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# IOWA LEGISLATIVE INTERIM CALENDAR AND BRIEFING

December 23, 2014

2014 Interim No. 13

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Tuesday, January 6, 2015

**Administrative Rules Review Committee**  
9:30 a.m., Room 116, Statehouse

Monday, January 12, 2015

**Eighty-sixth General Assembly, 2015 Regular Session Convenes**  
10:00 a.m., Senate and House of Representatives Chambers, Statehouse

*Iowa Legislative Interim Calendar and Briefing* is published by the Legal Services Division of the Legislative Services Agency (LSA). For additional information, contact: LSA at (515) 281-3566.

# AGENDAS

## INFORMATION REGARDING SCHEDULED MEETINGS

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### **Administrative Rules Review Committee—NOTE DATE CHANGE**

Chairperson: Senator Wally Horn

Vice Chairperson: Representative Dawn Pettengill

Location: Room 116, Statehouse

Date & Time: Tuesday, January 6, 2015, 9:30 a.m.

Contact Persons: Jack Ewing, LSA Counsel, (515) 281-6048; Tim Reilly, LSA Counsel, (515) 725-7354.

Agenda: Published in the Iowa Administrative Bulletin:

<https://www.legis.iowa.gov/lowaLaw/AdminCode/bulletinSupplementListing.aspx>

Internet Page: <https://www.legis.iowa.gov/committees/committee?endYear=2014&groupID=705>

### ADMINISTRATIVE RULES REVIEW COMMITTEE

December 12, 2014

**Chairperson:** Senator Wally Horn

**Vice Chairperson:** Representative Dawn Pettengill

**EMERGENCY RULE FILING REVIEWS.** Iowa Code section 17A.4(3) provides that an agency can adopt a rule without notice only with specific statutory authority or with prior approval by the Administrative Rules Review Committee. Under this procedure, the committee reviews requests by agencies to adopt rules filed without notice at its monthly meeting or at special meetings if necessary. The committee will approve such filings if the committee finds good cause that notice and public participation would be unnecessary, impracticable, or contrary to the public interest.

The committee considered one filing:

- **Economic Development Authority—*Economic Development Region Initiatives, Chapter 31. EMERGENCY FILING APPROVED BY COMMITTEE.***

**EDUCATION DEPARTMENT, *School Bus Driver's Authorization—Physical Fitness, 10/15/14 IAB, ARC 1661C, ADOPTED, 70-DAY DELAY.***

**Background.** Current rules require that school bus drivers pass an annual physical examination performed by a licensed physician, chiropractic physician, licensed physician assistant, or advanced registered nurse practitioner. This revision eliminates this list and instead refers to a "certified medical examiner" listed on the National Registry of Certified Medical Examiners.

At the committee's November meeting, members questioned the need for a federally issued certificate to perform a physical examination; members felt that Iowa licensure ensured adequate competency. Members understood this was a federal requirement but enquired about the consequences if Iowa did not implement this mandate. Department representatives were unsure of the possible federal responses and agreed to research this question. The committee voted to delay the rule for 70 days to allow time for further study.

**Commentary.** Department representatives stated that Iowa Code section 321.375(1)(d), which provides standards for qualifications for school bus drivers, has been interpreted to require adoption of this federal standard. The representatives explained that the federal regulation only applies to drivers contracted with a school district, not drivers who are directly employed by a district, and only when such drivers cross state lines to transport students to or from extracurricular activities. They also explained that the department believes the federal standard would provide more safety for students, and that it is inappropriate to have multiple standards for school bus driver physicals, so the department will apply it to all Iowa school bus drivers.

Committee members asked what consequences there would be for failing to implement the federal regulation, and the representatives stated that \$37 million in federal funding could potentially be jeopardized. Committee members asked if there is any difference between the physical currently required under state law and the one required by the federal regulation. The representatives explained that the physical is the same; the only difference is which medical professionals are qualified to give the physical. Committee members asked how many bus drivers would be affected by this rule and how many would be affected by the federal requirement for drivers who cross state lines for extracurricular activities. The representatives were unsure how many bus drivers would be affected.

Committee members questioned whether and to what extent federal regulations actually require adoption of this policy for Iowa school bus drivers, whether the department's interpretation of state law is correct, and whether requiring additional certification for medical professionals to complete these physicals is necessary or appropriate. Committee members voted to delay the effective date of this filing until the adjournment of the 2015 Session of the General Assembly. The filing will automatically go into effect upon adjournment if the General Assembly does not take action relating to it.

