



*Serving the Iowa Legislature*

# IOWA LEGISLATIVE INTERIM CALENDAR AND BRIEFING

October 21, 2015

2015 Interim No. 5

## October 2015      November 2015

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- Administrative Rules Review Committee (10/13/15)

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Thursday, October 29, 2015

**State Government Efficiency Review Committee**  
9:30 a.m., Room 116, Statehouse

Tuesday, November 3, 2015

**Health Policy Oversight Committee**  
10:00 a.m., Room 116, Statehouse

Tuesday, November 10, 2015

**Administrative Rules Review Committee**  
9:00 a.m., Room 116, Statehouse

Wednesday, November 18, 2015

**Tax Expenditure Committee**  
10:00 a.m., Room 103, Supreme Court Chamber, 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.

### **State Government Efficiency Review Committee**

Co-chairperson: Senator Jeff Danielson

Co-chairperson: Representative Guy Vander Linden

Location: Room 116, Statehouse

Date & Time: Thursday, October 29, 2015, 9:30 a.m.

LSA Contacts: Andrew J. Ward, Legal Services, (515) 725-2251; Jack Ewing, Legal Services, (515) 281-6048; Ed Cook, Legal Services, (515) 281-3994.

Tentative Agenda: Presentations concerning information technology efficiencies, cost-benefit analysis in policymaking, the Board of Regents' Transparent, Inclusive Efficiency Review (TIER) project, and design-build contracting.

Internet Site: <https://www.legis.iowa.gov/committees/committee?endYear=2015&groupID=578>

### **Health Policy Oversight Committee**

Co-chairperson: Senator Amanda Ragan

Co-chairperson: Representative David E. Heaton

Location: Room 116, Statehouse

Date & Time: Tuesday, November 3, 2015, 10:00 a.m.

LSA Contacts: Patty Funaro, Legal Services, (515) 281-3040; Rachele Hjelmaas, Legal Services, (515) 281-8127; Ann Ver Heul, Legal Services, (515) 281-3837.

Agenda: To be announced.

Internet Site: <https://www.legis.iowa.gov/committees/committee?ga=86&groupID=24165>

### **Administrative Rules Review Committee**

Chairperson: Representative Dawn Pettengill

Vice Chairperson: Senator Wally Horn

Location: Room 116, Statehouse

Date & Time: Tuesday, November 10, 2015, 9:00 a.m.

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

Agenda: Published in the Iowa Administrative Bulletin:

<https://www.legis.iowa.gov/law/administrativeRules/bulletinSupplementListings>

Internet Site: <https://www.legis.iowa.gov/committees/committee?endYear=2015&groupID=705>

### **Tax Expenditure Committee**

Co-chairperson: Senator Joe Bolkcom

Co-chairperson: Representative Thomas R. Sands

Location: Room 103, Supreme Court Chamber, Statehouse

Date & Time: Wednesday, November 18, 2015, 10:00 a.m.

LSA Contacts: Mike Mertens, Legal Services, (515) 281-3444; Doug Adkisson, Legal Services, (515) 281-3884; Michael Duster, Legal Services, (515) 281-4800.

Agenda: To be announced.

Internet Site: <https://www.legis.iowa.gov/committees/committee?ga=86&groupID=594>

### ADMINISTRATIVE RULES REVIEW COMMITTEE

October 13, 2015

**Chairperson:** Representative Dawn Pettengill

**Vice Chairperson:** Senator Wally Horn

#### **COLLEGE STUDENT AID COMMISSION, *Approval of Postsecondary Schools—Interstate Reciprocity Agreement—Registration, 09/16/15 IAB, ARC 2143C, NOTICE.***

**Background.** These proposed amendments implement 2015 Iowa Acts, SF 501 and 2014 Iowa Acts, SF 2271 by establishing policies that schools must follow in order to participate in an interstate reciprocity agreement under which the commission is an approved participant under Iowa Code chapter 261G.

The amendments also update policies for schools that must register with the commission under Iowa Code chapter 261B.

