the fire alarm, smoke detection and sprinkler systems.

d. Blueprints, supporting documentation and the review fee are to be sent to Assisted Living Blueprint Review, Department of Elder Affairs, Clemens Building, Third Floor, 200 Tenth Street, Des Moines, Iowa 50309-3609.

27.2(5) Blueprint review fees. Blueprint review fees for assisted living programs are as follows:

a. Small Assisted Living Programs . . . . . \$500 (maximum occupancy is less than 16 individuals)

b. Large Assisted Living Programs . . . . . \$900 (maximum occupancy is 16 or more tenants)

[Filed 12/10/99, effective 2/2/00]
[Published 12/29/99]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 12/29/99.

ARC 9565A

HUMAN SERVICES DEPARTMENT[441]

Adopted and Filed

Pursuant to the authority of Iowa Code section 217.6, the Department of Human Services hereby amends Chapter 1, "Departmental Organization and Procedures," appearing in the Iowa Administrative Code.

The Council on Human Services adopted these amendments December 8, 1999. Notice of Intended Action regard-

ing these amendments was published in the Iowa Administrative Bulletin on October 20, 1999, as ARC 9424A.

Iowa Code section 17A.3(1)"a" requires state agencies to adopt as a rule a description of the organization of the agency which states the general course and method of its operations, the administrative subdivisions of the agency, and the programs implemented by each of them.

These amendments describe the reorganization of the Department at the state level and remove obsolete references. No changes are being made at the local level.

Under the previous structure, a Deputy Director for Administration and a Deputy Director for Services reported to the Director. The Deputy Director for Administration managed the general support functions of all divisions of the Department. The Deputy Director for Services managed the development and delivery of the financial, medical and social services programs.

Under the new structure, there are three deputy directors reporting to the Director. The Deputy Director for Administration continues to manage the general support functions of all divisions of the Department. The Deputy Director for Policy manages the development of the financial, medical and social services programs. The Adult, Children and Family Services, Economic Assistance, Mental Health and Developmental Disabilities, and Medical Services Division Administrators report to the Deputy Director for Policy.

The Deputy Director for Operations manages the delivery of the financial, medical, and social services programs. The administrators of the Division of Child Support, Case Management, and Refugee Services and the Office of Field Support and the five Regional Administrators report directly to the Deputy Director for Operations. Additionally, the Deputy Director for Operations is responsible for policy implementation and day-to-day operations at the following institutions: the state training school in Eldora; the Iowa juvenile home in Toledo; Cherokee Mental Health Institute; Clarinda Mental Health Institute, located on the grounds of the Clarinda Treatment Complex Institute Campus; Independence Mental Health Institute; Mount Pleasant Mental Health Institute, located on the grounds of the Mount Pleasant Treatment Center Complex; Glenwood State Hospital-School; Woodward State Hospital-School; and the Civil Commitment of Sexual Offenders Unit at Oakdale. The institutions previously reported to the Administrator of the Division of Adult, Children and Family Services or the Division of Mental Health and Developmental Disabilities.

The following organizational changes were also made.

An Office of Communications is created consisting of the Department's legislative liaison, internal communications consultant, and public information officer. This Office reports directly to the Director. Previously, the internal communications consultant reported to the Deputy Director for Administration and the legislative liaison reported to the Administrator of the Division of Policy Coordination.

The Division of Policy Coordination becomes the Division of Child Support, Case Management, and Refugee Services under the Deputy Director for Operations. The Office of Policy Analysis and the Appeals Unit, previously under the Division of Policy Coordination, now report to the Deputy Director for Policy. The Bureau of Purchased Services, also previously under the Division of Policy Coordination, now reports to the administrator of the Division of Fiscal Management.

The following revisions were made to the Notice of Intended Action:

Subrule 1.3(2), paragraph "b," regarding the responsibilities of the administrator of the Division of Economic Assis-

## HUMAN SERVICES DEPARTMENT[441](cont'd)

tance, was revised to remove responsibility for the transitional child care assistance program, add responsibility for the diversion programs and individual development accounts, and change the terminology for the self-employment investment demonstration project to entrepreneurial training.

Subrule 1.3(2), paragraph "c," regarding the responsibilities of the administrator of the Division of Medical Services, was revised to add responsibility for the child health insurance program (HAWK-I).

Subrule 1.3(2), paragraph "d," regarding the responsibilities of the administrator of the Division of Mental Health and Developmental Disabilities, was revised to add responsibility for the Civil Commitment of Sexual Offenders Unit at Oakdale.

Subrule 1.3(3) regarding the responsibilities of the Deputy Director for Operations was revised to add the responsibility for policy implementation and day-to-day operations at the Civil Commitment of Sexual Offenders Unit at Oakdale. Paragraph "b" was revised to change terminology from the "administrator" of the Office of Field Support to the "chief."

These amendments do not provide for waiver in specified situations because these amendments do nothing more than update the description of the organizational structure.

These amendments are intended to implement Iowa Code section 17A.3(1).

These amendments shall become effective March 1, 2000. The following amendments are adopted.

ITEM 1. Amend rule 441—1.3(17A) as follows:

**441—1.3(17A) Organization at state level.** The director oversees all service and administrative functions of the department *including continuous quality improvement*. The deputy director for administration, the deputy director for *services policy*, the ~~commandant of the Iowa Veterans Home, the chief of deputy director for operations,~~ and the office of communications and legal services report directly to the director.

**1.3(1) Deputy director for administration.** The deputy director for administration manages the general support functions of all divisions of the department. Principal responsibilities include development of program and operational budgets, accounting and administrative control of appropriation expenditures, design and development of data processing systems, and monitoring and processing of provider payments.

The administrators of the divisions of data management, fiscal management, support services, and ~~chiefs of the office of program evaluation and employee services~~ *organization development and support* report directly to the deputy director for administration.

a. The administrator of the division of data management is responsible for the development and operation of the automated systems that collect and process information to generate client and vendor payments, track cases and caseloads, monitor and control agency business applications, and assess social programs. Additionally, the administrator is responsible for providing a wide range of technical support for the state institutions, personal computing assistance, office automation support, program and operational research and analysis, forecasting of program expenditures, and utilization and report development and preparation.

b. The administrator of the division of fiscal management is responsible for developing annual budgets to be presented to the council on human services, governor's office, and legislature; for monitoring expenditures; for providing

management with monthly forecasts for all department budget units and subunits; and for filing quarterly federal expenditures and estimate of expenditure reports. Additionally, the administrator is responsible for providing the accounting for the department's programs and operations; *for coordinating payment and contracting for purchased services*; for processing claims, invoices, and payroll checks; and for operating the cost allocation system which enables recovery of federal dollars.

c. The administrator of the division of support services has responsibility for equipment, purchasing, space allocation, printing, food stamp issuance and accountability, supplies management, cash receipts, manual distribution, fixed assets inventory control, central information delivery system (CIDS) teleconferencing and the mail. Additionally, the administrator is responsible for providing administration of surplus food distribution programs, nutrition consulting services, state vehicle fleet management, and liaison with the department of general services in the development of capital improvements and major maintenance projects for department institutions.

~~d. The chief of the office of program evaluation is responsible for conducting client case audits on a sample of all Medicaid and financial assistance programs, auditing claims paid to medical providers, evaluating local office management of the food stamp program, and directing corrective action to improve efficiency. The administrator of the division of organization development and support has responsibility for providing leadership, direction, and oversight of organization staff development (learning resource team) and employee services (human resource team) including labor relations, compensation, recruitment, health and safety, disaster assistance, volunteer programs, professional library services, and diversity, affirmative action, and equal opportunity programs for employees, vendors, and department clients.~~

~~e. The chief of the office of employee services is responsible for supervising employee training activities, personnel document processing, the professional library, the disaster assistance program and the department's volunteer program.~~

**1.3(2) Deputy director for *services policy*.** The deputy director for *services policy* manages the development and delivery of the financial, medical and social services programs for eligible Iowans.

The administrators of the divisions of adult, children and family services, economic assistance, medical services, and mental health, ~~mental retardation, and developmental disabilities, policy coordination, the chief of the office of field support, and the administrators of the five regional offices~~ report directly to the deputy director for *services policy*. *In addition, the office of policy analysis and the appeals unit report directly to the deputy director for policy.*

a. The administrator of the division of adult, children and family services is responsible for the development and direction of service, regulatory, and financial reimbursement programs for children, families and dependent adults, including programs for foster care, adoption, child protection, family services, day care, and child and adult abuse registries. Additionally, the administrator is responsible for ~~overseeing~~ *setting program policy* for the following institutions:

- (1) The state training school in Eldora.
- (2) The Iowa juvenile home in Toledo.

b. The administrator of the division of economic assistance is responsible for the development and direction of financial assistance programs, including the ~~aid to families with dependent children~~ *family investment* program, the food stamp program, emergency assistance, ~~aid to Indians,~~

## HUMAN SERVICES DEPARTMENT[441](cont'd)

PROMISE JOBS, ~~the self-employment investment demonstration project~~ *entrepreneurial training*, refugee cash assistance, the family development and self-sufficiency demonstration program, ~~the transitional child care assistance program, the cash bonus program,~~ systematic alien verification for entitlements, *diversion programs, individual development accounts*, and the food stamp employment and training program.

c. The administrator of the division of medical services is responsible for the development and direction of medical service programs, including Medicaid, state supplementary assistance, refugee medical assistance, *the child health insurance program (HAWK-I)*, and interim assistance reimbursement.

d. The administrator of the division of mental health, ~~mental retardation,~~ and developmental disabilities is responsible for the development and direction of supports and services as well as the financing of such services for persons with mental illness, mental retardation, and developmental disabilities, ~~and for administration of the gamblers assistance program.~~ Additionally, the administrator is responsible for ~~overseeing~~ *setting program policy* for the following institutions *and programs*:

- (1) Cherokee Mental Health Institute.
- (2) Clarinda Mental Health Institute, located on the grounds of the Clarinda Treatment Complex Institute Campus.
- (3) Independence Mental Health Institute.
- (4) Mount Pleasant Mental Health Institute, located on the grounds of the Mount Pleasant Treatment Center Complex.
- (5) Glenwood State Hospital-School.
- (6) Woodward State Hospital-School.
- (7) *The Civil Commitment of Sexual Offenders Unit at Oakdale.*

e. ~~The administrator of the division of policy coordination is responsible for primary support services to all line elements of the department in the areas of child support and foster care collections and refugee services. In addition, the administrator ensures consistency with appropriate standards and operations, provides federal liaison services, maintains legislative relations, reviews selected client or constituent concerns, works on special planning and development projects, coordinates payment and contracting for purchased services, ensures compliance with equal opportunity and affirmative action standards and goals and has responsibility for the department's Title XIX case management policy and budget.~~

f. ~~The chief of the office of field support is responsible for the day-to-day contact with the regional offices on administrative and program operation issues and addressing client or constituent concerns.~~

1.3(3) ~~Commandant of the Iowa Veterans Home. The commandant has responsibility for veterans' services for the department, including the Iowa Veterans Home, Marshalltown, which receives honorably discharged veterans who have served in the armed forces of the United States and spouses or surviving spouses of qualified veterans for long-term health care services if they meet the admission criteria as adopted by the department. Deputy director for operations. The deputy director for operations manages the delivery of the financial, medical and social services programs for eligible Iowans. The administrators of the division of child support, case management, and refugee services and the office of field support and the administrators of the five departmental regions report directly to the deputy director for operations. Additionally, the deputy director is responsible for policy im-~~

*plementation and day-to-day operations at the following institutions: the state training school in Eldora; the Iowa juvenile home in Toledo; Cherokee Mental Health Institute; Clarinda Mental Health Institute, located on the grounds of the Clarinda Treatment Complex Institute Campus; Independence Mental Health Institute; Mount Pleasant Mental Health Institute, located on the grounds of the Mount Pleasant Treatment Center Complex; Glenwood State Hospital-School; Woodward State Hospital-School; and the Civil Commitment of Sexual Offenders Unit at Oakdale.*

a. *The administrator of the division of child support, case management, and refugee services is responsible for primary support services to all line elements of the department in the areas of child support and foster care collections and refugee services, and has responsibility for the department's Title XIX case management policy and budget.*

b. *The chief of the office of field support is responsible for the day-to-day contact with the regional offices on administrative and program operation issues and addressing client or constituent concerns.*

1.3(4) Office of communications. The office of communications addresses the different facets of the department's internal and external communication needs. The ~~chief of the~~ office of communications is responsible for providing public information to clients, constituency groups, and the media, while also facilitating internal communications within the department.

a. *The legislative liaison provides federal and state liaison services, maintains legislative relations, and reviews client and constituent concerns.*

b. *The internal communications consultant addresses the different facets of the department's internal communication needs.*

c. *The public information officer is responsible for the department's external communication to the media and other outside stakeholders.*

ITEM 2. Amend rule 441—1.6(17A), introductory paragraph and subrules 1.6(4) and 1.6(6), as follows:

441—1.6(17A) **Mental health and mental retardation commission.** The administrator of the division of mental health, ~~mental retardation,~~ and developmental disabilities has, by statute, the advice and counsel of the mental health and mental retardation commission. This 15-member commission is appointed by the governor with confirmation by two-thirds of the members of the senate. The commission's powers and duties are policymaking and advisory with respect to mental health and mental retardation, services, and programs administered by the division of mental health, ~~mental retardation,~~ and developmental disabilities.

1.6(4) Copies of the minutes are kept on file in the office of the administrator of the division of mental health, ~~mental retardation,~~ and developmental disabilities.

1.6(6) Any person wishing to make a presentation at a commission meeting shall notify the Administrator, Division of Mental Health, ~~Mental Retardation,~~ and Developmental Disabilities, Hoover State Office Building, Des Moines, Iowa 50309 50319-0114, (515)281-5874, at least 15 days prior to the commission meeting.

[Filed 12/8/99, effective 3/1/00]

[Published 12/29/99]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 12/29/99.

## ARC 9566A

HUMAN SERVICES  
DEPARTMENT[441]

## Adopted and Filed

Pursuant to the authority of Iowa Code section 239B.4(4), the Department of Human Services hereby amends Chapter 40, "Application for Aid," and Chapter 41, "Granting Assistance," appearing in the Iowa Administrative Code.

