



# IOWA ADMINISTRATIVE BULLETIN

Published Biweekly

VOLUME XLIV  
December 15, 2021

NUMBER 12  
Pages 1581 to 1710

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## PREFACE

The Iowa Administrative Bulletin is published biweekly pursuant to Iowa Code chapters 2B and 17A and contains Notices of Intended Action and rules adopted by state agencies.

It also contains Proclamations and Executive Orders of the Governor which are general and permanent in nature; Regulatory Analyses; effective date delays and objections filed by the Administrative Rules Review Committee; Agenda for monthly Administrative Rules Review Committee meetings; and other materials deemed fitting and proper by the Administrative Rules Review Committee.

The Bulletin may also contain public funds interest rates [12C.6]; usury rates [535.2(3)“a”]; agricultural credit corporation maximum loan rates [535.12]; and other items required by statute to be published in the Bulletin.

**PLEASE NOTE:** Underscore indicates new material added to existing rules; ~~strike-through~~ indicates 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, paragraph, subparagraph, or numbered paragraph).

This citation format applies only to external citations to the Iowa Administrative Code or Iowa Administrative Bulletin and does not apply to citations within the Iowa Administrative Code or Iowa Administrative Bulletin.

441 IAC 79	(Chapter)
441 IAC 79.1	(Rule)
441 IAC 79.1(1)	(Subrule)
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441 IAC 79.1(1)“a”(1)“1”	(Numbered paragraph)

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

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

NOTE: In accordance with Iowa Code section 2B.5A, a rule number within the Iowa Administrative Code includes a reference to the statute which the rule is intended to implement: 441—79.1(249A).

## Schedule for Rule Making 2022

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
<b>**Dec. 22 '21**</b>	Jan. 12 '22	Feb. 1 '22	Feb. 16 '22	Feb. 18 '22	Mar. 9 '22	Apr. 13 '22	July 11 '22
<b>**Jan. 5**</b>	Jan. 26	Feb. 15	Mar. 2	Mar. 4	Mar. 23	Apr. 27	July 25
Jan. 21	Feb. 9	Mar. 1	Mar. 16	Mar. 18	Apr. 6	May 11	Aug. 8
Feb. 4	Feb. 23	Mar. 15	Mar. 30	Apr. 1	Apr. 20	May 25	Aug. 22
Feb. 18	Mar. 9	Mar. 29	Apr. 13	Apr. 15	May 4	June 8	Sep. 5
Mar. 4	Mar. 23	Apr. 12	Apr. 27	Apr. 29	May 18	June 22	Sep. 19
Mar. 18	Apr. 6	Apr. 26	May 11	<b>**May 11**</b>	June 1	July 6	Oct. 3
Apr. 1	Apr. 20	May 10	May 25	May 27	June 15	July 20	Oct. 17
Apr. 15	May 4	May 24	June 8	June 10	June 29	Aug. 3	Oct. 31
Apr. 29	May 18	June 7	June 22	<b>**June 22**</b>	July 13	Aug. 17	Nov. 14
<b>**May 11**</b>	June 1	June 21	July 6	July 8	July 27	Aug. 31	Nov. 28
May 27	June 15	July 5	July 20	July 22	Aug. 10	Sep. 14	Dec. 12
June 10	June 29	July 19	Aug. 3	Aug. 5	Aug. 24	Sep. 28	Dec. 26
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July 8	July 27	Aug. 16	Aug. 31	Sep. 2	Sep. 21	Oct. 26	Jan. 23 '23
July 22	Aug. 10	Aug. 30	Sep. 14	Sep. 16	Oct. 5	Nov. 9	Feb. 6 '23
Aug. 5	Aug. 24	Sep. 13	Sep. 28	Sep. 30	Oct. 19	Nov. 23	Feb. 20 '23
<b>**Aug. 17**</b>	Sep. 7	Sep. 27	Oct. 12	Oct. 14	Nov. 2	Dec. 7	Mar. 6 '23
Sep. 2	Sep. 21	Oct. 11	Oct. 26	<b>**Oct. 26**</b>	Nov. 16	Dec. 21	Mar. 20 '23
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### PRINTING SCHEDULE FOR IAB

<u>ISSUE NUMBER</u>	<u>SUBMISSION DEADLINE</u>	<u>ISSUE DATE</u>
14	Wednesday, December 22, 2021	January 12, 2022
15	Wednesday, January 5, 2022	January 26, 2022
16	Friday, January 21, 2022	February 9, 2022

**PLEASE NOTE:**

Rules will not be accepted by the Publications Editing Office after **12 o'clock noon** on the filing deadline unless prior approval has been received from the Administrative Rules Coordinator and the Administrative Code Editor.