**Action.** Session delay.

**EDUCATIONAL EXAMINERS BOARD, *Substitute Authorization—Elementary Classroom, 11/12/14 IAB, ARC 1720C, ADOPTED.***

**Background.** This rulemaking expands the authority of the board's substitute authorization for substitute teachers to include the elementary classroom. Currently, the substitute authorization is only available for secondary classrooms. A substitute authorization provides an individual limited authority to act as a substitute teacher in a classroom for no more than five consecutive days and no more than 10 days in a 30-day period in one job assignment for a regularly assigned teacher who is absent. To obtain the substitute authorization, an applicant must hold a bachelor's degree. The applicant must also pass a background check and complete a minimum of 15 hours of coursework in classroom management, strategies for learning, diversity, and ethics.

*(Administrative Rules Review Committee continued from Page 3)*

**Commentary.** A board representative explained that the board had conducted a survey of school districts regarding the proposal, which received 165 responses, mostly from rural districts and mostly supportive. Committee members requested that the board provide the survey responses to the committee. Committee members questioned what the board's authority is for proposing the rule, and the representative explained that the board generally has authority to establish and set criteria for licenses and authorizations.

Public comment was heard in opposition to the rule, suggesting that allowing such a substitute to serve in an elementary setting, where the person would instruct the same students for an entire school day, as opposed to the high school setting, where students only receive instruction for a period at a time, is inappropriate, and that more effective alternatives to this proposal are available.

**Action.** No action taken.

**EDUCATIONAL EXAMINERS BOARD, *Activities Administration Authorization, 11/12/14 IAB, ARC 1718C, ADOPTED.***

**Background.** This filing allows an individual with a degree in athletic administration or a related field to serve in the role of an activities director if the individual meets the requirements for an activities administration authorization. Currently, an individual must have a teaching or administrative license to hold this position.

**Commentary.** Committee members questioned what the board's authority is for proposing a rule allowing a person who is not a teacher to carry out this function, and the representative explained that the board generally has authority to establish and set criteria for licenses and authorizations. Committee members questioned whether the rule would result in persons who are not teachers supervising teachers. The representative explained that would not occur, as the authorization only applies to activities such as coaching and sponsoring a student club. Committee members asked the board to provide the committee with a list of all functions for which the board currently provides authorizations.

Public comment was heard in opposition to the rule, arguing that only teachers should carry out these functions. Public comment was heard in support of the rule, arguing that the rule would help schools that have trouble finding coaches and stating that school athletic directors are supportive of the rule.

**Action.** No action taken.

**IOWA FINANCE AUTHORITY, *Program Fees, 11/12/14 IAB, ARC 1724C, NOTICE.***

**Background.** This rulemaking generally relates to mortgage credit certificates. At issue in this notice of intended action is whether a fee charged as part of a regulatory program is a rule which must be adopted through the rule-making process. Iowa Code section 17A.2(11)(g) excludes from the definition of a "rule" the "specification of the prices to be charged for goods or services sold by an agency as distinguished from a license fee, application fee, or other fees." Although not specifically stated, this statutory provision implies that a fee is a rule.

**Commentary.** The current rule specifies a \$100 participation fee. That specific amount is being removed from the rule itself and will be published on the Authorities' Web site. Normally government fees are part of an overall regulatory scheme, e.g.: licensing fees, and must be set out as part of the rule. Unlike a price charged for a good or service, a fee is a part of a regulatory program and must be paid to participate in that program.

In this situation, the committee determined that the fee is part of a commercial, not a regulatory program. Lenders are not required to participate in the Mortgage Credit Certificate program; it is a voluntary business transaction. Therefore, the committee did not find the removal of the fee amount from the rule to be problematic.

**Action.** No action taken.

**PROFESSIONAL LICENSURE DIVISION, *Physician Assistants—On-site Visits by Supervising Physician, 11/26/14 IAB, ARC 1741C, NOTICE.***

**Background.** Physician assistants may work in remote clinics under the indirect supervision of a physician. The Board of Physician Assistants establishes by rule the details of the required supervision. This rulemaking removes the requirement that a physician assistant who is practicing in a remote medical site must have a supervising physician physically visit and practice at the remote medical site at least every two weeks.

**Commentary.** The board representative stated that a federal requirement that a physician be physically on site in a rural health clinic every two weeks was removed. The representative also stated that compared to the site visitation requirements of surrounding states, Iowa's requirement is the most restrictive. The representative stated that modern technology has enhanced the levels of communication and supervision between the physician and the assistant; the physician assistant and the supervising physician must meet on a regular basis as they deem appropriate. It was not-

*(Administrative Rules Review Committee continued from Page 4)*

ed that both the supervising physician and the physician assistant are responsible for the quality of care. Supporters of the rule emphasized the team approach used by physician assistants and the supervising physicians, and the success of that approach in delivering patient care.