The Council on Human Services adopted these amendments December 8, 1999. Notice of Intended Action regarding these amendments was published in the Iowa Administrative Bulletin on November 3, 1999, as ARC 9443A.

These amendments eliminate the adult care income deduction for Family Investment Program (FIP) applicants and participants who incur costs for care of an incapacitated adult while they work.

Currently, FIP applicants and participants who work may receive an income deduction up to \$175 per month for care of an incapacitated adult whose needs are included in the FIP grant. Based on case record information and informal field staff surveys, there has been little, if any, request for or use of the adult care deduction. This is in keeping with FIP case-load characteristics that historically have revealed only a small number of incapacitated adults who are included in the grant. Most often, adults who are incapacitated to the extent of requiring care during the hours that the FIP caretaker works are receiving Supplemental Security Income (SSI). Since an SSI recipient cannot simultaneously receive FIP assistance, the FIP caretaker cannot receive a deduction for care of the adult who is on SSI.

Field staff reported that there are not currently any cases receiving an income deduction for adult care and requested elimination of the deduction for policy simplification.

These amendments are identical to those published under Notice of Intended Action.

These amendments do not provide for waivers in specific situations. However, in the rare instance that a FIP household may request assistance with care of an incapacitated adult who is on the FIP grant, the Department may consider providing assistance under the Department's general rule on exceptions at rule 441—1.8(217).

These amendments are intended to implement Iowa Code section 239B.7.

These amendments shall become effective March 1, 2000.

The following amendments are adopted.

ITEM 1. Amend rule 441—40.21(239B) by rescinding the definition of "Change in work expenses."

ITEM 2. Amend subrule 40.27(4), paragraph "e," subparagraph (1), as follows:

(1) Income from all sources, ~~including any change in care expenses.~~

Further amend subrule 40.27(4), paragraph "f," by rescinding and reserving subparagraph (2).

ITEM 3. Amend rule 441—41.27(239B) as follows:

Amend the introductory paragraph as follows:

**441—41.27(239B) Income.** All unearned and earned income, unless specifically exempted, disregarded, deducted for work expenses, or diverted as defined in these rules, shall be considered in determining initial and continuing eligibility and the amount of the family investment program grant. The determination of initial eligibility is a three-step process.

Initial eligibility shall be granted only when (1) the countable gross nonexempt unearned and earned income, exclusive of the family investment program grant, received by the eligible group and available to meet the current month's needs is no more than 185 percent of the standard of need for the eligible group; (2) the countable net unearned and earned income is less than the standard of need for the eligible group; and (3) the countable net unearned and earned income, after applying allowable disregards, is less than the payment standard for the eligible group. The determination of continuing eligibility is a two-step process. Continuing eligibility shall be granted only when (1) countable gross nonexempt income, as described for initial eligibility, does not exceed 185 percent of the standard of need for the eligible group; and (2) countable net unearned and earned income is less than the payment standard for the eligible group. The amount of the family investment program grant shall be determined by subtracting countable net income from the payment standard for the eligible group. Child support assigned to the department in accordance with subrule 41.22(7) and retained by the department as described in subparagraph 41.27(1)"h"(2) shall be considered as exempt income for the purpose of determining continuing eligibility, including child support as specified in paragraphs 41.22(7)"b" and paragraph 41.27(7)"q." Expenses for care of disabled adults, deductions, Deductions and diversions shall be allowed when verification is provided. The county office shall return all verification to the applicant or recipient.

Amend subrule 41.27(2) by rescinding and reserving paragraph "b."

Further amend subrule 41.27(2), paragraph "c," as follows:

c. After deducting the allowable work expenses ~~expense~~ as defined in 41.27(2)"a" and "b," and income diversions as defined in subrules 41.27(4) and 41.27(8), 50 percent of the total of the remaining monthly nonexempt earned income, earned as an employee or the net profit from self-employment, of each individual whose income must be considered in determining eligibility and the amount of the assistance grant. The 50 percent work incentive deduction is not time limited. Initial eligibility is determined without the application of the 50 percent work incentive deduction as described at 41.27(9)"a"(2) and (3).

Amend subrule 41.27(6), paragraph "ab," as follows:

ab. Deposits into an individual development account (IDA) when determining eligibility and benefit amount. The amount of the deposit is exempt as income and shall not be used in the 185 percent eligibility test. The deposit shall be deducted from nonexempt earned and unearned income that the client receives in the same budget month in which the deposit is made. To allow a deduction, verification of the deposit shall be provided by the end of the report month or the extended filing date, whichever is later. The client shall be allowed a deduction only when the deposit is made from the client's money. The earned income deductions in 41.27(2)"a," "b," and "c" shall be applied to non-exempt earnings from employment or net profit from self-employment that remain after deducting the amount deposited into the account. Allowable deductions shall be applied to any nonexempt unearned income that remains after deducting the amount of the deposit. If the client has both nonexempt earned and unearned income, the amount deposited into the IDA account shall first be deducted from the client's nonexempt unearned income. Deposits shall not be deducted from earned or unearned income that is exempt.

## HUMAN SERVICES DEPARTMENT[441](cont'd)

Amend subrule **41.27(8)**, paragraph "a," subparagraph (1), as follows:

(1) Treatment of income when the parent is a citizen or an alien other than those described in 41.23(4)"a"(3). A parent who is living in the home with the eligible child(ren) but whose needs are excluded from the eligible group is eligible for the 20 percent earned income deduction, ~~care expenses for an incapacitated adult in the eligible group,~~ the 50 percent work incentive deduction described at 41.27(2)"a," "b," and "c," and diversions described at 41.27(4), and shall be permitted to retain that part of the parent's income to meet the parent's needs as determined by the difference between the needs of the eligible group with the parent included and the needs of the eligible group with the parent excluded except as described at 41.27(11). All remaining nonexempt income shall be applied against the needs of the eligible group.

Amend subrule **41.27(9)**, paragraph "a," subparagraph (7), as follows:

(7) ~~Work expense for care, as defined in 41.27(2)"b," shall be the allowable care expense expected to be billed or otherwise expected to become due during the budget month.~~ The 20 percent earned income deduction for each wage earner, as defined in 41.27(2)"a," and the 50 percent work incentive deduction, as defined in 41.27(2)"c," shall be allowed.

Further amend subrule **41.27(9)**, paragraph "b," subparagraph (4), as follows:

(4) ~~Work expense for care, as defined in 41.27(2)"b," shall be the allowable care expense expected to be billed or which otherwise became due in the budget month.~~ The 20 percent earned income deduction for each wage earner, as defined in 41.27(2)"a," and the 50 percent work incentive ~~disregard~~ deduction, as defined in 41.27(2)"c," shall be allowed.

Further amend subrule **41.27(9)**, paragraph "d," as follows:

d. The third digit to the right of the decimal point in any computation of income, ~~and hours of employment and work expenses for care, as defined in 41.27(2)"b,"~~ shall be dropped. This includes the calculation of the amount of a truancy sanction as defined in paragraph 41.25(8)"g" or a child support sanction as defined in paragraph 41.22(6)"f."

Amend the implementation clause as follows:

This rule is intended to implement Iowa Code ~~chapter 239B and 1997 Iowa Acts, House File 715, section 3, subsection 5 section 239B.7.~~

[Filed 12/8/99, effective 3/1/00]

[Published 12/29/99]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 12/29/99.

## ARC 9569A

HUMAN SERVICES  
DEPARTMENT[441]

## Adopted and Filed

Pursuant to the authority of Iowa Code section 234.6, the Department of Human Services hereby amends Chapter 65, "Administration," appearing in the Iowa Administrative Code.

The Council on Human Services adopted these amendments December 8, 1999. Notice of Intended Action regard-

ing these amendments was published in the Iowa Administrative Bulletin on August 25, 1999, as **ARC 9278A**.

Under current policy, households applying for the food stamp program that are responsible for utility expenses may elect to receive an actual utility deduction that reflects a monthly average of the anticipated utility expenses, or the appropriate utility standard. The current utility standards that were effective October 1, 1998, are \$235 for households with heating or air-conditioning expenses, \$115 for households without heating or air-conditioning expenses, and \$19 for the telephone standard.

These amendments provide that households that incur utility expenses no longer have the option of choosing to use the actual utility deduction, but shall receive the current appropriate utility standard. Households that share utility expenses with someone outside of the food stamp household shall have the appropriate utility standard prorated among food stamp households and individuals who do not participate in the food stamp program but who share shelter expenses.

States are given the option in the Personal Responsibility and Work Opportunity Reconciliation Act to use utility standards rather than any actual utility expenses. The current process of using the utility standard or actual expenses is cumbersome for both the client and the worker. Households using actual utility expenses must provide months of utility bills as verification to calculate the actual expense. At the present time only .7 percent, or 358 food stamp households, choose to use the actual utility expenses.

These amendments do not provide for waiver in specified situations because federal food stamp law does not allow for any waivers.

These amendments are identical to those published under Notice of Intended Action.

These amendments are intended to implement Iowa Code section 234.6.

These amendments shall become effective May 1, 2000.

The following amendments are adopted.

ITEM 1. Amend subrules 65.8(1), 65.8(5), and 65.8(10) as follows:

**65.8(1)** Standard allowance for households with heating or air-conditioning expenses. *When a household is receiving heating or air-conditioning service for which it is required to pay or receives assistance under the Low-Income Home Energy Assistance Act (LIHEAA) of 1981, the heating or air-conditioning standard shall be allowed.* The standard allowance for utilities which include heating or air-conditioning costs is a single utility standard. This standard is \$202 effective August 1, 1991. Beginning October 1, 1992, this allowance shall change annually effective each October 1 using the percent increase reported in the consumer price index monthly periodical for January for fuels and other utilities for the average percent increases for the prior year for all urban consumers United States city average. Any numeral after the second digit following the decimal point will be dropped in this calculation. Any decimal amount of .49 or under will be rounded down. Any decimal of .50 or more will be rounded up to the nearest dollar. The cent amount will be included when calculating the next year's increase.

**65.8(5)** Standard allowance for households without heating or air-conditioning expenses. *When a household is receiving some utility service other than heating or air-conditioning for which it is responsible to pay, or receives a fee for excess utility cost which can be for excess heating or air-conditioning expense, the following nonheating or air-*

## HUMAN SERVICES DEPARTMENT[441](cont'd)

~~conditioning standard shall be allowed. This standard allowance is for households with some utility expenses. These utility expenses cannot include heating or air-conditioning expenses and cannot be solely for telephone. This standard is \$103 effective August 1, 1991. Beginning October 1, 1992, this allowance shall change annually effective each October 1 using the percent increase reported in the consumer price index monthly periodical for January for electric service for the average percent increases for the prior year for all urban consumers United States city average. Any numeral after the second digit following the decimal point will be dropped in this calculation. Any decimal amount of .49 or under will be rounded down. Any decimal of .50 or more will be rounded up to the nearest dollar. The cent amount will be included when calculating the next year's increase.~~

~~65.8(10) Switching between actual utility expenses and the standard utility allowances. Households shall be allowed to switch between the standard utility allowance and using actual utility expenses only at recertification. Sharing utility standards. When a household lives with another individual not participating in the food stamp program, another household participating in the food stamp program, or both, and they share utility expenses, the appropriate utility standard shall be prorated between the food stamp households and the nonparticipating household members who share the expense. The share of the standard shall be determined by considering each food stamp household to be one share of the standard and the other non-food stamp household members who agree to share utility expenses as one share of the standard. When households or individuals share the telephone standard, each must be responsible for a share of the basic fee for telephone service to receive a share of the telephone standard.~~

ITEM 2. Amend subrule 65.22(1), paragraph "e," as follows:

~~e. Utilities. Actual utilities (for households required or choosing to use actual utility expenses) shall be verified at time of application and recertification, when reported in the monthly reporting system and whenever a change is reported by the household. Households choosing eligible for a utility standard shall verify responsibility for the utility expense that makes them eligible for that standard when not previously verified, whenever the household has moved or a change in responsibility for utility expenses is reported.~~

[Filed 12/8/99, effective 5/1/00]

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EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 12/29/99.

**ARC 9570A**

**HUMAN SERVICES  
DEPARTMENT[441]**

**Adopted and Filed**

Pursuant to the authority of Iowa Code section 249A.4, the Department of Human Services hereby amends Chapter 75, "Conditions of Eligibility," appearing in the Iowa Administrative Code.

The Council on Human Services adopted this amendment December 8, 1999. Notice of Intended Action regarding this

amendment was published in the Iowa Administrative Bulletin on October 6, 1999, as **ARC 9381A**.

This amendment implements a new Medicaid coverage group for working individuals with disabilities as mandated by the General Assembly in 1999 Iowa Acts, chapter 94.

This coverage group will provide access to Medicaid for persons with a disability who work and have a net family income that is less than 250 percent of poverty. If the individual is under 18 and unmarried, "family" will include parents living with the individual, siblings under 18 and unmarried living with the individual, and children of the individual who live with the individual. If the individual is 18 years of age or older, or married, "family" will include the individual's spouse living with the individual and any children living with the individual who are under 18 and unmarried. Net family income is gross income less Supplemental Security Income disregards, exemptions, and exclusions, including the earned income disregard of \$65 plus one-half of additional earned income and the unearned income disregard of \$20.

Disability will be determined as under the Supplemental Security Income program, except that being engaged in "substantial gainful activity" (generally, earning more than \$700 per month) will not automatically mean that an individual is not disabled under this coverage group.

It is believed this coverage group will provide incentive to persons with a disability to return to the workforce, even though they continue to have a disabling condition, as they will still be able to access medical coverage even if they lose disability payments due to their earnings.

For the purposes of this program, \$10,000 in resources and any additional resources held by the disabled individual in a medical savings account, retirement account, or funds in an assistive technology account will be disregarded in determining eligibility.

A premium will be assessed based on a sliding fee scale when the gross income of the eligible individual is above 150 percent of poverty as set forth below.