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

†To allow time for review by the Administrative Rules Coordinator prior to the Notice submission deadline, Notices should generally be submitted in RMS four or more working days in advance of the deadline.

**\*\*Note change of filing deadline\*\***

**PHARMACY BOARD[657]**

Telepharmacy practice,  
amendments to ch 13  
IAB 12/15/21 **ARC 6083C**

Health Professions Board Room  
400 S.W. 8th St., Suite H  
Des Moines, Iowa 50309  
Via Zoom: link available 24 hours in  
advance at [pharmacy.iowa.gov/meetings](https://pharmacy.iowa.gov/meetings)

January 6, 2022  
10 to 10:30 a.m.

**PROFESSIONAL LICENSURE DIVISION[645]**

Optometrists—licensure,  
180.2(1), 180.3(1), 180.11  
IAB 12/15/21 **ARC 6095C**

Via video/conference  
Zoom meeting ID: 893 0769 6946  
Passcode: 249604  
(US) + 1.312.626.6799 (toll)  
Access code: 249604

January 4, 2022  
10 to 11 a.m.

Speech pathologists and  
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Via video/conference call  
Zoom Meeting ID: 870 9872 8337  
Passcode: 021974  
(US) +1.312.626.6799 (toll)  
Access code: 021974

December 21, 2021  
9 to 9:30 a.m.

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Via conference call  
Contact Tracy George  
Email: [tracy.george@iowadot.us](mailto:tracy.george@iowadot.us)

December 28, 2021  
11 a.m.  
(If requested)

Persons with disabilities parking  
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IAB 12/15/21 **ARC 6075C**

Via conference call  
Contact Tracy George  
Email: [tracy.george@iowadot.us](mailto:tracy.george@iowadot.us)

January 6, 2022  
10 a.m.  
(If requested)

Commercial driver's license  
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607.30(2)“a”  
IAB 12/1/21 **ARC 6065C**

Via conference call  
Contact Tracy George  
Email: [tracy.george@iowadot.us](mailto:tracy.george@iowadot.us)

December 28, 2021  
9 a.m.  
(If requested)

The following list will be updated as changes occur.

“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 are included alphabetically in SMALL CAPITALS at the left-hand margin.

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**ARC 6081C****HUMAN SERVICES DEPARTMENT[441]****Notice of Intended Action****Proposing rule making related to diabetic education programs  
and providing an opportunity for public comment**

The Human Services Department hereby proposes to amend Chapter 78, “Amount, Duration and Scope of Medical and Remedial Services,” Iowa Administrative Code.

*Legal Authority for Rule Making*

This rule making is proposed under the authority provided in Iowa Code section 249A.4.

*State or Federal Law Implemented*

This rule making implements, in whole or in part, Iowa Code section 249A.4.

*Purpose and Summary*

This proposed rule making eliminates the “once per lifetime” policy for diabetic education for Medicaid members. This change will allow a Medicaid member to receive additional timely education in order to manage the Medicaid member’s diabetes. In many cases, once-in-a-lifetime education is not adequate for treatment, especially with the prevalence of diabetes in the national population. The Department has already been paying for more than one education series for some members, and this change will allow the rule to match the current practice. Members will continue to need a provider’s referral for the education.

*Fiscal Impact*

This rule making has no fiscal impact to the State of Iowa.

*Jobs Impact*

After analysis and review of this rule making, no impact on jobs has been found.

*Waivers*

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any, pursuant to rule 441—1.8(17A,217).