Groups representing physicians and the Board of Medicine opposed the rule. Opponents noted that the two week visit requirement was the last specific requirement on supervision. Opponents supported the continuance of the current supervision requirements.

**Action.** No action taken.

**Next Meeting. NOTE DATE CHANGE.** The next committee meeting will be held in Statehouse Room 116, on **Tuesday, January 6, 2015**, beginning at **9:30** a.m.

*Secretary ex officio:* Stephanie Hoff, Administrative Code Editor, (515) 281-3355

*LSA Staff:* Joe Royce, LSA Counsel, (515) 281-3084; Jack Ewing, LSA Counsel, (515) 281-6048.

Internet Page: <https://www.legis.iowa.gov/committees/committee?endYear=2014&groupID=705>

### SCHOOL FINANCE FORMULA REVIEW COMMITTEE

December 15, 2014

**Co-Chairperson:** Senator Herman Quirnbach

**Co-Chairperson:** Representative Ron Jorgensen

**Overview.** The Legislative Council created the School Formula Finance Review Committee for the 2014 Legislative Interim pursuant to statutory law which requires a review of the school finance formula every five years. The committee is required to file a report with the General Assembly by January 1, 2015.

**School Finance Formula Overview.** Ms. Lisa Oakley, Department of Management, Mr. John Parker, Fiscal Services Division, Legislative Services Agency, and Dr. Jeff Berger, Department of Education, provided a comprehensive overview of the basic operation of Iowa's current school finance formula, discussed changes to the formula over the previous five years, analyzed various per pupil funding amounts, provided comparison data from other states, discussed inequities in the formula and the current sources of school district funding, and discussed categorical supplement funding.

Ms. Oakley provided the committee with statewide school district funding data including information on statewide budget enrollment and the amounts of funding received through state foundation aid, foundation property tax, and income surtax. She described the statutory goals of Iowa's school finance formula, detailed the components used to determine each school district's spending authority, described the budget adjustment provisions, and described the authority of the School Budget Review Committee. She also described the state categorical funding supplements and provided information on the instructional support program and the statewide voluntary preschool program.

Ms. Oakley additionally discussed the revenues received by school districts from the utility replacement excise tax and state commercial and industrial property tax replacement payments. She noted the adjustments made within the formula to account for those sources of revenue. Ms. Oakley also described sources of property tax relief provided to school districts in the form of property tax adjustment aid, property tax replacement payments, adjusted additional property tax levy aid, and foundation level increases for excess moneys in the property tax equity and relief fund. Ms. Oakley provided a general description of some additional funding sources for schools, including the cash reserve levy, income surtaxes, management levy, physical plant and equipment levy, public education and recreation levy, and debt service levy. In addition, she identified several of the recent legislative changes to the school finance formula.

Mr. Parker provided historical data on the state percent of growth and the state cost per pupil. He provided the committee with information on the regular program state cost per pupil for FY2015 as well as the amounts of the categorical costs per pupil for school districts and area education agencies. Mr. Parker discussed the differences in the district cost per pupil among school districts and the reasons for those differences. He provided multiple data sets and maps showing Iowa's expenditures per pupil, the national average for expenditures per pupil, and Iowa's national rank for expenditures per pupil.

Dr. Berger addressed issues relating to equity in the school finance formula. He noted that Iowa's formula is widely considered to be a very stable and equitable formula, but added that complexities in the formula have caused unintended consequences. Dr. Berger identified different district costs per pupil, certain categorical supplements, transportation costs, certain discretionary property tax levies, supplementary weightings, and the budget guarantee as sources

*(School Finance Formula Review Committee continued from Page 5)*

of inequity within Iowa's education funding system. He outlined the consequences for school districts that exceed their authorized budget or that have a negative unspent balance for two or more consecutive years and noted the Department of Education's recent implementation of a tracking system to better monitor and warn those school districts that are in danger of encountering a negative unspent balance. Additionally, Dr. Berger identified Iowa's use of multiple funding sources to fund education as being critical to the formula's overall stability and equity, but he deferred to policy makers to determine the correct balance of those sources.

**Task Force Report: Fairness and Equity in Iowa's Schools.** Ms. Patti Schroeder, Finance Director, Iowa Association of School Boards, presented the committee with a November 2013 report prepared by a task force consisting of various stakeholders and state agency representatives. Objectives of the task force's report were to identify elements of the funding formula for greater simplification and transparency, highlight areas of inequity, and to provide a comprehensive analysis of options to address current funding disparities. Ms. Schroeder identified the specific programs and areas that exhibit equity concerns, including the district cost per pupil, the teacher salary categorical supplement, the professional development categorical supplement, the early intervention categorical supplement, the instructional support program and levy, and transportation costs. She provided a detailed breakdown of the frequency of school districts across the range of district cost per pupil amounts and district transportation cost per student.