INCOME OF THE ELIGIBLE INDIVIDUAL ABOVE:	MONTHLY PREMIUM
150% of Federal Poverty Level	\$20
174% of Federal Poverty Level	\$38
198% of Federal Poverty Level	\$56
222% of Federal Poverty Level	\$74
246% of Federal Poverty Level	\$92
270% of Federal Poverty Level	\$110
294% of Federal Poverty Level	\$128
318% of Federal Poverty Level	\$146
342% of Federal Poverty Level	\$164
366% of Federal Poverty Level	\$182
390% of Federal Poverty Level	\$201

There are two reasons why this premium scale goes above 250 percent of poverty. First, eligibility is determined based on family and not individual income. An individual who is the only wage earner in a large family can have income substantially above 250 percent of the poverty level for an individual, while the family is still below 250 percent of the higher family level for the family.

Secondly, eligibility is calculated using disregards and the premium amount is not.

HUMAN SERVICES DEPARTMENT[441](cont'd)

For example, given a family size of one: The individual has \$700 unearned income and \$2,000 earned income. Eligibility would be calculated as follows:

\$700.00 Unearned income  
 - 20.00 \$20 unearned income disregard  
 \$680.00 Countable unearned income

\$2,000.00 Earned income  
 - 65.00 \$65 earned income disregard  
 \$1,935.00  
 - 967.50 1/2 earned income disregard  
 \$967.50 Countable earned income

\$680.00 Countable unearned income  
 + 967.50 Countable earned income  
 \$1,647.50 Total countable income to compare to  
 250% of poverty (\$1717)

\$1,647.50 is less than \$1,717 (250% of poverty) so the individual is eligible.

The premium is calculated by totaling gross income as follows:

\$700.00 Unearned income  
 + 2,000.00 Earned income  
 \$2,700.00 Total gross income

\$2,700 equals 393 percent of poverty. The premium would be \$201.

There are no provisions for waiver of specific situations as eligibility requirements for this coverage group are set by federal and state statute. The Department believes that all eligible persons should be subject to the same rules regarding family composition and premiums. Persons may request an exception to policy on an individual basis under provisions at rule 441—1.8(217).

Eight public hearings were held around the state. Seven persons attended. The following revisions were made to subrule 75.1(39) as published in the Notice of Intended Action in response to the comments received:

Paragraph "a," subparagraph (4), was revised to add a cross reference to new paragraph "c," which provides that persons receiving assistance under this coverage group who become unable to work due to a change in their medical condition or who lose employment will remain eligible for a period of six months from the month of the change in their medical condition or loss of employment as long as they intend to return to work and continue to meet all other eligibility criteria.

Paragraph "b" was revised to simplify the premium process; establish a set monthly premium for a six-month period which would not be increased if income increases but would be decreased if income goes down; provide that the Department, rather than the fiscal agent, be responsible for billing and collection of premiums; add the names and numbers of forms needed for billing and collection; and allow more time for payment of beginning premium payments. The Department does not have the capability at the present time to allow payment by automatic bank account withdrawals or payroll deductions for this program.

Paragraph "c" in the Notice was relettered as paragraph "d," and the definitions of "assistive technology device," "assistive technology savings accounts," "assistive technology service," and "retirement accounts" were revised, and a new definition was added for "assistive technology" so that persons with disabilities have the opportunity to avail them-

selves of technology most suited to their needs and so that amounts placed in retirement accounts are not restricted.

This amendment is intended to implement Iowa Code section 249A.3 as amended by 1999 Iowa Acts, chapter 94.

This amendment shall become effective March 1, 2000. The following amendment is adopted.

Amend 441—Chapter 75 by adopting the following new subrule:

**75.1(39) Working persons with disabilities.**

a. Medical assistance shall be available to all persons who meet all of the following conditions:

(1) They are disabled as determined pursuant to rule 441—75.20(249A), except that being engaged in substantial gainful activity will not preclude a determination of disability.

(2) They are less than 65 years of age.

(3) They are members of families (including families of one) whose income is less than 250 percent of the most recently revised official federal poverty level for the family. Family income shall include gross income of all family members, less supplemental security income program disregards, exemptions, and exclusions, including the earned income disregards.

(4) They receive earned income from employment or self-employment or are eligible under paragraph "c."

(5) They would be eligible for medical assistance under another coverage group set out in this rule (other than the medically needy coverage groups at subrule 75.1(35)), disregarding all income, up to \$10,000 of available resources, and any additional resources held by the disabled individual in a retirement account, a medical savings account, or an assistive technology account. For this purpose, disability shall be determined as under subparagraph (1) above.

(6) They have paid any premium assessed under paragraph "b" below.

b. A monthly premium shall be assessed when gross income of the eligible individual is greater than 150 percent of the federal poverty level for an individual. Gross income includes all earned and unearned income of the eligible individual.

Beginning with the month of application, the monthly premium amount shall be established for a six-month period based on projected average monthly income for the six-month period. The monthly premium established for a six-month period shall not be increased during the six-month period but may be reduced or eliminated prospectively during the period if a reduction in projected average monthly income is documented.

Eligible persons with income above 150 percent of the federal poverty level are required to complete and return Form 470-3693, Earned Income Statement for Premium, with income information to determine premium amount.

(1) Premiums shall be assessed as follows:

INCOME OF THE ELIGIBLE INDIVIDUAL ABOVE:	MONTHLY PREMIUM
150% of Federal Poverty Level	\$20
174% of Federal Poverty Level	\$38
198% of Federal Poverty Level	\$56
222% of Federal Poverty Level	\$74
246% of Federal Poverty Level	\$92
270% of Federal Poverty Level	\$110
294% of Federal Poverty Level	\$128
318% of Federal Poverty Level	\$146

## HUMAN SERVICES DEPARTMENT[441](cont'd)

342% of Federal Poverty Level	\$164
366% of Federal Poverty Level	\$182
390% of Federal Poverty Level	\$201

(2) Eligibility for a month is contingent upon the payment of any assessed premium for the month. Except as provided in subparagraph (3), continued eligibility is contingent upon the payment of all assessed premiums.

(3) When the department notifies the applicant of the amount of the premiums, the applicant shall pay any premiums due as follows:

1. Payment of the premium for the two months following the month of approval must be received by the fourteenth day of the month following the month of approval.

2. Payments for retroactive months, months prior to the month of approval, and approval month must be paid within 60 days of notice by the department to receive coverage for those months of eligibility.

3. After the month following the month of approval, premiums must be received no later than the fourteenth day of the month prior to the month of coverage.

When the premium is not received by the due date, Medicaid eligibility shall be canceled, except when the premium not received is due during or after the month of coverage.

At the request of the client, premiums may be paid in advance (e.g., on a quarterly or semiannual basis) rather than a monthly basis.

(4) An individual's case may be reopened no more than once every six months when a premium due is not received as described within this subparagraph. However, the premium must be paid in full within the calendar month following the month of nonpayment for reopening.

(5) Premiums may be submitted in the form of cash, money orders, or personal checks to the department at the following address: Department of Human Services, Supply Unit A-Level, Room 77, Hoover State Office Building, 1305 East Walnut, Des Moines, Iowa 50319.

(6) Except as provided in subparagraph (3), failure to pay the premium in accordance with policy established under this paragraph shall result in cancellation of Medicaid. Once an individual is canceled from Medicaid due to nonpayment of premiums, the individual must reapply to establish Medicaid eligibility unless the reopening provisions of this subrule apply.

(7) A medical card shall not be issued for a month until any premium due has been received. When a premium is not received by the due date, a notice of decision will be issued to cancel Medicaid, except as provided in subparagraph (3). The notice will include reopening provisions that apply if payment is received and appeal rights.

(8) Form 470-3694, Billing Statement, and Form 470-3695, Reminder of Nonpayment, shall be used for billing and collection.

c. Persons receiving assistance under this coverage group who become unable to work due to a change in their medical condition or who lose employment shall remain eligible for a period of six months from the month of the change in their medical condition or loss of employment as long as they intend to return to work and continue to meet all other eligibility criteria under this subrule.

d. For purposes of this rule, the following definitions apply:

"Assistive technology" is the systematic application of technologies, engineering, methodologies, or scientific principles to meet the needs of and address the barriers confronted by individuals with disabilities in areas that include

education, rehabilitation, technology devices and assistive technology services.

"Assistive technology accounts" include funds in contracts, savings, trust or other financial accounts, financial instruments or other arrangements with a definite cash value set aside and designated for the purchase, lease or acquisition of assistive technology, assistive technology devices or assistive technology services. Assistive technology accounts must be held separate from other accounts and funds and must be used to purchase, lease or otherwise acquire assistive technology, assistive technology services or assistive technology devices for the working person with a disability when a physician, certified vocational rehabilitation counselor, licensed physical therapist, licensed speech therapist, or licensed occupational therapist has established the medical necessity of the device, technology, or service and determined the technology, device, or service can reasonably be expected to enhance the individual's employment.

"Assistive technology device" is any item, piece of equipment, product system or component part, whether acquired commercially, modified or customized, that is used to increase, maintain, or improve functional capabilities or address or eliminate architectural, communication, or other barriers confronted by persons with disabilities.

"Assistive technology service" means any service that directly assists an individual with a disability in the selection, acquisition, or use of an assistive technology device or other assistive technology. It includes, but is not limited to, services referred to or described in the Assistive Technology Act of 1998, 29 U.S.C. 3002(4).

"Family," if the individual is under 18 and unmarried, includes parents living with the individual, siblings under 18 and unmarried living with the individual, and children of the individual who live with the individual. If the individual is 18 years of age or older, or married, "family" includes the individual's spouse living with the individual and any children living with the individual who are under 18 and unmarried. No other persons shall be considered members of an individual's family. An individual living alone or with others not listed above shall be considered to be a family of one.

"Medical savings account" means an account exempt from federal income taxation pursuant to Section 220 of the United States Internal Revenue Code (26 U.S.C. § 220).

"Retirement account" means any retirement or pension fund or account, listed in Iowa Code section 627.6(8)"f" as exempt from execution, regardless of the amount of contribution, the interest generated, or total amount in the fund or account.

[Filed 12/8/99, effective 3/1/00]

[Published 12/29/99]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 12/29/99.

**ARC 9571A**

**HUMAN SERVICES  
DEPARTMENT[441]**

**Adopted and Filed**

Pursuant to the authority of Iowa Code section 249A.4, the Department of Human Services hereby amends Chapter



## HUMAN SERVICES DEPARTMENT[441](cont'd)

75, "Conditions of Eligibility," appearing in the Iowa Administrative Code.

The Council on Human Services adopted this amendment December 8, 1999. Notice of Intended Action regarding this amendment was published in the Iowa Administrative Bulletin on November 3, 1999, as **ARC 9444A**.

This amendment clarifies that the value of a life estate or remainder interest is determined by using the age of the life estate holder or other person whose life controls the life estate. The current rule provides that, in the absence of other evidence, the value of a life estate or remainder interest in property shall be determined using the age of the individual who owns the life estate or remainder interest. This is incorrect in that the value of a life estate or remainder interest depends on the age of the life estate holder (or the age of the original life estate holder, whose life still controls, if the life estate has been transferred) not the age of the remainder person. The current rule has been applied by the Department using the age of the life estate holder.

This amendment does not provide for waiver in specified situations because it is always correct to determine the value of a life estate or remainder interest using the age of the life estate holder or other person whose life controls the life estate.

This amendment is identical to that published under Notice of Intended Action.

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

This amendment shall become effective February 2, 2000. The following amendment is adopted.

Amend subrule 75.13(2), fourth unnumbered paragraph, as follows:

*Valuation of life estates and remainder interests.* In the absence of other evidence, the value of a life estate or remainder interest in property shall be determined using the following table by multiplying the fair market value of the entire underlying property (including all life estates and all remainder interests) by the life estate or remainder interest decimal corresponding to the age of the ~~individual who owns the life estate or remainder interest~~ *life estate holder or other person whose life controls the life estate.*

[Filed 12/8/99, effective 2/2/00]

[Published 12/29/99]

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**ARC 9572A****HUMAN SERVICES  
DEPARTMENT[441]****Adopted and Filed**

Pursuant to the authority of Iowa Code section 252B.3(3), the Department of Human Services hereby amends Chapter 95, "Collections," appearing in the Iowa Administrative Code.

The Council on Human Services adopted this amendment December 8, 1999. Notice of Intended Action regarding this amendment was published in the Iowa Administrative Bulletin on October 20, 1999, as **ARC 9425A**.

This amendment revises policy governing closure of child support cases to be consistent with revised federal regulations. The changes include:

- Allowing the case to close when the identity of the biological father is unknown. Under current policy, there is not a specific closure regulation for instances when the identity of the alleged father is unknown. States had been directed to close these cases under the regulation describing inability to locate a noncustodial parent. This change matches the federal regulation and makes it clear that these cases can be closed, but only after an interview with the recipient of services.

These cases were previously closed under the regulation and rule covering inability to locate a noncustodial parent. That rule required the case to be kept open for three years. This revised rule removes the three-year time requirement, but adds a specific requirement that an interview must be conducted before the case can be closed. So, in a paternity case, a case could be closed sooner, but only after the person receiving services has been interviewed by the Child Support Recovery Unit (CSRU).

- Allowing the case to close after one year, if there is insufficient information to perform automated location searches. (The current three-year requirement remains if sufficient information to perform automated location searches is available.) Under current policy, all cases in which the noncustodial parent's location is unknown are kept open for three years even if CSRU does not have a name and social security number or enough information to find a social security number. Due to the current level of automation used in locating a noncustodial parent, when there is enough information to do an automated search, the case will remain open for three years, during which time automated searches will be performed. If there is not enough information for an automated search, it is unlikely that sufficient information leading to a social security number will be obtained after one year.

Some cases without social security numbers or enough information to obtain one will be closed earlier than in the past.

- Allowing an interstate case to close when the state which requested Iowa's services does not take the next essential action for Iowa to provide services. Under current policy in an interstate case, when another state asks Iowa's CSRU to establish or enforce support, CSRU cannot close the case without the permission of the other state. This was so even if that state did not provide information CSRU needed to proceed and did not reply to requests for information. This rule permits CSRU to close its case if it cannot proceed without the other state's cooperation. Some interstate cases that could not be closed under current policy will now be closed.

- Allowing a case to close when the recipient of services requests case closure, rather than only when the custodial party requests the case to close. Ever since federal case closure regulations were first finalized on October 1, 1990, it has been understood and made clear that, if the noncustodial parent requested services to cause the case to open, the noncustodial parent could request the case to close. This change in rules is consistent with that interpretation.