*Public Comment*

Any interested person may submit written comments concerning this proposed rule making. Written comments in response to this rule making must be received by the Department no later than 4:30 p.m. on January 4, 2022. Comments should be directed to:

Nancy Freudenberg  
Department of Human Services  
Hoover State Office Building, Fifth Floor  
1305 East Walnut Street  
Des Moines, Iowa 50319-0114  
Email: [appeals@dhs.state.ia.us](mailto:appeals@dhs.state.ia.us)



HUMAN SERVICES DEPARTMENT[441](cont'd)

*Public Hearing*

No public hearing is scheduled at this time. As provided in Iowa Code section 17A.4(1)“b,” an oral presentation regarding this rule making may be demanded by 25 interested persons, a governmental subdivision, the Administrative Rules Review Committee, an agency, or an association having 25 or more members.

*Review by Administrative Rules Review Committee*

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making at its [regular monthly meeting](#) or at a special meeting. The Committee’s meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rule-making action is proposed:

Amend subparagraph **78.31(4)“f”(6)** as follows:

(6) Restrictions and limitations on payment. Medicaid will pay for a diabetic self-management education program. Diabetic education programs will include follow-up assessments at 3 and 12 months without charge. ~~A complete diabetic education program is payable once in the lifetime of a recipient.~~

**ARC 6097C**

**HUMAN SERVICES DEPARTMENT[441]**

**Notice of Intended Action**

**Proposing rule making related to decrease in minimum occupancy limitation used for reimbursement calculation and providing an opportunity for public comment**

The Human Services Department hereby proposes to amend Chapter 81, “Nursing Facilities,” Iowa Administrative Code.

*Legal Authority for Rule Making*

This rule making is proposed under the authority provided in Iowa Code section 249A.4.

*State or Federal Law Implemented*

This rule making implements, in whole or in part, Iowa Code section 249A.4 and 2021 Iowa Acts, House File 891, division VII, section 39.

*Purpose and Summary*

The current rule requires that patient days in nursing facilities for purposes of the calculation of per diem for administrative, environmental, and property expenses shall be the greater of actual patient days or 85 percent of the licensed capacity of the facility. In accordance with 2021 Iowa Acts, House File 891, division VII, section 39, these proposed amendments decrease the minimum occupancy limitation to 70 percent because of concerns that providers will continue to experience a decrease in nursing facility occupancy due to the public health emergency. The cost reports for 2022 fiscal year ending (FYE) will be used in the rebase for state fiscal year (SFY) 2024 rates.

*Fiscal Impact*

These proposed amendments are for SFY 2024 and SFY 2025, and the cost report data are not yet available. Therefore, the fiscal impact cannot be determined. There will be no impact in SFY 2022 or SFY 2023.

HUMAN SERVICES DEPARTMENT[441](cont'd)

*Jobs Impact*

After analysis and review of this rule making, no impact on jobs has been found.

*Waivers*

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any, pursuant to rule 441—1.8(17A,217).

*Public Comment*

Any interested person may submit written comments concerning this proposed rule making. Written comments in response to this rule making must be received by the Department no later than 4:30 p.m. on January 4, 2022. Comments should be directed to:

Nancy Freudenberg  
Iowa Department of Human Services  
Hoover State Office Building, Fifth Floor  
1305 East Walnut Street  
Des Moines, Iowa 50319-0114  
Email: [appeals@dhs.state.ia.us](mailto:appeals@dhs.state.ia.us)

*Public Hearing*

No public hearing is scheduled at this time. As provided in Iowa Code section 17A.4(1)“b,” an oral presentation regarding this rule making may be demanded by 25 interested persons, a governmental subdivision, the Administrative Rules Review Committee, an agency, or an association having 25 or more members.

*Review by Administrative Rules Review Committee*

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making at its [regular monthly meeting](#) or at a special meeting. The Committee’s meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rule-making actions are proposed:

ITEM 1. Amend subparagraph **81.6(16)“a”(1)** as follows:

(1) Non-state-owned nursing facilities. Effective December 1, 2009, patient days for purposes of the computation of administrative, environmental, and property expenses for non-state-owned facilities shall be inpatient days as determined in subrule 81.6(7) or 85 percent of the licensed capacity of the facility, whichever is greater. For the reimbursement period beginning July 1, 2023, and ending June 30, 2025, patient days for purposes of the computation of administrative, environmental, and property expenses for non-state-owned facilities shall be inpatient days as determined in subrule 81.6(7) or 70 percent of the licensed capacity of the facility, whichever is greater. Patient days for purposes of the computation of all other expenses shall be inpatient days as determined in subrule 81.6(7).