Following issuance of the task force report, additional committee work was conducted by some members of the task force in the form of a "Solutions Committee" to advocate for changes to the formula to improve adequacy and equity of funding and to provide recommendations to the School Finance Formula Review Committee. The solutions committee supported adequate and equitable resources allocated to kindergarten through twelfth grade education regardless of location in the state, education funding as the state's highest priority, a commitment to a mix of property taxes and state funding, and inclusion of locally voted enhanced funding sources. The solutions committee recommended that new categorical sources of funding be incorporated into the formula within three years, that the formula be easier to understand, and that all school districts should gain resources without removing resources from other districts. On the issue of adequacy of school district funding, the solutions committee identified four recommendations including increasing Iowa's K-12 funding to a level that surpasses the national average and restore previous area education agency funding cuts; removing transportation costs from the formula; creating a new school finance formula without transportation costs that combines the current multiple funding streams; and providing substantial, dedicated, and long-term additional resources for low socioeconomic status students.

**Timing and Adequacy of Funding.** Dr. Jeff Anderson, President, Iowa Association of School Boards, addressed concerns relating to the timing of school funding decisions at the state level. Dr. Anderson identified the complexities of the school district budgeting process and noted that uncertainty of state funding decisions creates problems for school boards in negotiating collective bargaining contracts as well as determining staffing levels. He described the specific actions of the Boone School Board in formulating a budget without knowing the full state funding levels. Dr. Anderson acknowledged the additional funding sources approved by the General Assembly in recent years, including the teacher leadership supplement, but noted that the additional funding does not replace supplemental state aid.

Ms. Margaret Buckton, on behalf of the Urban Education Network, identified property tax valuation differences, differences in the district costs per pupil, and state funding for the instructional support program as sources of inequality within Iowa's education funding system. Ms. Buckton asserted that Iowa's current level of funding is no longer sufficient to promote achievement and noted Iowa's national rank in teacher salaries and overall education spending per student. She stressed the need to have state funding decisions completed during the statutorily required period in order to give school districts appropriate time to budget, bargain, and make staffing decisions. Ms. Buckton also presented data relating to the tax burden per capita in Iowa, expenditures per student, and performance on the National Assessment of Educational Progress, and how that data compares nationally.

Ms. Mary Jane Cobb, Executive Director, Iowa State Education Association, acknowledged the importance of the school finance formula, but noted that funding decisions through that formula are also important. Ms. Cobb raised concerns over the instability of the state percent of growth in recent years and noted that school districts have been forced to make decisions based on guesses, which ultimately impacts students. She urged the committee to review the recommendations of the task force solutions committee and expressed support for a state percent of growth of six percent to help cover previous shortfalls.

Mr. Dan Smith, School Administrators of Iowa, stated that school districts have slowly been strained with low state percent of growth rates and unpredictability. Mr. Smith discussed the larger impact of education funding on smaller communities in the state, due in part to the higher percentage of individuals in those communities who are employees of

*(School Finance Formula Review Committee continued from Page 6)*

the school district. He described the tough budgeting decisions being made by school districts in response to the on-going uncertainty.

**Committee Recommendations.** The committee's recommendations to the General Assembly are summarized as follows:

- A. In order to facilitate additional review by the committee, those individuals and stakeholders who submitted funding options or recommendations to the committee during the committee's December 15, 2014, meeting related to any of the following are requested to provide the committee with additional information and analysis, including cost estimates, prior to the beginning of the 2015 Legislative Session:
  1. Funding of school district transportation costs.
  2. Funding of half-day kindergarten programs.
  3. Adherence to the statutory requirements for establishing the state percents of growth used for calculating supplemental state aid.
  4. Increasing school district flexibility for the use of funds received through categorical funding supplements.
  5. Increasing equity in funding for school districts with low property tax valuations.
- B. Pursuant to the interim committee scheduling guidelines adopted by the Legislative Council and in order to review the information and analysis requested from individuals and stakeholders in the committee's first recommendation, the committee recommends that co-chairpersons Quirnbach and Jorgensen submit a request to legislative leadership in the House and Senate to hold one additional committee meeting on or before Friday, January 23, 2015.

*LSA Contacts:* Michael Duster, Legal Services, (515) 281-4800; Kathy Hanlon, Legal Services, (515) 281-3847.

Internet Page: <https://www.legis.iowa.gov/committees/committee?ga=85&groupID=21383>