- Allowing a case to close in 60 days when CSRU, despite an attempt to contact the person by first-class mail, has been unable to do so. This is a change from current policy which allows closure in 30 days, following attempts by both telephone and certified letter. Under federal welfare reform law, persons receiving services are required to keep the agency informed of their addresses. When they do not do so, this change permits CSRU to attempt contact by first-class

## HUMAN SERVICES DEPARTMENT[441](cont'd)

mail. At the same time, it increases the time to respond to the CSRU to 60 days, which balances the responsibility of the recipients of services to keep CSRU informed of their addresses with the agency's responsibility to attempt contact. A first-class letter is a sufficient method of contact and is less costly than a certified letter.

o Adding a statement that, in order to reopen a case that was previously closed under this rule, the nonassistance recipient of services must complete a new application and pay the applicable fee. Prior federal directives stated that, if a recipient of services obtained new information and requested that the case be reopened, the recipient of services would have to fill out the application and pay the applicable fee. This change is consistent with that interpretation.

This amendment does not provide for waivers in specified situations because this amendment only defines cases eligible for closure, which is consistent with federal regulations.

This amendment is identical to that published under Notice of Intended Action.

This amendment is intended to implement Iowa Code sections 252B.4, 252B.5 and 252B.6.

This amendment shall become effective March 1, 2000. The following amendment is adopted.

Amend rule 441—95.14(252B) as follows:

## 441—95.14(252B) Termination of services.

95.14(1) Case closure criteria. In order to be eligible for closure, the case shall meet the requirements of subrule 95.14(3) or at least one of the following criteria:

a. and b. No change.

c. Paternity cannot be established because:

(1) and (2) No change.

(3) *The identity of the biological father is unknown and cannot be identified after diligent efforts, including at least one interview by the child support recovery unit with the recipient of services.*

d. The noncustodial parent's location is unknown, and the child support recovery unit has made ~~regular attempts~~ *diligent efforts using multiple sources, in accordance with regulations in 45 CFR 303.3, as amended to March 10, 1999, which outline use of appropriate sources in established time frames to locate the noncustodial parent over a three-year period, all of which have been unsuccessful, within one of the following time frames:*

(1) *Over a three-year period when there is sufficient information to initiate an automated locate effort.*

(2) *Over a one-year period when there is not sufficient information to initiate an automated locate effort.*

e. to g. No change.

h. *The child support recovery unit documents failure by the child support agency of another state which requested services to take an action which is essential for the next step in providing services.*

95.14(2) Notification. In cases meeting the criteria of subrule 95.14(1), paragraphs "a" through "f," and "h," the child support recovery unit shall send notification of its intent to close the case to the ~~custodial parent or caretaker recipient of services or the child support agency in the state which requested services~~ in writing 60 calendar days prior to case closure. The notice shall be sent to the ~~custodial parent or caretaker recipient of services or the state requesting services~~ at the last-known address stating the reason for denying or terminating services, the effective date, and an explanation of the right to request a hearing according to 441—Chapter 7. Closure of the case following notification is subject to the following:

a. If, in response to the notice, the ~~custodial parent or caretaker recipient of services or the state requesting services~~ supplies information which could lead to the establishment of paternity or a support order or enforcement of an order, the case shall be kept open.

b. The ~~custodial parent or caretaker recipient of services~~ may request that the case be reopened at a later date if there is a change in circumstances which could lead to the establishment of paternity or a support order or enforcement of an order *by completing a new application and paying any applicable fee.*

95.14(3) Reasons for termination of services to nonpublic assistance recipients. Services to a recipient of nonpublic assistance support services may be terminated when one of the case closure criteria of paragraphs 95.14(1)"a" through "f" or "h" is met or may occur for one or more of the following reasons:

a. No change.

b. The child support recovery unit is unable to contact the ~~custodial parent or caretaker recipient of services~~ within a 30 60-calendar-day period despite ~~attempts~~ *an attempt* by both telephone and at least one certified letter sent by first-class mail to the last-known address.

c. The ~~custodial parent or caretaker recipient of services~~ has failed to cooperate with the child support recovery unit, the circumstances of the noncooperation have been documented, and an action by the ~~custodial parent or caretaker recipient of services~~ is essential for the next step in providing services. (See rule 441—95.19(252B).)

d. and e. No change.

95.14(4) Notification in nonpublic assistance cases. Notification shall be provided to nonpublic assistance cases in the manner and under the conditions stated in subrule 95.14(2), except for cases terminated for the reasons listed in paragraphs 95.14(3)"a" and "d." If the case was closed because the child support recovery unit was unable to contact the ~~custodial parent or caretaker recipient of services~~ as provided in paragraph 95.14(3)"b," the case shall be kept open if contact is reestablished with the ~~custodial parent or caretaker recipient of services~~ prior to the effective date of the closure.

This rule is intended to implement Iowa Code sections 252B.4, 252B.5 and 252B.6.

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ARC 9583A

NATURAL RESOURCE  
COMMISSION[571]

Adopted and Filed

Pursuant to the authority of Iowa Code subsection 481B.3, the Natural Resource Commission hereby adopts amendments to Chapter 77, "Endangered and Threatened Plant and Animal Species," Iowa Administrative Code.

Notice of Intended Action was published in the June 2, 1999, Iowa Administrative Bulletin as ARC 9084A. Public hearings were held in Des Moines on June 29, 1999, and in Rockwell City on July 14, 1999.

The Notice of Intended Action proposed adding the Topeka shiner to the list of endangered animal species. Two

NATURAL RESOURCE COMMISSION[571](cont'd)

changes are the result of Iowa State University research in 1999, and public comments received. One change is to list the Topeka shiner as a threatened species. The Topeka shiner, a small fish, has been listed as a federally endangered species. Surveys conducted by Iowa State University during 1997, 1998, and 1999 found Topeka shiners at 16 of 306 stream sites and at 22 of the 58 off-channel sites surveyed. Although the shiner was found in nearly 40 sites since 1997, only 5 sites had more than 20 individuals and multiple age classes. The Topeka shiner was found in 8 of 14 counties where the species was known to occur previously. This apparent contraction of the shiners' range justifies listing the species as threatened. The second change is to exempt repairs and improvements of levee and drainage district facilities from protection efforts for the Topeka shiner by adding a new subrule to 77.4(481B). The reason for this change is due to research findings that drainage ditches are not considered as suitable habitat for the species.

These amendments are intended to implement Iowa Code chapter 481B.

These amendments will become effective February 2, 2000.

The following amendments are adopted.

ITEM 1. Amend subrule 77.2(2), list of threatened fish species, as follows:

	Fish	
Chestnut Lamprey		Ichthyomyzon castaneus
American Brook Lamprey		Lampetra appendix
Grass Pickerel		Esox americanus
Blacknose Shiner		Notropis heterolepis
<i>Topeka Shiner</i>		<i>Notropis topeka</i>
Western Sand Darter		Ammocrypta clara
Black Redhorse		Moxostoma duquesnei
Burbot		Lota lota
Orangethroat Darter		Etheostoma spectabile

ITEM 2. Amend rule 571—77.4(481B) by adopting the following new subrule:

**77.4(8)** Drainage district repairs and improvements to existing open ditch facilities are excluded from the department's protection efforts for the Topeka shiner. This includes facilities of levee and drainage districts established and maintained under Iowa Code chapter 468. This exclusion does not apply to new channelization, deepening, or leveeing of existing streams and rivers with permanent flow or existing streams with off-channel water areas capable of supporting fish.

[Filed 12/10/99, effective 2/2/00]  
[Published 12/29/99]

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**ARC 9580A**

**NURSING BOARD[655]**

**Adopted and Filed**

Pursuant to the authority of Iowa Code sections 17A.3 and 147.76, the Board of Nursing hereby adopts an amendment to Chapter 3, "Licensure to Practice—Registered Nurse/Licensed Practical Nurse," Iowa Administrative Code.

This amendment rescinds a subrule allowing individuals enrolled in an RN nursing program on June 30, 1995, who

did not subsequently graduate from an RN or PN program, to apply for licensure as an LPN in Iowa by examination.

This amendment was published in the Iowa Administrative Bulletin on October 20, 1999, as **ARC 9420A**. This amendment is identical to that published under Notice.

This amendment will become effective February 2, 2000.

This amendment is intended to implement Iowa Code section 152.7.

The following amendment is adopted.

Rescind and reserve subrule 3.4(5).

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**ARC 9579A**

**NURSING BOARD[655]**

**Adopted and Filed**

Pursuant to the authority of Iowa Code sections 17A.3 and 147.76, the Board of Nursing hereby adopts amendments to Chapter 7, "Advanced Registered Nurse Practitioners," Iowa Administrative Code.

These amendments add a national professional nursing certifying body to the approval list for advanced practice certification. The word "license" has been changed to "licensure" in two places to improve readability. These amendments identify that fee information is located in Chapter 3 and rescind subrule 7.2(11) which includes the definition of "peer review committee for investigations for ARNPs" because the information is found in Chapter 4.

These amendments were published in the Iowa Administrative Bulletin on October 6, 1999, as **ARC 9393A**. These amendments are identical to those published under Notice.

These amendments will become effective February 2, 2000.

These amendments are intended to implement Iowa Code sections 17A.3, 147.53, 147.76, and 152.1.

The following amendments are adopted.

ITEM 1. Amend rule 655—7.1(152), definition of "National professional nursing certifying body," to read as follows:

"National professional nursing certifying body" is a professional nursing certifying body approved by the board. Agencies approved by the board include the American Nurses Credentialing Center, the American Academy of Nurse Practitioners, the American College of Nurse-Midwives Certification Council, the Council on Certification of Nurse Anesthetists, the Council on Recertification of Nurse Anesthetists, the National Certification Board of Pediatric Nurse Practitioners and Nurses, the National Certification Corporation for the Obstetric, Gynecologic, and Neonatal Nursing Specialties, and the Oncology Nursing Certification Organization, and the American Association of Critical Care Nurses Certification Corporation.

ITEM 2. Amend subrule 7.2(5), paragraph "b," to read as follows:

b. The registered nurse shall be issued a registration card and a certificate to practice as an ARNP which clearly denotes the name, title, specialty area(s) of nursing practice,

NURSING BOARD[655](cont'd)

and expiration date of registration. The expiration date shall be based on the same period of ~~license~~ licensure to practice as a registered nurse.

ITEM 3. Amend subrule 7.2(8), introductory paragraph, to read as follows:

7.2(8) Application process for renewal of registration. Renewal of registration for the advanced registered nurse practitioner shall be for the same period of ~~license~~ licensure to practice as a registered nurse. The executive director or a designee shall have the authority to determine if all requirements have been met for renewal as an advanced registered nurse practitioner. A registered nurse who wishes to continue practice as an advanced registered nurse practitioner shall submit the following at least 30 days prior to the license expiration to the office of the Iowa board of nursing:

ITEM 4. Amend subrule 7.2(8), paragraph "b," to read as follows:

b. Renewal fee as outlined in rule ~~7.1(152)~~ 655—3.1(17A,147,152,272C), definition of "fees."

ITEM 5. Rescind subrule 7.2(11).

[Filed 12/10/99, effective 2/2/00]  
[Published 12/29/99]

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**ARC 9578A**

**PROFESSIONAL LICENSURE  
DIVISION[645]**

**Adopted and Filed**

Pursuant to the authority of Iowa Code section 147.76, the Board of Respiratory Care Examiners hereby amends Chapter 260, "Respiratory Care Practitioners," Iowa Administrative Code.

These amendments clarify and define the term "direct and immediate supervision of a respiratory care student or graduate practitioner."

Notice of Intended Action was published in the Iowa Administrative Bulletin on November 3, 1999, as **ARC 9460A**. A public hearing was held on November 24, 1999, from 10 a.m. to 12 noon in the Fifth Floor Board Conference Room, Lucas State Office Building, Des Moines, Iowa. There were no written or oral comments received in response to the proposed amendments.

These amendments are identical to those published under Notice.

These amendments were adopted by the Board of Respiratory Care Examiners at a Board meeting on December 7, 1999.

These amendments are intended to implement Iowa Code chapter 152B.

These amendments will become effective February 2, 2000.

The following amendments are adopted.

ITEM 1. Amend subrule 260.12(2) as follows:

260.12(2) A graduate of an approved respiratory care training program employed in an organized health care system may render services as defined in Iowa Code sections 152B.2 and 152B.3 under the ~~direction~~ direct and immediate

supervision of a respiratory care practitioner for one year. The graduate shall be identified as a "respiratory care practitioner-license applicant."

ITEM 2. Adopt ~~new~~ subrule 260.12(3) as follows:

260.12(3) Direct and immediate supervision of a respiratory care student or graduate practitioner means that the licensed respiratory practitioner shall:

1. Be continuously on site and present in the department or facility where the student or graduate is performing care;
2. Be immediately available to assist the person being supervised in the care being performed; and
3. Be responsible for care provided by students and graduates.

[Filed 12/10/99, effective 2/2/00]  
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**ARC 9587A**

**REVENUE AND FINANCE  
DEPARTMENT[701]**

**Adopted and Filed**

Pursuant to the authority of Iowa Code section 421.14, the Department of Revenue and Finance hereby adopts an amendment to Chapter 10, "Interest, Exceptions to Penalty, and Jeopardy Assessments," Iowa Administrative Code.

Notice of Intended Action was published in IAB Volume XXII, Number 9, page 709, on November 3, 1999, as **ARC 9456A**.

Iowa Code section 421.7 requires the Director of Revenue and Finance to determine the interest rate for each calendar year. The Director has determined that the rate of interest on interest-bearing taxes arising under Iowa Code Title X shall be 10 percent for the calendar year 2000. The interest rate is 2 percent above the average prime rate charged by banks on short-term business loans as published in the Federal Reserve Bulletin for the 12-month period ending September 30, 1999. For the past 12 months the average prime rate was 8 percent.

The 10 percent annual rate is equivalent to an interest rate of 0.8 percent per month on all outstanding taxes. The rate will be applied to all taxes owing or becoming payable on or after January 1, 2000. Under Iowa law, each fraction of a month is considered a whole month when interest is computed. When required to pay interest on a taxpayer's refund, the Department will also pay interest at the 10 percent rate on refunds owing or becoming payable on or after January 1, 2000.