ITEM 2. Amend numbered paragraph **81.6(16)“h”(9)“1”** as follows:

1. Effective December 1, 2009, total patient days shall be determined using the most current submitted financial and statistical report or using the estimated total patient days as reported in the request for the add-on. For purposes of calculating the add-on, total patient days shall be the greater of the estimated annual total patient days or 85 percent of the facility’s estimated licensed capacity. For the period beginning July 1, 2023, and ending June 30, 2025, patient days for purposes of the computation

HUMAN SERVICES DEPARTMENT[441](cont'd)

of administrative, environmental, and property expenses for non-state-owned facilities shall be inpatient days or the minimum occupancy of 70 percent of the licensed capacity of the facility, whichever is greater.

ITEM 3. Amend numbered paragraph **81.6(16)“h”(12)“1”** as follows:

1. Effective December 1, 2009, for purposes of recalculating the capital cost per diem instant relief add-on, total patient days shall be based on the greater of the number of actual patient days during the period in which the add-on was paid or 85 percent of the facility’s actual licensed bed capacity during the period in which the add-on was paid. For the period beginning July 1, 2023, and ending June 30, 2025, patient days for purposes of the computation of administrative, environmental, and property expenses for non-state-owned facilities shall be inpatient days or the minimum occupancy of 70 percent of the licensed capacity of the facility, whichever is greater.

ITEM 4. Amend rule **441—81.6(249A)**, implementation sentence, as follows:

This rule is intended to implement Iowa Code sections 249A.4 and 249A.16, ~~Iowa Code chapter and chapters 249K, and 2009 Iowa Code Supplement chapter 249L.~~

ITEM 5. Amend rule **441—81.23(249A)**, implementation sentence, as follows:

This rule is intended to implement Iowa Code ~~Supplement~~ section 249A.30A.

**ARC 6088C**

## **MANAGEMENT DEPARTMENT[541]**

### **Notice of Intended Action**

#### **Proposing rule making related to calculating net general fund revenues and providing an opportunity for public comment**

The Management Department hereby proposes to amend Chapter 15, “Calculating Net General Fund Revenues,” Iowa Administrative Code.

#### *Legal Authority for Rule Making*

This rule making is proposed under the authority provided in Iowa Code section 8.6.

#### *State or Federal Law Implemented*

This rule making implements, in whole or in part, 2021 Iowa Acts, Senate File 619, section 1.

#### *Purpose and Summary*

The proposed rule making will rescind procedures to calculate net General Fund revenues. 2021 Iowa Acts, Senate File 619, was signed into law on June 6, 2021. Section 1 of the legislation strikes 2018 Iowa Acts, chapter 1161, section 133, and replaces the section with language stating the division of the Act takes effect on January 1, 2023, thereby eliminating the need for the rule.

#### *Fiscal Impact*

This rule making has no fiscal impact to the State of Iowa.

#### *Jobs Impact*

After analysis and review of this rule making, no impact on jobs has been found.

#### *Waivers*

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any, pursuant to rule 541—1.3(8).

MANAGEMENT DEPARTMENT[541](cont'd)

*Public Comment*

Any interested person may submit written or oral comments concerning this proposed rule making. Written or oral comments in response to this rule making must be received by the Department no later than 4:30 p.m. on January 4, 2022. Comments should be directed to:

Joel Lunde  
Iowa Department of Management  
State Capitol, Room 13  
1007 East Grand Avenue  
Des Moines, Iowa 50319  
Phone: 515.281.3322  
Fax: 515.242.5897  
Email: [joel.lunde@iowa.gov](mailto:joel.lunde@iowa.gov)

*Public Hearing*

No public hearing is scheduled at this time. As provided in Iowa Code section 17A.4(1)“b,” an oral presentation regarding this rule making may be demanded by 25 interested persons, a governmental subdivision, the Administrative Rules Review Committee, an agency, or an association having 25 or more members.