**Commentary.** A commission representative explained that these rules implement the state's participation in the State Authorization Reciprocity Agreement (SARA), which is a process administered by regional education compacts by which participating states regulate postsecondary distance-education courses and programs on a uniform basis using a reciprocity process. Participation by states is voluntary. SARA is administered in Iowa by the commission. The representative stated that this rulemaking will have broad applicability to postsecondary schools in Iowa because any such school may offer programming across state lines and because the federal Department of Education has expressed concern about states carving out some schools from participation. She also stated that the commission has received several public comments on the rulemaking and will revise it based on that feedback.

Committee members questioned whether the commission had sought adequate input from regents institutions and community colleges and urged the commission to work with those schools more closely as it moves forward on this rulemaking.

Public comment was heard from a representative of community colleges urging that changes be made to the rulemaking. He stated that the commission is not required under SARA to provide the broad level of regulation of Iowa postsecondary schools provided in the rulemaking. He also stated that the rulemaking oversteps the commission's statutory authority, and that existing accreditation by the Higher Learning Commission and the state Department of Education is sufficient under SARA. He additionally stated that all of the stakeholders involved in the legislation relating to SARA should be involved in the rulemaking process as well. The commission representative responded that the commission will seek to determine if existing accreditation requirements are sufficient under SARA.

Public comment was heard in support of the rulemaking by a representative from Des Moines University who stated that with minor changes, the rulemaking as currently drafted is appropriate. She stated that the rulemaking will provide strong consumer protections for students and that the inclusion of such protections was necessary to secure the support of the Attorney General's Office for the legislation enacting Iowa's participation in SARA.

**Action.** No action taken.

#### **VOTER REGISTRATION COMMISSION, *Online Voter Registration, 09/30/15 IAB, ARC 2160C, NOTICE.***

**Background.** This rulemaking allows electronic signatures already held by the Iowa Department of Transportation (DOT) to be used for online voter registration conducted through the DOT's website. Online voter registration applicants who do not select a party affiliation at the time of registration but had previously selected an affiliation will be assigned that same affiliation, while those who had no previous affiliation will be marked as "no party."

**Commentary.** A member of the committee asked the Voter Registration Commission (VRC) representative whether there is any notice provided when an individual ineligible to vote attempts to register. The representative testified that the process screens for individuals such as felons or those with citizenship issues and notifies them that they cannot vote. The committee member expressed concern that no current Iowa law prevents individuals from registering to vote even if they are ineligible to vote.

A representative of the American Civil Liberties Union of Iowa (ACLU) expressed overall support for the rule but urged the VRC to consider a few changes. The ACLU representative suggested the VRC should also register people who do not hold a DOT-issued identification card. Such a system, according to the ACLU representative, would require some technological modification but is feasible and has been implemented by other states, such as Minnesota. The ACLU representative also recommended that the VRC's website comply with the Americans with Disabilities Act so individuals with disabilities could take advantage of the online voter registration process.

**Action.** No action taken.

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

**REVENUE DEPARTMENT, *Qualification for Manufacturing Exemption, 09/30/15 IAB, ARC 2178C, NOTICE.***

**Background.** This rulemaking amends rules relating to the manufacturing sale and use tax exemptions found in Iowa Code sections 423.3(47) and 423.3(48) and to the definitions of several applicable terms, including but not limited to definitions for tax-exempt “computers,” “machinery,” “equipment,” “replacement parts,” and “materials used to construct or self-construct computers, machinery, or equipment.” The rulemaking also amends rules on the treatment of these tax-exempt items as they relate to the taxation of construction activities under Iowa Code sections 423.2(1)(b) and 423.2(1)(c). Under the department’s current rules, many of these items could be considered real property and taxed as building materials when purchased in furtherance of a construction contract, thereby making them ineligible for the manufacturing sales and use tax exemption. The proposed amendments eliminate this distinction and provide that the items will be eligible for the manufacturing sales and use tax exemption.

The proposed changes are prospective and will only apply to sales occurring as part of a contract entered into on or after January 1, 2016.