This amendment is identical to that published under Notice of Intended Action.

This amendment will become effective February 2, 2000, after filing with the Administrative Rules Coordinator and publication in the Iowa Administrative Bulletin.

This amendment is intended to implement Iowa Code section 421.7.

The following amendment is adopted.

Amend rule 701—10.2(421) by adopting the following ~~new~~ subrule:

10.2(19) Calendar year 2000. The interest rate upon all unpaid taxes which are due as of January 1, 2000, will be 10

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

percent per annum (0.8% per month). This interest rate will accrue on taxes which are due and unpaid as of, or after, January 1, 2000. In addition, this interest rate will accrue on tax refunds which by law accrue interest, regardless of whether the tax to be refunded is due before or after January 1, 2000. This interest rate of 10 percent per annum, whether for unpaid taxes or tax refunds, will commence to accrue in 2000.

[Filed 12/10/99, effective 2/2/00]

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## ARC 9586A

REVENUE AND FINANCE  
DEPARTMENT[701]

## Adopted and Filed

Pursuant to the authority of Iowa Code section 421.14, the Department of Revenue and Finance hereby adopts amendments to Chapter 10, "Interest, Penalty, Exceptions to Penalty, and Jeopardy Assessments," Chapter 18, "Taxable and Exempt Sales Determined by Method of Transaction or Usage," Chapter 33, "Receipts Subject to Use Tax Depending on Method of Transaction," Chapter 81, "Administration," Chapter 82, "Cigarette Tax," and Chapter 83, "Tobacco Tax," Iowa Administrative Code.

Notice of Intended Action was published in IAB Volume XXII, Number 9, page 710, on November 3, 1999, as ARC 9455A.

The amendments incorporate the provisions of 1999 Iowa Acts, chapter 151.

These amendments are identical to those published under Notice of Intended Action.

These amendments will become effective February 2, 2000, after filing with the Administrative Rules Coordinator and publication in the Iowa Administrative Bulletin.

These amendments are intended to implement Iowa Code chapter 453A.

The following amendments are adopted.

ITEM 1. Amend subrule 10.76(1) to read as follows:

**10.76(1) Cigarettes.** The following is a list of offenses which subject the violator to a penalty:

1. The failure of a permit holder to maintain proper records;
2. The sale of taxable cigarettes without a permit;
3. The filing of a late, false or incomplete report with the intent to evade tax by a cigarette distributor, distributing agent or wholesaler;
4. Acting as a distributing agent without a valid permit; and
5. A violation of any provision of Iowa Code chapter 453A or these rules.

~~Each day a violation continues constitutes a separate offense. The penalty for each separate offense is \$50. Penalties for these offenses are as follows:~~

- A \$200 penalty for the first violation.
- A \$500 penalty for a second violation within two years of the first violation.
- A \$1,000 penalty for a third or subsequent violation within two years of the first violation.

*Penalties for possession of unstamped cigarettes are as follows:*

- A \$200 penalty for the first violation if a person is in possession of more than 40 but not more than 400 unstamped cigarettes.
- A \$500 penalty for the first violation if a person is in possession of more than 400 but not more than 2,000 unstamped cigarettes.
- A \$1,000 penalty for the first violation if a person is in possession of more than 2,000 unstamped cigarettes.
- For a second violation within two years of the first violation, the penalty is \$400 if a person is in possession of more than 40 but not more than 400 unstamped cigarettes; \$1,000 if a person is in possession of more than 400 but not more than 2,000 unstamped cigarettes; and \$2,000 if a person is in possession of more than 2,000 unstamped cigarettes.
- For a third or subsequent violation within two years of the first violation, the penalty is \$600 if a person is in possession of more than 40 but not more than 400 unstamped cigarettes; \$1,500 if a person is in possession of more than 400 but not more than 2,000 unstamped cigarettes; and \$3,000 if a person is in possession of more than 2,000 unstamped cigarettes.

a. to c. No change.

See rule 701—10.5(421) for statutory exceptions to penalty for taxes due and payable on or after January 1, 1987. See rule 701—10.8(421) for statutory exceptions to penalty for tax periods beginning on or after January 1, 1991.

ITEM 2. Amend rule 701—10.76(453A), implementation clause, as follows:

This rule is intended to implement Iowa Code sections 453A.28, 453A.31 and 453A.46 as amended by 1999 Iowa Acts, chapter 151.

ITEM 3. Amend subrules 18.30(2) to 18.30(4) as follows:

**18.30(2) Retail sales tax—tangible personal property.** Retail sales of tangible personal property made on a recognized settlement or reservation to ~~American~~ Indians who are members of the tribe located on that settlement or reservation, where delivery occurs on the reservation, are exempt from tax (*Bryan v. Itasca County*, 426 U.S. 373, 376-77 (1976); *Moe v. Confederated Salish & Kootenai Tribes*, 425 U.S. 463, 475-81 (1976)). Retail sales of tangible personal property made on a recognized settlement or reservation to Indians where delivery occurs off the reservation are subject to tax. Retail sales of tangible personal property made to non-Indians on a recognized settlement or reservation are subject to tax regardless of where the delivery occurs. Sales made to non-Indians are taxable even though the seller may be a member of a recognized settlement or reservation.

**18.30(3) Retail sales tax—services.** Sales of enumerated taxable services and sales made by municipal corporations furnishing gas, electricity, water, heat, or communication services to ~~American~~ Indians who are members of the tribe located on the recognized settlement or reservation where delivery of the service occurs on a recognized settlement or reservation are exempt from tax (*Bryan v. Itasca County*, 426 U.S. 373, 376-77 (1976); *Moe v. Confederated Salish & Kootenai Tribes*, 425 U.S. 463, 475-81 (1976)). Sales of enumerated taxable services or sales made by municipal corporations furnishing gas, electricity, water, heat, or communication services to Indians where delivery of the services occurs off a recognized settlement or reservation are subject to tax.

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

**18.30(4)** Off-reservation purchases. Purchases made by ~~American~~ Indians off a recognized settlement or reservation are subject to tax if delivery occurs off the reservation. Purchases made by Indians off a recognized settlement or reservation are not subject to tax if delivery is made on the reservation *to Indians who are members of the tribe located on that reservation.*

ITEM 4. Amend subrules 33.5(2) and 33.5(3) to read as follows:

**33.5(2)** Use tax. Out-of-state purchases made by ~~American~~ Indians which are purchased for use on a recognized settlement or reservation where delivery occurs on a recognized settlement or reservation *to Indians who are members of the tribe located on that settlement or reservation* are exempt from tax. Out-of-state purchases made by Indians where delivery occurs off a recognized settlement or reservation are subject to tax even though purchased for use on a recognized settlement or reservation.

**33.5(3)** Use tax—vehicles subject to registration. Vehicles subject to registration with county treasurers are exempt from use tax if delivery of the vehicle is made on a recognized settlement or reservation *to Indians who are members of the tribe located on that settlement or reservation.* Vehicles subject to registration with county treasurers are subject to use tax if delivery of the vehicle is made off a recognized settlement or reservation.

ITEM 5. Amend rule **701—81.1(453A)**, definitions of “Stamps” and “Taxpayer” and the implementation clause, as follows:

“Stamps” means Iowa Fusion stamps, 30,000 to a roll, ~~and Iowa hand stamps, 1,000 to a book, or other quantities of any quantity~~ authorized by the director, to be applied to packages of cigarettes and little cigars.

“Taxpayer” means any person required to collect or remit tax directly to the department or required to be licensed or to file any report or return or keep records under Iowa Code chapter 453A.

This rule is intended to implement Iowa Code chapter 453A as amended by ~~1998~~ 1999 Iowa Acts, ~~House File 2120~~ chapter 151.

ITEM 6. Amend rule **701—81.3(453A)** as follows:

**701—81.3(453A)** Examination of records. ~~After~~ *Within two years after a return or report is filed or within two years after the report or return became due, whichever is later,* the department shall examine it, determine *the amount of* cigarette or tobacco tax due, and give notice of assessment to the taxpayer. If no return or report has been filed, the department may determine *the amount of* tax due and give notice thereof. *The period of examination and determination of the correct amount of tax is unlimited in the case of a false or fraudulent report or return made with the intent to evade tax, or in the case of a failure to file a report or return, or if a person purchases or is in possession of unstamped cigarettes. The two-year period of limitation may be extended by a taxpayer by signing a waiver agreement form provided by the department. The agreement must stipulate the period of extension and the tax period to which the extension applies and must provide that a claim for refund may be filed at any time during the period of extension.*

Whenever books and records are examined by an employee designated by the director, whether to verify a return, report, or claim for refund or in making an audit, ~~then~~ an assessment will be issued for any amount of tax due *or a refund made for any amount of tax overpaid.*

This rule is intended to implement Iowa Code sections 453A.15, ~~453A.26 and 453A.28,~~ and 453A.46 as amended by 1999 Iowa Acts, chapter 151.

ITEM 7. Amend subrule 81.4(10), introductory paragraph, as follows:

**81.4(10)** Common carrier engaged in transporting cigarettes or tobacco products into Iowa.

ITEM 8. Adopt new subrule 81.4(14) as follows:

**81.4(14)** Other persons. The director may require any person other than those previously listed in this rule to maintain books and records as deemed necessary by the director.

ITEM 9. Amend rule **701—81.4(453A)**, implementation clause, as follows:

This rule is intended to implement Iowa Code sections 453A.15, ~~and 453A.18, 453A.19, 453A.24,~~ 453A.45 as amended by 1999 Iowa Acts, chapter 151, and Iowa Code sections 453A.18, 453A.19, 453A.24, and 453A.49.

ITEM 10. Amend rule **701—81.6(453A)**, introductory paragraph, as follows:

**701—81.6(453A)** Audit of records—cost, supplemental assessments and refund adjustments. The department shall have the right and duty to examine or cause to be examined the books, records, memoranda or documents of a taxpayer for the purpose of verifying the correctness of a return or report filed or determining the tax liability of any taxpayer under Iowa Code chapter 453A.

ITEM 11. Amend rule **701—81.14(453A)**, introductory paragraph, as follows:

**701—81.14(453A)** Confidential information. The release of information contained in any reports or returns filed under Iowa Code chapter 453A or obtained by the department in the administration of Iowa Code chapter 453A is governed by the general provisions of Iowa Code chapter 22 since there are no specific provisions relating to confidential information contained in chapter 453A. Any request for information must be made pursuant to rule 701—6.2(17A). See rule 701—6.3(17A).

ITEM 12. Amend subrule 82.1(5) as follows:

**82.1(5)** Manufacturer's permit. Any manufacturer, as defined in Iowa Code section 453A.1, may obtain a manufacturer's permit from the department. A manufacturer is any person who ships cigarettes into this state from outside the state. The permit is issued without cost and is valid until revoked or canceled. The permit allows the manufacturer to purchase tax stamps or meter settings from the department and to affix such stamps to cigarettes outside of this state prior to their shipment into the state. *A manufacturer is required to affix stamps to cigarettes prior to their shipment into this state unless the cigarettes are shipped to an Iowa permitted distributor or an Iowa permitted distributor's agent.*

ITEM 13. Amend rule **701—82.1(453A)**, implementation clause, as follows:

This rule is intended to implement Iowa Code sections 453A.13, ~~453A.16,~~ 453A.17, and 453A.23, and Iowa Code section 453A.16 as amended by 1999 Iowa Acts, chapter 151.

ITEM 14. Amend subrule **82.4(2)** by adopting the following new unnumbered paragraph at the end of the subrule:

## REVENUE AND FINANCE DEPARTMENT(701)(cont'd)

The tax must be added to the selling price of every package of cigarettes so that the ultimate consumer bears the burden of the tax.

ITEM 15. Amend subrule 82.4(5), paragraph "b," as follows:

b. Sales by or to Indians. Sales by Indians to other Indians of their own tribe on federally recognized Indian reservations or settlements to other Indians of which they are tribe members are exempt from the tax (*Bryan v. Itasca County*, 426 U.S. 373, 376-77 (1976); *Moe v. Confederated Salish & Kootenai Tribes*, 425 U.S. 463, 475-81 (1976)). The Indians also are not subject to the permit requirements of Iowa Code chapter 453A. However, Indians who have purchased or obtained cigarettes from an Indian reservation source and come within the taxing jurisdiction of the state are subject to the provisions of Iowa Code sections 453A.6(2), 453A.36(1) and 453A.37.

ITEM 16. Amend rule 701—82.4(453A), implementation clause, as follows:

This rule is intended to implement Iowa Code section 453A.6 as amended by 1999 Iowa Acts, chapter 151.

ITEM 17. Amend rule 701—82.5(453A) as follows:

**701—82.5(453A) Cigarette tax stamps.**

**82.5(1)** In general. To evidence the payment of the cigarette tax, cigarette stamps or meter impressions must be securely affixed to the individual cigarette containers. The stamps or meter settings shall be provided by the director, and either sold directly to a distributor or a manufacturer holding a valid distributor's or manufacturer's permit or through authorized banks, as defined in Iowa Code section 524.103 to these same licensees permittees. The possession of unstamped cigarettes by persons not authorized to possess unstamped cigarettes shall be prima facie evidence of the nonpayment of the tax. *The penalty for possession of unstamped cigarettes is set forth in Iowa Code section 453A.31(1) as amended by 1999 Iowa Acts, chapter 151, section 81. Any person in possession of unstamped cigarettes must pay the tax directly to the department.* If sales of cigarettes exceed the purchase of cigarette stamps by persons authorized and responsible to affix stamps, there is established a rebuttable presumption that the excess cigarettes were sold without the tax stamps affixed thereto.

**82.5(2)** Purchase of stamps from the department. Stamps may be purchased from the department and from authorized banks in unbroken books of 1,000 stamps or unbroken rolls of 30,000 stamps, or other quantities authorized by the director. Meter settings may be purchased from the department in increments of 1,000. Stamps may be purchased from authorized banks in unbroken rolls of 30,000. Meter settings may be purchased from banks in increments of 1,000. The stamps may be purchased only by persons holding an unrevoked distributor's permit or an unrevoked manufacturer's permit.