*Review by Administrative Rules Review Committee*

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making at its [regular monthly meeting](#) or at a special meeting. The Committee’s meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rule-making action is proposed:

Rescind and reserve **541—Chapter 15.**

**ARC 6083C**

**PHARMACY BOARD[657]**

**Notice of Intended Action**

**Proposing rule making related to telepharmacy practice  
and providing an opportunity for public comment**

The Board of Pharmacy hereby proposes to amend Chapter 13, “Telepharmacy Practice,” Iowa Administrative Code.

*Legal Authority for Rule Making*

This rule making is proposed under the authority provided in Iowa Code sections 155A.13 and 155A.33.

*State or Federal Law Implemented*

This rule making implements, in whole or in part, Iowa Code sections 155A.13 and 155A.33.

## PHARMACY BOARD[657](cont'd)

*Purpose and Summary*

These proposed amendments are the result of an overall five-year review of Chapter 13 as required by Iowa Code section 17A.7(2) and comments solicited by the Board from interested stakeholders in advance of the Board's review. The proposed amendments:

- Reduce the notification period to terminate a written agreement between a managing pharmacy and a telepharmacy site from 90 days to 45 days,
- Authorize the practice of pharmacy support persons (PSP) at a telepharmacy site and establish requirements for PSP registration and training,
- Remove duplicated rules which are required in other Board chapters, and
- Authorize the Board to establish a committee to consider requests for exemption to the technician practice experience requirements in exceptional circumstances that may otherwise result in the closure of the telepharmacy site.

*Fiscal Impact*

This rule making has no fiscal impact to the State of Iowa.

*Jobs Impact*

A minimal increase in PSP positions in telepharmacies may result in any of the 23 licensed telepharmacy locations in the state.

*Waivers*

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Board for a waiver of the discretionary provisions, if any, pursuant to 657—Chapter 34.

*Public Comment*

Any interested person may submit written comments concerning this proposed rule making. Written comments in response to this rule making must be received by the Board no later than 4:30 p.m. on January 4, 2022. Comments should be directed to:

Sue Mears  
Board of Pharmacy  
400 S.W. 8th Street, Suite E  
Des Moines, Iowa 50309  
Email: [sue.mears@iowa.gov](mailto:sue.mears@iowa.gov)

*Public Hearing*

A public hearing at which persons may present their views orally or in writing will be held as follows:

January 6, 2022  
10 to 10:30 a.m.

Health Professions Board Room  
400 S.W. 8th Street, Suite H  
Des Moines, Iowa 50309  
Also via Zoom – Link available 24 hours in  
advance at [pharmacy.iowa.gov/meetings](https://pharmacy.iowa.gov/meetings)

Persons who wish to make oral comments at the public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rule making.

Any persons who intend to attend the public hearing and have special requirements, such as those related to hearing or mobility impairments, should contact the Board and advise of specific needs.

## PHARMACY BOARD[657](cont'd)

*Review by Administrative Rules Review Committee*

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rule-making actions are proposed:

ITEM 1. Amend rule 657—13.1(155A) as follows:

**657—13.1(155A) Purpose and scope.** The purpose of this chapter is to provide standards for the provision of telepharmacy services to patients. These rules provide for pharmaceutical care services at a telepharmacy site utilizing audiovisual technologies that link the telepharmacy site with a managing pharmacy and one or more verifying pharmacists, but does not include remote pharmacist verification occurring in or on behalf of a hospital pharmacy. The telepharmacy site and the managing pharmacy shall be located within Iowa and shall maintain appropriate licensure by the board.

ITEM 2. Adopt the following new definitions of “ACPE” and “Telepharmacy personnel” in rule **657—13.2(155A)**:

“ACPE” means the Accreditation Council for Pharmacy Education.

“Telepharmacy personnel” means one or more registered certified pharmacy technicians or registered pharmacy support persons who have met the general requirements for telepharmacy site practice and who work at a telepharmacy site under the remote supervision of a verifying pharmacist.

ITEM 3. Amend rule **657—13.2(155A)**, definition of “Telepharmacy site,” as follows:

“Telepharmacy site” means a licensed pharmacy that is operated by a managing pharmacy and staffed by ~~one or more~~ telepharmacy technicians personnel where pharmaceutical care services, including the storage and dispensing of prescription drugs, drug utilization review, and patient counseling, are provided by a licensed pharmacist through the use of technology.