**Commentary.** The department estimates that the rulemaking would annually reduce revenue in the state’s General Fund by approximately \$40 million, as well as Secure an Advanced Vision for Education (SAVE) revenue by approximately \$6 million and Local Option Sales Tax revenue by approximately \$5 million. A fiscal analyst from the Legislative Services Agency (LSA) Fiscal Division stated during the fiscal review portion of the meeting that he did not have sufficient data to verify the department’s fiscal estimate for the rulemaking. Committee members urged the department to work with the LSA Fiscal Division in order to provide an accurate fiscal analysis of the rulemaking when it is reviewed upon adoption.

A department representative stated that the manufacturing sales tax exemptions at issue were enacted in 1998, are now part of the state’s implementation of the streamlined sales and use tax, have been under review by the department for years, and were the subject of a recent petition for rulemaking received by the department. The department did not adopt the language proposed in the petition. The representative stated that the rulemaking provides definitions for terms that are undefined in statute and clarifies matters that account for 15 percent of current tax protests filed with the department.

Committee members asked that the department hold a public hearing on this rulemaking, and the representative agreed to this. Committee members asked that the department change the applicability date of the rulemaking from January 1, 2016, to July 1, 2016, and she agreed to this as well.

Committee members asked the representative why the committee had not been made aware of the petition for rulemaking received on this subject, and she explained that she had not been aware that such notification was expected. Committee members asked about the source of the definitions proposed in the rulemaking, and the representative explained that courts have urged the use of plain language when defining terms and that the fundamental parts of the definitions used in the rulemaking are based on dictionary definitions. Committee members asked when the relevant rules had last been amended, and she stated that they have not been significantly changed since originally adopted in 1998. In response to additional questions from committee members, the representative explained that the rulemaking would affect manufacturers of all sizes, that the 15 percent of tax protests affected amount to about 150 current protests, and that she could not quantify the costs of such protests either for the department or the protestors. Committee members asked why the director of the department was not present at the meeting, and were told that the director was traveling for a previously scheduled commitment. Committee members asked whether the department could raise taxes by rule in the future based on the precedent of this rulemaking, and the representative stated that such proposals would need to be evaluated on a case-by-case basis.

Some committee members questioned whether the department has the authority to propose this rulemaking and contended that establishing tax policy is the role of the General Assembly, not the department. Other committee members stated that they believed the department has the authority to propose this rulemaking.

The committee heard extensive public comment supporting and opposing the rulemaking.

Those supporting the rulemaking, including representatives of business, manufacturers, taxpayers, and the Economic Development Authority, generally stated that the rulemaking would provide needed clarity on this exemption for manufacturers and that compliance with the current rules for the exemption is difficult and costly, which is why it has led to so many tax protests. They further stated that the rulemaking would reduce compliance costs for manufacturers, enforcement costs for the department, and prices for consumers and would make Iowa’s tax climate more competitive nationally.

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

Those opposing the rulemaking, including a state senator, representatives of schools, and private citizens, generally stated that the significant decrease in state revenue that would result from the rulemaking is not good fiscal policy in light of the state's ongoing budget commitments, the recently low level of state funding allocated for schools, and the uncertainty surrounding the final cost of the rulemaking. They stated that the rulemaking will have a negative impact on schools due to lost SAVE revenues. They also stated that making such a significant change in tax policy by rule is unprecedented, is beyond the statutory authority of the department, violates constitutional checks and balances between the executive and legislative branches, and is inappropriate in light of the longstanding nature of the existing policy and the prior failure of legislation on this subject to pass the General Assembly.

**Action.** A motion for the committee to object to the rulemaking failed by a five-to-five vote.

**Next Meeting.** The next committee meeting will be held in Statehouse Room 116, on Tuesday, November 10, 2015, beginning at 9:00 a.m.

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

*LSA Staff:* Jack Ewing, Legal Services, (515) 281-6048; Tim Reilly, Legal Services, (515) 725-7354.

Internet Site: <https://www.legis.iowa.gov/committees/committee?endYear=2015&groupID=705>