When cigarette stamps are purchased from the department, orders shall be sent directly to the department on a form prescribed by and available upon request from the department. The order must be accompanied by a remittance payable to "Treasurer of State of Iowa" in the amount of the face value of the stamps less any discount as provided in rule 701—82.7(453A). The stamps shall be sent to the purchaser through the United States Postal Service by certified mail at the department's expense. To more greatly ensure the receipt of the stamps, the purchaser may request alternate methods of transmission, but such methods shall be at the expense of the purchaser. Regardless of the method used to send the

stamps, title transfers to the purchaser at the time the department delivers the stamps to the carrier.

**82.5(3)** Purchase of stamps from authorized bank. The purchase of stamps or meter settings from an authorized bank must be made by the distributor or manufacturer or the distributor's or manufacturer's representative. The permittee shall furnish the bank with a requisition form prescribed by the department along with payment for the full price of the stamps less any discount as provided in rule 701—82.7(453A). The director may require such payments to be by cashier's check or certified check as to any individual distributor or manufacturer. The authorized bank shall be notified in writing by the department of any such requirement. Distributors or manufacturers who elect to purchase stamps or meter settings from authorized banks shall advise the department in writing of the authorized bank so elected. The distributor or manufacturer may not purchase from any other bank other than the one so selected, but may still purchase stamps or meter settings directly from the department. See rule 701—82.6(453A) for restrictions on authorized banks as to the sale of stamps or meter settings. Also see rule 82.11(453A) relating to refunds.

This rule is intended to implement Iowa Code sections 453A.6, 453A.7, 453A.8, and 453A.10, 453A.12, 453A.28, as amended by 1999 Iowa Acts, chapter 151, and Iowa Code sections 453A.7, 453A.10, 453A.12, and 453A.35.

ITEM 18. Amend rule 701—82.6(453A) as follows:

**701—82.6(453A) Banks authorized to sell stamps or meter settings—requirements—restrictions.**

**82.6(1)** Authorization. The director has the discretion to allow the sale or distribution of stamps or meter settings through authorized banks as defined in Iowa Code section 524.103. The authorization of a bank to sell stamps or meter settings is not a mandatory direction, but may be utilized by the director to enhance the efficiency of the tax stamp distribution system. Some of the factors the director will consider in determining whether or not to authorize a bank to sell stamps or meter settings are:

- a. Geographical location in relation to distributors or manufacturers requesting alternative purchase locations,
- b. The anticipated volume of stamps or meter settings to be purchased by the requesting distributors or manufacturers,
- c. Access to transportation systems, and
- d. Prior experience with the bank.

**82.6(2)** Sale of stamps or meter settings. An authorized bank may sell cigarette stamps or meter settings only to distributors or manufacturers holding valid permits who have "elected" (as per subrule 82.5(3)) to purchase stamps or meter settings from that bank. The department shall furnish each bank with a list of all such distributors or manufacturers who have so elected, and the bank shall not sell stamps or meter settings to persons not on the list. The bank must receive payment in full, less the discount, before selling stamps or meter settings. See rule 82.7(453A). A bank is not authorized to accept credit memorandums from distributors or manufacturers.

**82.6(3)** Stamp inventory. Each bank shall keep an adequate inventory of stamps on hand to supply distributors or manufacturers assigned to said bank for at least six weeks. Stamps will be shipped freight prepaid to the bank from the department or from the supplier of the stamps. The supplier of the stamps shall advise the department at once by mail of a shipment to a bank and the bank shall advise the department

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

at once by mail of the receipt of the stamps. Each bank shall store stamps in a secure vault.

**82.6(4)** Reports and remittances. Each bank authorized to sell stamps ~~or meter settings~~ shall forward to the department the invoices, requisitions, and remittances for stamps ~~or meter settings~~ sold on a daily basis. Each bank shall forward to the department on the first working day of each month, an inventory report which shall minimally include as to the prior month: the quantity of stamps on hand at the beginning of the month, the quantity of stamps received during the month, the quantity of stamps sold as to each distributor or manufacturer, the quantity of stamps on hand at the end of the month and the signature of the person responsible for the stamps.

**82.6(5)** Audit. For the purpose of auditing for the end of the fiscal year, no bank shall sell cigarette stamps ~~or meter settings~~ on the days from June 25 to June 30. With or without notice, the department or a representative designated by the department may take an inventory of stamps and audit stamp ~~and meter setting~~ sales.

Each bank must retain all records of inventory, stamp receipts, ~~and stamp sales and meter settings~~ for a period of two years.

**82.6(6)** Termination of authorization. The director may terminate the authorization of a bank to sell stamps ~~or meter settings~~ if the bank has failed to comply with the provisions of this rule or Iowa Code chapter 453A, or if the director deems it desirable for the efficient distribution of stamps. Notice of termination shall be sent to the bank by certified mail. The bank may appeal the termination determination by filing a protest pursuant to 701—Chapter 7 within 30 days of notice of termination. A bank may voluntarily terminate the sale of stamps ~~or meter settings~~ by giving the department 90 days' written notice. Upon termination, the bank must immediately return all stamps and ~~meter equipment~~ and present a final accounting, along with any remittances, to the department.

This rule is intended to implement Iowa Code sections 453A.8, 453A.12, and 453A.25.

ITEM 19. Amend rule 701—82.7(453A) as follows:

**701—82.7(453A) Purchase of cigarette tax stamps—discount.** Upon the purchase of cigarette tax stamps ~~or meter settings~~, the distributor or manufacturer, ~~beginning July 1, 1981,~~ shall be entitled to a discount of 2 percent from the face value of the stamps ~~or meter settings~~.

This rule is intended to implement Iowa Code section 453A.8.

ITEM 20. Amend rule 701—82.9(453A), introductory paragraph, as follows:

**701—82.9(453A) Distributor reports Reports.** Every person licensed as a cigarette distributor ~~or manufacturer, or any other person as deemed necessary by the director,~~ must file a monthly report on or before the tenth day of the month following the month for which the report is made. The report must be complete and certified by the person responsible for filling out the report. The failure to file a report or the filing of a false or incomplete report shall subject the ~~distributor person~~ to a penalty of \$50 for each day the report remains ~~unfiled, incomplete, or false as set forth in Iowa Code section 453A.31 as amended by 1999 Iowa Acts, chapter 151, section 81.~~ (See rule 701—81.8 10.76(453A).) The report must be so certified or the report shall be considered incomplete. Whenever "cigarette" is used in this rule, it shall also include taxable "little cigars."

ITEM 21. Amend rule 701—82.9(453A) by adopting the following new subrule:

**82.9(4)** Manufacturers and other persons. The monthly reports for manufacturers and other persons shall contain such information as the director deems necessary.

ITEM 22. Amend rule 701—82.9(453A), implementation clause, as follows:

This rule is intended to implement Iowa Code section 453A.15 as amended by 1999 Iowa Acts, chapter 151.

ITEM 23. Amend rules 701—83.5(453A), 83.6(453A), and 83.7(453A) by striking the words "report" and "reports" wherever they appear and inserting in lieu thereof the words "return" and "returns."

ITEM 24. Amend subrule 83.11(2) as follows:

**83.11(2) Sales by or to Indians.** Sales by Indians to other Indians *of their own tribe* on federally recognized Indian reservations or settlements *of which they are tribe members* are exempt from the tax (*Bryan v. Itasca County*, 426 U.S. 373, 376-77 (1976); *Moe v. Confederated Salish & Kootenai Tribes*, 425 U.S. 463, 475-81 (1976)). The Indians ~~also~~ are ~~not~~ subject to the ~~permit license~~ requirements of Iowa Code chapter 453A. ~~However,~~ Indians who have purchased or obtained tobacco products from an Indian reservation source and come within the taxing jurisdiction of the state are subject to the provisions of Iowa Code sections 453A.43(2) and 453A.50.

[Filed 12/10/99, effective 2/2/00]

[Published 12/29/99]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 12/29/99.

**ARC 9589A**

**REVENUE AND FINANCE  
DEPARTMENT[701]**

**Adopted and Filed**

Pursuant to the authority of Iowa Code section 421.14, the Department of Revenue and Finance hereby adopts amendments to Chapter 11, "Administration," Chapter 13, "Permits," Chapter 15, "Determination of a Sale and Sale Price," Chapter 17, "Exempt Sales," Chapter 18, "Taxable and Exempt Sales Determined by Method of Transaction or Usage," Chapter 19, "Sales and Use Tax on Construction Activities," Chapter 26, "Sales and Use Tax on Services," Chapter 31, "Receipts Subject to Use Tax," Chapter 32, "Receipts Exempt from Use Tax," Chapter 33, "Receipts Subject to Use Tax Depending on Method of Transaction," and Chapter 34, "Vehicles Subject to Registration," Iowa Administrative Code.

Notice of Intended Action was published in IAB Volume XXII, Number 9, page 714, on November 3, 1999, as ARC 9459A.

The 1999 Session of the General Assembly enacted House Files 199, 418, and 770 and Senate Files 9, 136, 231, 469, and 473 into law. Those enactments have resulted in a number of changes in the Iowa sales and use tax statutes. A variety of rules are amended to reflect those changes; several rules are also amended to remove or change obsolete language.

Item 1 concerns changes in the time limits for assessing sales or use tax and for filing a claim for refund of those



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

taxes. Item 2 amends the appropriate rule to require a sales tax permit to be displayed only at locations from which taxable sales will be made. Item 3 sets out a procedure which allows parent and affiliated corporations to file consolidated sales tax returns. Items 4, 5, 6, and 7 amend various rules to allow the use of an exemption certificate for purposes other than resale and processing. Item 8 amends the applicable rule to extend the time allowed to appeal the Director's review of a fuel exemption certificate from 30 to 60 days. Item 9 deals with a new exclusion from the sales tax transportation exemption applicable to the transport of electricity and natural gas. Items 10 and 23 amend the applicable rules to explain an amendment to the exemption applicable to services performed on tangible personal property delivered into interstate commerce. Item 11 amends a subrule by substituting the word "retailer" for the word "seller." Item 12 adds a new rule which explains a new exemption in favor of certain sales to rural water districts. Item 13 adds a new rule exempting sales to hospices from tax. Items 14, 17, 18, 19, 20, 22, 24, 26, 28, and 29 amend various rules to incorporate into them the category of "manufactured housing." Items 15, 25, and 27 deal with the imposition of use tax only on aircraft. Item 16 explains a new exemption in favor of sales of argon and similar gases used in manufacturing. Item 21 extends the time for filing a claim for refund of tax paid by a building contractor from six months to a year after final settlement of the contract. Item 30 concerns refunds of use tax to motor vehicle manufacturers.

A nonsubstantive change has been made to the Notice of Intended Action. Based on the comments of a taxpayer's attorney, Example 3 in Item 9 has been revised, a new Example 4 has been added to that same item, and original Examples 4 and 5 have been renumbered as Examples 5 and 6.

These amendments will become effective on February 2, 2000, after filing with the Administrative Rules Coordinator and publication in the Iowa Administrative Bulletin on December 29, 1999.

These amendments are intended to implement 1999 Iowa Acts, House Files 199, 418, and 770, and Senate Files 9, 136, 231, 469, and 473.

EDITOR'S NOTE: Pursuant to recommendation of the Administrative Rules Review Committee published in the Iowa Administrative Bulletin, September 10, 1986, the text of these rules [11.2, 13.1, 13.4, 15.3, 15.13, 17.8, 17.33, 17.34, 18.40, 18.49, 18.60, 19.6, 19.12, 19.13(2), 26.2(3), 26.18(2), 31.6, 32.3, 32.13, 33.9, 33.10, 34.3] is being omitted. With the exception of the change noted above, these rules are identical to those published under Notice as ARC 9459A, IAB 11/3/99.

[Filed 12/10/99, effective 2/2/00]  
[Published 12/29/99]

[For replacement pages for IAC, see IAC Supplement 12/29/99.]

## ARC 9588A

REVENUE AND FINANCE  
DEPARTMENT[701]

## Adopted and Filed

Pursuant to the authority of Iowa Code section 421.17, the Department of Revenue and Finance hereby adopts amend-

ments to Chapter 86, "Inheritance Tax," Chapter 87, "Iowa Estate Tax," and Chapter 89, "Fiduciary Income Tax," Iowa Administrative Code.

Notice of Intended Action was published in IAB Volume XXII, Number 9, page 724, on November 3, 1999, as ARC 9457A.

The amendments provide greater clarity and update a reference for a definition and implement provisions of 1999 Iowa Acts, chapter 151, regarding the filing requirements for estates when all property in the estate is held in joint tenancy with the decedent and exempt classes of beneficiaries, regarding notice of additional tax due which changes reference from "postmark" to "notice date," and regarding federal audit provisions for real estate to provide for implementation of a ten-year statutory lien period and to provide exception to Iowa Code section 450.7 statutory lien provisions for estate tax. Additional amendments contained herein update valuation of a gift, correct language regarding preneed funeral trust, correct deductible funeral expenses allowed, and implement 1999 Iowa Acts, chapter 152.

These amendments are identical to those published under Notice of Intended Action.

These amendments will become effective February 2, 2000, after filing with the Administrative Rules Coordinator and publication in the Iowa Administrative Bulletin.

These amendments are intended to implement Iowa Code chapter 450 as amended by 1999 Iowa Acts, chapters 151 and 152.

EDITOR'S NOTE: Pursuant to recommendation of the Administrative Rules Review Committee published in the Iowa Administrative Bulletin, September 10, 1986, the text of these amendments [86.1 to 86.3, 86.5(7)"d," 86.6(1)"g," 86.9(2)"f"(1), 86.12(5)"b," 87.3(4), 89.8(1)] is being omitted. These amendments are identical to those published under Notice as ARC 9457A, IAB 11/3/99.

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[Published 12/29/99]

[For replacement pages for IAC, see IAC Supplement 12/29/99.]

## ARC 9561A

## UTILITIES DIVISION[199]

## Adopted and Filed

Pursuant to Iowa Code sections 17A.4, 476.1, 476.1A, 476.1C, and 476.3, the Utilities Board (Board) gives notice that on November 29, 1999, the Board issued an order in Docket No. RMU-99-3, In re: Refunds and Back Billing, "Order Adopting Rules."