ITEM 4. Amend rule 657—13.3(124,155A) as follows:

**657—13.3(124,155A) Written agreement.** The managing pharmacy and the telepharmacy site shall execute and maintain a current written agreement between the pharmacies. If there is no current written agreement between the pharmacies, the telepharmacy site shall immediately notify the board and shall discontinue operations as a telepharmacy site until a current written agreement between the managing pharmacy and the telepharmacy site is executed.

**13.3(1) Contents of agreement.** The written agreement between the managing pharmacy and a telepharmacy site shall include, but may not be limited to, the following:

a. Staffing, to include telepharmacy technician personnel staffing, verifying pharmacist staffing and availability, and on-site pharmacist staffing as needed.

b. to d. No change.

e. A provision that, in the event that the telepharmacy technician personnel is not available at the telepharmacy site, that a verifying pharmacist is not available, or that the audiovisual communication connection between the telepharmacy site and the managing pharmacy is not available, the telepharmacy site shall close pending the availability of ~~the technician telepharmacy personnel~~, the verifying pharmacist, and the communication link or pending the arrival at the telepharmacy site of a pharmacist to provide on-site pharmacy services.

f. to h. No change.

**13.3(2) Termination of agreement.** A managing pharmacy shall provide written notice to the board and to the telepharmacy site ~~90~~ 45 days in advance of the managing pharmacy's intent to terminate the agreement between the telepharmacy site and the managing pharmacy. A telepharmacy site shall provide

## PHARMACY BOARD[657](cont'd)

written notice to the board and to the managing pharmacy ~~90~~ 45 days in advance of the telepharmacy site's intent to terminate the agreement between the managing pharmacy and the telepharmacy site.

*a. New agreement.* A new written agreement between a managing pharmacy and the telepharmacy site, including the filing of a new pharmacy license application identifying the new pharmacist in charge, shall be executed within the ~~90-day~~ 45-day advance notification period.

*b. No new agreement.* If the telepharmacy site is unable to contract with a new managing pharmacy, the telepharmacy site shall, 30 days prior to the expiration of the ~~90-day~~ 45-day advance notification period, implement the prior notification requirements for closing a telepharmacy site as provided in subrule 13.3(3). The telepharmacy site shall cease operations and close at the end of that 30-day closing notification period unless a new written agreement is executed.

**13.3(3)** and **13.3(4)** No change.

ITEM 5. Rescind and reserve rule ~~657—13.4(155A)~~.

ITEM 6. Amend rule ~~657—13.8(124,155A)~~ as follows:

**657—13.8(124,155A) General requirements for telepharmacy site.** ~~The telepharmacy site shall maintain a pharmacy license issued by the board. If the telepharmacy site plans to dispense controlled substances, the telepharmacy site shall also maintain a CSA registration and a DEA registration. In addition to applicable requirements for pharmacies located in Iowa, a telepharmacy site shall also ensure compliance with the requirements identified herein.~~

~~**13.8(1) Located in Iowa.** A telepharmacy site shall be located within the state of Iowa.~~

~~**13.8(2) Pharmacist in charge.** The pharmacist in charge of the managing pharmacy shall designate a pharmacist in charge of the telepharmacy site pursuant to subrule 13.9(3).~~

~~**13.8(3) 13.8(1) Security.** A telepharmacy site shall employ methods to prevent unauthorized access to prescription drugs, devices, and pharmacy and patient records. Such methods may include an alarm system and shall include other security systems and methods as provided by these rules. Alarm systems and entry system locks should be disarmed when the telepharmacy site is staffed and open for business. Minimum security methods shall include:~~

~~*a. to d.* No change.~~

~~**13.8(4) 13.8(2) Telepharmacy site signage.** In addition to the patient counseling sign required pursuant to ~~subrule 13.8(5)~~ rule 657—6.14(155A), one or more signs, prominently posted in every prescription pick-up area and clearly visible to the public, shall inform the public that the location is a telepharmacy site supervised by a pharmacist at a remote location. Signage shall include the name, location, and telephone number of the managing pharmacy. The telepharmacy site shall also prominently post the days and times that the telepharmacy is open for business.~~