These amendments amend 199 IAC 19.4(13)"a"(2), 19.4(13)"a"(3), 19.4(13)"b"(1), 19.4(13)"d," 19.4(13)"e," 20.4(14)"b"(1), 20.4(14)"b"(2), 20.4(14)"c," 20.4(14)"d," 20.4(14)"e," 20.4(14)"f," and 21.4(6)"a." The amendments also add new paragraphs 199 IAC 21.4(6)"d," 21.4(6)"e," 22.4(3)"k," and 22.4(3)"l."

On March 26, 1999, the Board issued an order to consider adopting amendments to the above-listed rules. The proposed rule making was published in IAB Vol. XXI, No. 22 (4/21/99), p. 2628, as ARC 8921A. Written statements of position were filed by the Consumer Advocate Division of the Department of Justice (Consumer Advocate), U S WEST

## UTILITIES DIVISION[199](cont'd)

Communications, Inc., the Rural Iowa Independent Telephone Association, MidAmerican Energy Company, IES Utilities Inc., Interstate Power Company, AT&T Communications of the Midwest, Inc., and the Iowa Association of Electric Cooperatives. An oral presentation was held on June 14, 1999.

The purpose of the rule making is to adopt a uniform time frame for refunds and back billings for electric, gas, water, and telephone utilities, while at the same time maintaining flexibility for the Board to fashion appropriate remedies in unusual circumstances. Originally, the Board proposed a ten-year time frame for refunds and back billings. All commenters opposed a period this long. After considering the comments, the Board adopts a five-year time period. Five years was favored by the majority of the commenters, including Consumer Advocate.

The Board generally believes a five-year period for refunds balances the customers' rights in the event of an error with the utility's costs of maintaining accurate, retrievable billing records for a potentially unlimited period. These amendments provide, however, that the Board may order a different time period if the facts and circumstances warrant.

For utility back billings, the Board also adopts a five-year period, but with limits on the maximum amount of the bill. The noticed amendments provided the maximum back bill shall not exceed 50 percent of the billing for like charges in the 12 months preceding discovery of the error unless otherwise ordered by the Board. The limitation on amount was to protect customers from large back billings due to a utility error.

After considering the comments filed by utility commenters, the Board revises the amendments by dropping the 50 percent limitation and instead limiting the billing to like charges in the previous 12 months unless otherwise ordered by the Board. The Board recognizes, as pointed out by utility commenters, that there may be circumstances where back billing in excess of 12 months may be appropriate. One example might be where a large customer should reasonably have known that a billing error occurred. The amendments give the Board flexibility to extend the time limits if circumstances warrant. Utilities will be expected to maintain appropriate records for a minimum of five years, and longer where appropriate.

The utility commenters believed the additional limitation on back billing made the periods for refunds and back billing asymmetrical. However, the Board notes that in back billing situations, the problem is usually the result of utility error, such as a nonregistering meter or use of an incorrect multiplier. Customer exposure to back billing should generally be more limited when utility error is involved.

The amendments also increase the minimum amounts for back billing and refunds. These changes are merely to update the rules and recognize the high administrative costs of tracking and refunding or billing small dollar amounts. While the amounts are not as high as some commenters requested, the Board believes the amounts used strike an appropriate balance between utility and customer interests.

These amendments are intended to implement Iowa Code sections 476.1, 476.1A, 476.1C, and 476.3. The changes from the noticed amendments are in response to the comments and, therefore, no further notice is necessary.

These amendments will become effective February 2, 2000.

The following amendments are adopted.

ITEM 1. Amend subparagraph 19.4(13)"a"(2) as follows:

(2) If the time at which the error first developed or occurred cannot be definitely determined, it shall be assumed that the overregistration has existed for the shortest time period calculated as ~~the time since July 4, 1963~~, one-half the time since the meter was installed or one-half the time elapsed since the last ~~previous meter installation test~~ unless otherwise ordered by the board.

ITEM 2. Amend subparagraph 19.4(13)"a"(3) as follows:

(3) If the recalculated bills indicate that \$3 \$5 or more is due an existing customer or \$5 \$10 or more is due a person no longer a customer of the utility, the tariff shall provide for refunding of the full amount of the calculated difference between the amount paid and the recalculated amount. Refunds shall be made to the two most recent customers who received service through the metering installation during the time the error existed. In the case of a previous customer who is no longer a customer of the utility, a notice of the amount subject to refund shall be mailed to such previous customer at the last-known address, and the utility shall, upon demand made within three months thereafter, refund the same.

Refunds shall be completed within six months following the date of the metering installation test.

ITEM 3. Amend subparagraph 19.4(13)"b"(1) as follows:

(1) The utility may not back bill due to underregistration unless a minimum back bill amount is specified in its tariff. The minimum amount specified for back billing shall not be less than, but may be greater than, \$3 \$5 for an existing customer or \$5 \$10 for a former customer. All recalculations resulting in an amount due equal or greater than the tariff specified minimum shall result in issuance of a back bill.

ITEM 4. Amend paragraph 19.4(13)"d" as follows:

d. When a customer has been overcharged as a result of incorrect reading of the meter, incorrect application of the rate schedule, incorrect connection of the meter, or other similar reasons, the amount of the overcharge shall be adjusted, refunded, or credited to the customer. *The time period for which the utility is required to adjust, refund, or credit the customer's bill shall not exceed five years unless otherwise ordered by the board.*

ITEM 5. Amend paragraph 19.4(13)"e" as follows:

e. When a customer has been undercharged as a result of incorrect reading of the meter, incorrect application of the rate schedule, incorrect connection of the meter, or other similar reasons, the amount of the undercharge may be billed to the customer. *The time period for which the utility may adjust for the undercharge shall not exceed five years unless otherwise ordered by the board. The maximum back bill shall not exceed the billing for like charges (e.g., usage-based, fixed or service charges) in the 12 months preceding discovery of the error unless otherwise ordered by the board.*

ITEM 6. Amend subparagraph 20.4(14)"b"(1), introductory paragraph, as follows:

(1) Overregistration. If the date when overregistration began can be determined, such date shall be the starting point for determination of the amount of the adjustment. If the date when overregistration began cannot be determined, it shall be assumed that the error has existed for the shortest time period calculated as ~~the time since July 4, 1963~~, one-half the time since the meter was installed, or one-half the time elapsed since the last ~~previous meter installation test~~ unless otherwise ordered by the board.

## UTILITIES DIVISION[199](cont'd)

ITEM 7. Amend subparagraph 20.4(14)"b"(2), introductory paragraph, as follows:

(2) Underregistration. If the date when underregistration began can be determined, it shall be the starting point for determination of the amount of the adjustment except that billing adjustment shall be limited to the preceding six months. If the date when underregistration began cannot be determined, it shall be assumed that the error has existed for one-half of the time elapsed since the more recent of either ~~metering~~ meter installation or the last previous meter test, except that billing adjustment shall be limited to the preceding six months *unless otherwise ordered by the board.*

ITEM 8. Amend subparagraph 20.4(14)"c" as follows:

c. Refunds. If the recalculated bills indicate that \$1 \$5 or more is due an existing customer or \$2 \$10 or more is due a person no longer a customer of the utility, the tariff shall provide refunding of the full amount of the calculated difference between the amount paid and the recalculated amount. Refunds shall be made to the two most recent customers who received service through the metering installation found to be in error. In the case of a previous customer who is no longer a customer of the utility, a notice of the amount subject to refund shall be mailed to such previous customer at the last-known address, and the utility shall, upon demand made within three months thereafter, refund the same.

Refunds shall be completed within six months following the date of the metering installation test.

ITEM 9. Amend subparagraph 20.4(14)"d" as follows:

d. Back billing. A utility may not back bill due to underregistration unless a minimum back bill amount is specified in its tariff. The minimum amount specified for back billing shall not be less than, *but may be greater than*, \$1 \$5 for an existing customer or \$2 \$10 for a former customer. All recalculations resulting in an amount due equal or greater than the tariff specified minimum shall result in issuance of a back bill.

Back billings shall be rendered no later than six months following the date of the metering installation test.

ITEM 10. Amend paragraph 20.4(14)"e" as follows:

e. Overcharges. When a customer has been overcharged as a result of incorrect reading of the meter, incorrect application of the rate schedule, incorrect connection of the metering installation or other similar reasons, the amount of the overcharge shall be adjusted, refunded or credited to the customer. *The time period for which the utility is required to adjust, refund, or credit the customer's bill shall not exceed five years unless otherwise ordered by the board.*

ITEM 11. Amend paragraph 20.4(14)"f" as follows:

f. Undercharges. When a customer has been undercharged as a result of incorrect reading of the meter, incorrect application of the rate schedule, incorrect connection of the metering installation or other similar reasons, the tariff may provide for billing the amount of the undercharge to the customer. *The time period for which the utility may adjust for the undercharge need not exceed five years unless otherwise ordered by the board. The maximum bill shall not exceed the billing for like charges (e.g., usage-based, fixed or service charges) in the 12 months preceding discovery of the error unless otherwise ordered by the board.*

ITEM 12. Amend paragraph 21.4(6)"a" as follows:

a. Fast meters. Whenever a meter in service is tested and found to have overregistered more than 2 percent, the utility shall adjust the customer's bill for the excess amount paid. The estimated amount of overcharge is to be based on the period the error first developed or occurred. If that period cannot be definitely determined, it will be assumed that the overregistration existed for a period equal to one-half the time since the meter was last tested, or one-half the time since the meter was installed *unless otherwise ordered by the board.* If the recalculated bill indicates that more than \$1 \$5 is due an existing customer, the full amount of the calculated difference between the amount paid and the recalculated amount shall be refunded to the customer. If a refund is due a person no longer a customer of the utility, a notice shall be mailed to the last-known address.

ITEM 13. Adopt new paragraph 21.4(6)"d" as follows:

d. Overcharges. When a customer has been overcharged as a result of incorrect reading of the meter, incorrect application of the rate schedule, incorrect connection of the metering installation, or other similar reasons, the amount of the overcharge shall be adjusted, refunded or credited to the customer. The time period for which the utility is required to adjust, refund or credit the customer's bill shall not exceed five years unless otherwise ordered by the board.

ITEM 14. Adopt new paragraph 21.4(6)"e" as follows:

e. Undercharges. When a customer has been undercharged as a result of incorrect reading of the meter, incorrect application of the rate schedule, incorrect connection of the metering installation, or other similar reasons, the tariff may provide for billing the amount of the undercharge to the customer. The time period for which the utility may adjust for the undercharge need not exceed five years unless otherwise ordered by the board. The maximum bill shall not exceed the billing for like charges (e.g., usage-based, fixed or service charges) in the 12 months preceding discovery of the error unless otherwise ordered by the board.

ITEM 15. Adopt new paragraph 22.4(3)"k" as follows:

k. Undercharges. The time period for which a utility may back bill a customer for undercharges shall not exceed five years unless otherwise ordered by the board.

ITEM 16. Adopt new paragraph 22.4(3)"l" as follows:

l. Overcharges. The time period for which the utility is required to refund or credit the customer's bill shall not exceed five years unless otherwise ordered by the board. Refunds of \$25 or more shall be in the form of checks to current customers. Checks are to be issued to former customers where the refund exceeds \$10. Refunds to current customers less than \$25 may be in the form of a bill credit. Refunds for regulated services may not be applied to unpaid amounts for unregulated services.

[Filed 12/8/99, effective 2/2/00]

[Published 12/29/99]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 12/29/99.



State of Iowa  
Executive Department

\*IN THE NAME AND BY THE AUTHORITY OF THE STATE OF IOWA

**PROCLAMATION**

WHEREAS,

THE OFFICE OF STATE REPRESENTATIVE FROM THE 53<sup>RD</sup> REPRESENTATIVE DISTRICT, CONSISTING OF THE FOLLOWING AREAS:

THE FIFTY-THIRD REPRESENTATIVE DISTRICT IN LINN COUNTY SHALL CONSIST OF THAT PORTION OF THE CITY OF CEDAR RAPIDS BOUNDED BY A LINE COMMENCING AT THE POINT NINETEENTH STREET SOUTHEAST INTERSECTS MOUNT VERNON ROAD SOUTHEAST, THEN PROCEEDING WEST ALONG MOUNT VERNON ROAD SOUTHEAST UNTIL IT INTERSECTS NINETEENTH STREET SOUTHEAST, THEN PROCEEDING NORTH ALONG NINETEENTH STREET SOUTHEAST UNTIL IT INTERSECTS FIFTH AVENUE SOUTHEAST, THEN PROCEEDING EASTERLY ALONG FIFTH AVENUE SOUTHEAST UNTIL IT INTERSECTS TWENTY-FIRST STREET SOUTHEAST, THEN PROCEEDING NORTHERLY ALONG TWENTY-FIRST STREET SOUTHEAST UNTIL IT INTERSECTS PARK AVENUE SOUTHEAST, THEN PROCEEDING WEST ALONG PARK AVENUE SOUTHEAST UNTIL IT INTERSECTS NINETEENTH STREET SOUTHEAST, THEN PROCEEDING NORTH ALONG NINETEENTH STREET SOUTHEAST UNTIL IT INTERSECTS GRANDE AVENUE SOUTHEAST, THEN PROCEEDING WEST ALONG GRANDE AVENUE SOUTHEAST UNTIL IT INTERSECTS EIGHTEENTH STREET SOUTHEAST, THEN PROCEEDING NORTH ALONG EIGHTEENTH STREET SOUTHEAST UNTIL IT INTERSECTS THIRD AVENUE SOUTHEAST, THEN PROCEEDING SOUTHWEST ALONG THIRD AVENUE SOUTHEAST UNTIL IT INTERSECTS FOURTEENTH STREET SOUTHEAST, THEN PROCEEDING NORTHWEST ALONG FOURTEENTH STREET SOUTHEAST UNTIL IT INTERSECTS FOURTEENTH STREET NORTHEAST, THEN PROCEEDING NORTHWEST ALONG FOURTEENTH STREET NORTHEAST UNTIL IT INTERSECTS "C" AVENUE NORTHEAST, THEN PROCEEDING SOUTHWEST ALONG "C" AVENUE NORTHEAST UNTIL IT INTERSECTS CENTER POINT ROAD NORTHEAST, THEN PROCEEDING NORTHWEST ALONG CENTER POINT ROAD NORTHEAST UNTIL IT INTERSECTS OAKLAND ROAD NORTHEAST, THEN PROCEEDING NORTHERLY ALONG OAKLAND ROAD NORTHEAST UNTIL IT INTERSECTS HOLLYWOOD BOULEVARD NORTHEAST, THEN PROCEEDING NORTHWEST ALONG HOLLYWOOD BOULEVARD NORTHEAST UNTIL IT INTERSECTS RICHMOND ROAD NORTHEAST, THEN PROCEEDING NORTHERLY ALONG RICHMOND ROAD NORTHEAST UNTIL IT INTERSECTS COUNCIL STREET NORTHEAST, THEN PROCEEDING NORTH ALONG COUNCIL STREET NORTHEAST UNTIL IT INTERSECTS FORTY-SECOND STREET NORTHEAST, THEN PROCEEDING WEST ALONG FORTY-SECOND STREET NORTHEAST UNTIL IT INTERSECTS THE ABANDONED CHICAGO, CENTRAL & PACIFIC RAILROAD COMPANY RAILROAD BED, THEN PROCEEDING SOUTHERLY ALONG THE ABANDONED CHICAGO, CENTRAL, & PACIFIC RAILROAD COMPANY RAILROAD BED UNTIL IT INTERSECTS INTERSTATE 380, THEN PROCEEDING NORTHWEST ALONG INTERSTATE 380 UNTIL IT INTERSECTS GLASS ROAD NORTHEAST, THEN PROCEEDING WESTERLY ALONG GLASS ROAD NORTHEAST UNTIL IT INTERSECTS REDBUD ROAD NORTHEAST, THEN PROCEEDING NORTHERLY ALONG REDBUD ROAD NORTHEAST UNTIL IT INTERSECTS BIRCHWOOD DRIVE NORTHEAST, THEN PROCEEDING WESTERLY ALONG BIRCHWOOD DRIVE NORTHEAST UNTIL IT INTERSECTS NORTHWOOD DRIVE NORTHEAST, THEN PROCEEDING SOUTHERLY ALONG NORTHWOOD DRIVE NORTHEAST UNTIL IT INTERSECTS GLASS ROAD NORTHEAST, THEN PROCEEDING WEST ALONG GLASS ROAD NORTHEAST UNTIL IT INTERSECTS WENIG ROAD NORTHEAST, THEN

\*Reproduced as submitted.

PROCEEDING SOUTH ALONG WENIG ROAD NORTHEAST UNTIL IT INTERSECTS COLDSTREAM AVENUE NORTHEAST, THEN PROCEEDING EASTERLY ALONG COLDSTREAM AVENUE NORTHEAST UNTIL IT INTERSECTS LINMAR DRIVE NORTHEAST, THEN PROCEEDING SOUTHERLY ALONG LINMAR DRIVE NORTHEAST UNTIL IT INTERSECTS SIERRA DRIVE NORTHEAST, THEN PROCEEDING SOUTHERLY ALONG SIERRA DRIVE NORTHEAST UNTIL IT INTERSECTS "J" AVENUE NORTHEAST, THEN PROCEEDING FIRST SOUTHWEST, THEN NORTHWEST, THEN SOUTHWEST ALONG "J" AVENUE NORTHEAST (AND ITS EXTENSION) UNTIL IT INTERSECTS THE MIDDLE OF THE MAIN CHANNEL OF THE RED CEDAR RIVER, THEN PROCEEDING SOUTHEASTERLY ALONG THE MIDDLE OF THE MAIN CHANNEL OF THE RED CEDAR RIVER UNTIL IT INTERSECTS THE NORTHEAST EXTENSION OF ELLIS LANE NORTHWEST, THEN PROCEEDING SOUTHWEST ALONG ELLIS LANE NORTHWEST (AND ITS EXTENSION) UNTIL IT INTERSECTS EIGHTH STREET NORTHWEST, THEN PROCEEDING SOUTHEAST ALONG EIGHTH STREET NORTHWEST UNTIL IT INTERSECTS "Q" AVENUE NORTHWEST, THEN PROCEEDING WEST ALONG "Q" AVENUE NORTHWEST UNTIL IT INTERSECTS TENTH STREET NORTHWEST, THEN PROCEEDING SOUTH ALONG TENTH STREET NORTHWEST UNTIL IT INTERSECTS PENN AVENUE NORTHWEST, THEN PROCEEDING EAST ALONG PENN AVENUE AVENUE NORTHWEST UNTIL IT INTERSECTS ELLIS BOULEVARD NORTHWEST, THEN PROCEEDING SOUTH ALONG ELLIS BOULEVARD NORTHWEST UNTIL IT INTERSECTS "M" AVENUE NORTHWEST, THEN PROCEEDING WEST ALONG "M" AVENUE NORTHWEST UNTIL IT INTERSECTS NINTH STREET NORTHWEST, THEN PROCEEDING NORTH ALONG NINTH STREET NORTHWEST UNTIL IT INTERSECTS "O" AVENUE NORTHWEST, THEN PROCEEDING WEST ALONG "O" AVENUE NORTHWEST UNTIL IT INTERSECTS HIGHWOOD DRIVE NORTHWEST, THEN PROCEEDING SOUTHERLY ALONG HIGHWOOD DRIVE NORTHWEST UNTIL IT INTERSECTS BELMONT PARKWAY NORTHWEST, THEN PROCEEDING EASTERLY ALONG BELMONT PARKWAY NORTHWEST (AND ITS EXTENSION) UNTIL IT INTERSECTS THE NORTH EXTENSION OF EIGHTEENTH STREET NORTHWEST, THEN PROCEEDING SOUTHERLY ALONG EIGHTEENTH STREET NORTHWEST (AND ITS EXTENSION) UNTIL IT INTERSECTS JOHNSON AVENUE NORTHWEST, THEN PROCEEDING FIRST EASTERLY AND THEN IN A COUNTERCLOCKWISE MANNER ALONG JOHNSON AVENUE NORTHWEST UNTIL IT INTERSECTS "A" AVENUE NORTHWEST, THEN PROCEEDING EAST ALONG "A" AVENUE NORTHWEST UNTIL IT INTERSECTS FOURTEENTH STREET NORTHWEST, THEN PROCEEDING SOUTH ALONG FOURTEENTH STREET NORTHWEST UNTIL IT INTERSECTS FIRST AVENUE SOUTHWEST, THEN PROCEEDING NORTHEAST ALONG FIRST AVENUE SOUTHWEST UNTIL IT INTERSECTS TWELFTH STREET SOUTHWEST, THEN PROCEEDING SOUTHEAST ALONG TWELFTH STREET SOUTHWEST UNTIL IT INTERSECTS THIRD AVENUE SOUTHWEST, THEN PROCEEDING EAST ALONG THIRD AVENUE SOUTHWEST UNTIL IT INTERSECTS THE CHICAGO AND NORTHWESTERN TRANSPORTATION COMPANY RAILROAD TRACK, THEN PROCEEDING NORTHERLY ALONG THE CHICAGO AND NORTHWESTERN TRANSPORTATION COMPANY RAILROAD TRACK UNTIL IT INTERSECTS SECOND AVENUE SOUTHWEST, THEN PROCEEDING NORTHEAST ALONG SECOND AVENUE SOUTHWEST UNTIL IT INTERSECTS EIGHTH STREET SOUTHWEST, THEN PROCEEDING SOUTHEAST ALONG EIGHTH STREET SOUTHWEST UNTIL IT INTERSECTS THIRD AVENUE SOUTHWEST, THEN PROCEEDING NORTHEAST ALONG THIRD AVENUE SOUTHWEST UNTIL IT INTERSECTS SEVENTH STREET SOUTHWEST, THEN PROCEEDING SOUTHEASTERLY ALONG SEVENTH STREET SOUTHWEST UNTIL IT INTERSECTS FIFTH AVENUE SOUTHWEST, THEN PROCEEDING EAST ALONG FIFTH AVENUE SOUTHWEST UNTIL IT INTERSECTS THE NORTH EXTENSION OF SEVENTH STREET SOUTHWEST, THEN PROCEEDING SOUTH ALONG SEVENTH STREET SOUTHWEST (AND ITS EXTENSION) UNTIL IT INTERSECTS EIGHTH AVENUE SOUTHWEST, THEN PROCEEDING EAST ALONG EIGHTH AVENUE SOUTHWEST UNTIL IT INTERSECTS SIXTH STREET SOUTHWEST, THEN PROCEEDING NORTH ALONG SIXTH STREET SOUTHWEST UNTIL IT INTERSECTS SEVENTH AVENUE SOUTHWEST, THEN PROCEEDING EASTERLY ALONG SEVENTH AVENUE SOUTHWEST UNTIL IT INTERSECTS "L" STREET SOUTHWEST, THEN PROCEEDING SOUTHEAST ALONG "L" STREET SOUTHWEST UNTIL IT INTERSECTS EIGHTH AVENUE SOUTHWEST, THEN PROCEEDING NORTHEAST ALONG EIGHTH AVENUE SOUTHWEST UNTIL IT INTERSECTS SECOND STREET SOUTHWEST, THEN PROCEEDING SOUTH ALONG SECOND STREET SOUTHWEST UNTIL IT INTERSECTS THE CEDAR RAPIDS AND IOWA CITY RAILWAY COMPANY RAILROAD TRACK, THEN PROCEEDING NORTHEAST ALONG THE CEDAR RAPIDS AND IOWA CITY RAILWAY COMPANY RAILROAD TRACK UNTIL IT INTERSECTS FIRST STREET SOUTHWEST, THEN PROCEEDING SOUTHEAST ALONG FIRST STREET SOUTHWEST UNTIL IT INTERSECTS "C" STREET SOUTHWEST, THEN PROCEEDING SOUTHEAST ALONG "C" STREET SOUTHWEST UNTIL IT INTERSECTS SIXTEENTH AVENUE SOUTHWEST, THEN PROCEEDING SOUTHWESTERLY ALONG SIXTEENTH AVENUE SOUTHWEST UNTIL IT INTERSECTS "J"

STREET SOUTHWEST, THEN PROCEEDING SOUTH ALONG "J" STREET SOUTHWEST UNTIL IT INTERSECTS WILSON AVENUE SOUTHWEST, THEN PROCEEDING EAST ALONG WILSON AVENUE SOUTHWEST UNTIL IT INTERSECTS SOUTHLAND STREET SOUTHWEST, THEN PROCEEDING SOUTH ALONG SOUTHLAND STREET SOUTHWEST UNTIL IT INTERSECTS TWENTY-FOURTH AVENUE SOUTHWEST, THEN PROCEEDING WEST ALONG TWENTY-FOURTH AVENUE SOUTHWEST UNTIL IT INTERSECTS SCHAEFER DRIVE SOUTHWEST, THEN PROCEEDING SOUTH ALONG SCHAEFER DRIVE SOUTHWEST UNTIL IT INTERSECTS TWENTY-SIXTH AVENUE SOUTHWEST, THEN PROCEEDING WEST ALONG TWENTY-SIXTH AVENUE SOUTHWEST UNTIL IT INTERSECTS "J" STREET SOUTHWEST, THEN PROCEEDING SOUTH ALONG "J" STREET SOUTHWEST UNTIL IT INTERSECTS THE CHICAGO AND NORTHWESTERN TRANSPORTATION COMPANY RAILROAD TRACK, THEN PROCEEDING NORTHEASTERLY ALONG THE CHICAGO AND NORTHWESTERN TRANSPORTATION COMPANY RAILROAD TRACK UNTIL IT INTERSECTS THE MIDDLE OF THE MAIN CHANNEL OF THE RED CEDAR RIVER, THEN PROCEEDING NORTHERLY ALONG THE MIDDLE OF THE MAIN CHANNEL OF THE RED CEDAR RIVER UNTIL IT INTERSECTS THE SOUTH EXTENSION OF NINETEENTH STREET SOUTHEAST, THEN PROCEEDING NORTH ALONG NINETEENTH STREET SOUTHEAST (AND ITS EXTENSION) UNTIL IT INTERSECTS VAN VECHTEN PARK ROAD, THEN PROCEEDING FIRST EAST AND THEN NORTHEASTERLY ALONG VAN VECHTEN PARK ROAD UNTIL IT INTERSECTS MC CARTHY ROAD SOUTHEAST, THEN PROCEEDING NORTHWESTERLY ALONG MC CARTHY ROAD SOUTHEAST UNTIL IT INTERSECTS NINETEENTH STREET SOUTHEAST, THEN PROCEEDING NORTH ALONG NINETEENTH STREET SOUTHEAST TO THE POINT OF ORIGIN,

HAS BECOME VACANT BY THE REASON OF THE RESIGNATION OF REPRESENTATIVE KATHLEEN CHAPMAN:

NOW, THEREFORE, I, THOMAS J. VILSACK, GOVERNOR OF THE STATE OF IOWA, BY VIRTUE OF THE AUTHORITY VESTED IN ME BY LAW DO HEREBY PROCLAIM AND DIRECT THAT A SPECIAL ELECTION TO FILL SAID VACANCY SHALL BE HELD WITHIN SAID DISTRICT ON

TUESDAY, THE FOURTH DAY OF JANUARY, 2000, A.D.

WHEREFORE, ALL ELECTORS WITHIN SAID 53<sup>RD</sup> REPRESENTATIVE DISTRICT WILL TAKE DUE NOTICE AND THE COUNTY COMMISSIONER OF ELECTIONS OF SAID COUNTY WILL TAKE OFFICIAL NOTICE AS PROVIDED IN CHAPTER 39, CODE OF IOWA, 1997.



IN TESTIMONY WHEREOF, I HAVE HERE-  
UNTO SUBSCRIBED MY NAME AND  
CAUSED THE GREAT SEAL OF THE STATE  
OF IOWA TO BE AFFIXED. DONE AT DES  
MOINES THIS 7<sup>TH</sup> DAY OF DECEMBER IN  
THE YEAR OF OUR LORD ONE THOUSAND  
NINE HUNDRED NINETY-NINE.

  
THOMAS J. VILSACK  
GOVERNOR

ATTEST:



CHESTER J. CULVER  
SECRETARY OF STATE

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