~~**13.8(5) 13.8(3) Patient counseling.** Patient counseling as required by rule 657—6.14(155A) shall be provided utilizing the audiovisual technology employed between the telepharmacy site and the managing pharmacy. ~~Every telepharmacy site shall post in every prescription pickup area, in a manner clearly visible to patients, a notice that Iowa law requires the pharmacist to discuss with the patient any new prescriptions dispensed to the patient. The board shall provide a telepharmacy site with the required signage.~~~~

~~**13.8(6) 13.8(4) Label requirements.** In addition to the label requirements identified in 657—subrule 6.10(1), the label affixed to or on the dispensing container of any prescription drug or device dispensed by a telepharmacy site pursuant to a prescription drug order shall include, on the primary label or affixed by use of an auxiliary label, the following:~~

~~*a. and b.* No change.~~

~~**13.8(7) 13.8(5) Prohibited activities.** In the physical absence of a pharmacist, the following activities are prohibited:~~

~~*a.* Practice of pharmacist-interns or pharmacy support persons at the telepharmacy site, except that a pharmacy support person may deliver prescriptions to patients outside the telepharmacy site but may not engage in prescription delivery or any other activities at the telepharmacy site.~~

~~*b. to f.* No change.~~

## PHARMACY BOARD[657](cont'd)

g. All judgmental and technical activities identified in rule 657—5.17(155A) that a pharmacy support person is prohibited from performing in the practice of pharmacy.

~~13.8(8) Continuous quality improvement.~~ A telepharmacy site shall implement and participate in a continuous quality improvement program pursuant to rule 657—8.26(155A).

~~13.8(9)~~ **13.8(6) Technology failure.** If the audiovisual technology between the telepharmacy site and the managing pharmacy or the verifying pharmacist is not operational, no prescriptions shall be dispensed from the telepharmacy site to a patient unless a pharmacist is physically present at the telepharmacy site.

~~13.8(10)~~ **13.8(7) Perpetual controlled substances inventory.** A telepharmacy site that dispenses controlled substances shall maintain a perpetual inventory record of those controlled substances.

a. and b. No change.

~~13.8(11)~~ **13.8(8) Display of pharmacist license.** A telepharmacy site shall display, in a position visible to the public, the original license to practice pharmacy in Iowa of the pharmacist in charge of the telepharmacy site. The telepharmacy site shall display, in a position visible to the public, the current license renewal certificate, which may be a photocopy of an original renewal certificate, of the pharmacist in charge of the telepharmacy site and of each pharmacist who may provide patient counseling to patients at the telepharmacy site. A pharmacist working on site while the telepharmacy site is open to the public shall display an original license and current license renewal certificate pursuant to 657—subrule 8.4(1).

**13.8(9) Adequate audiovisual connection.** The telepharmacy personnel shall ensure adequate audiovisual connection with the managing pharmacy during all periods when the telepharmacy site is open for business, including ensuring confidentiality of communications in compliance with state and federal confidentiality laws.

ITEM 7. Amend subrule 13.10(4) as follows:

**13.10(4) Patient refusal of counseling.** If a patient or patient's caregiver refuses patient counseling, the refusal shall be directly communicated by the patient or patient's caregiver to the pharmacist through audiovisual communication. ~~A technician~~ Telepharmacy personnel may not accept and communicate a refusal of patient counseling from the patient or patient's caregiver to the pharmacist.

ITEM 8. Amend rule 657—13.11(155A) as follows:

**657—13.11(155A) General requirements for telepharmacy technician.**

**13.11(1) Registration and certification.** A telepharmacy technician shall maintain current national certification and registration in good standing with the board as a certified pharmacy technician.

~~13.11(4)~~ **13.11(2) Practice experience.** Before practicing in a telepharmacy site, a telepharmacy technician shall have completed a minimum of 2,000 hours of practice experience as a certified pharmacy technician, at least 1,000 hours of which shall be practicing in an Iowa-licensed pharmacy and 160 hours of which shall be practicing in a managing pharmacy, at another pharmacy which uses the same audiovisual technology system, or at the telepharmacy site under the direct supervision of an on-site pharmacist. The board may establish a committee to consider, on a case-by-case basis, requests for exceptions to the practice experience requirements in exceptional circumstances that may otherwise result in the closure of the telepharmacy site.

~~13.11(2)~~ **13.11(3) Training.** In addition to training required of all pharmacy technicians, a telepharmacy technician shall complete the following minimum training requirements before practicing in a telepharmacy site. Records of telepharmacy technician training shall be documented and maintained by the telepharmacy site.

a. to f. No change.

~~13.11(3)~~ **13.11(4) Continuing education.** Beginning with the first full two-year continuing education period for renewal of the technician's national pharmacy technician certification after beginning practice as a telepharmacy technician, and for each subsequent renewal of national certification for as long as the technician continues to practice as a telepharmacy technician, the technician shall complete two hours of ACPE-approved continuing education in each of the following activities. These continuing



## PHARMACY BOARD[657](cont'd)

education requirements shall not be in addition to the total continuing education credits required to maintain national certification.

*a. and b.* No change.

~~13.11(4) Identification.~~ The telepharmacy technician shall, at all times when the technician is practicing at the telepharmacy site and the telepharmacy site is open for business, wear a name badge or tag identifying the technician. The badge or tag shall include, at a minimum, the technician's first name and title. The name badge or tag shall be so designed and worn that the technician's name and title are clearly visible to the public at all times.

~~13.11(5) Adequate audiovisual connection.~~ The telepharmacy technician shall ensure adequate audiovisual connection with the managing pharmacy during all periods when the telepharmacy site is open for business, including ensuring confidentiality of communications in compliance with state and federal confidentiality laws.

ITEM 9. Adopt the following new rule 657—13.12(155A):

**657—13.12(155A) General requirements for telepharmacy support person.**

**13.12(1) Registration.** A telepharmacy support person shall maintain registration in good standing with the board as a pharmacy support person.

**13.12(2) Training.** In addition to training required of all pharmacy support persons, a telepharmacy support person shall complete the following minimum training requirements before practicing in a telepharmacy site. Records of telepharmacy support person training shall be documented and maintained by the telepharmacy site.

- a.* Review and understanding of the policies and procedures of the managing pharmacy.
- b.* Review and understanding of the policies and procedures of the telepharmacy site.
- c.* Review and understanding of these rules for telepharmacy practice.
- d.* Review and understanding of pharmacy support person rules, 657—Chapter 5.
- e.* Understanding of the operation of the audiovisual technologies to be utilized at both pharmacies.
- f.* Training at the telepharmacy site under the direct supervision of an on-site verifying pharmacist. Training shall include operation and use of the audiovisual technology and other means of communication between the telepharmacy site and the managing pharmacy and the security of the telepharmacy site as identified in policies and procedures.

ITEM 10. Amend rule 657—13.16(124,155A) as follows:

**657—13.16(124,155A) Telepharmacy site—initial application.** A telepharmacy site shall complete and submit to the board a limited use/telepharmacy license application and nonrefundable fee as provided in rule 657—8.35(155A) and, if controlled substances will be dispensed from the telepharmacy site, a CSA registration application and nonrefundable fee as provided in rule 657—10.5(124). As part of the limited use/telepharmacy license application, the telepharmacy site shall include the additional information identified in this rule.

~~13.16(1) License application.~~ A telepharmacy site shall complete and submit to the board a limited use/telepharmacy license application and nonrefundable fee as provided in rule 657—8.35(155A). In addition to the application and fee, the telepharmacy site shall include the additional information identified in this rule.

~~13.16(2) CSA registration application.~~ If controlled substances will be dispensed from the telepharmacy site, the telepharmacy site shall complete and submit, with the limited use/telepharmacy license application and fee, the CSA registration application and nonrefundable fee as provided in rule 657—10.5(124).

**13.16(3) 13.16(1) Identification of managing pharmacy.** The telepharmacy site application shall include identification of the managing pharmacy, including pharmacy name, license number, address, telephone number, and pharmacist in charge; a statement from the managing pharmacy or pharmacist in charge indicating that the managing pharmacy has executed a written agreement to provide the required services and oversight to the telepharmacy site; and a statement from the pharmacist in charge of the

## PHARMACY BOARD[657](cont'd)

managing pharmacy designating the pharmacist in charge of the telepharmacy site pursuant to subrule 13.9(3).

~~13.16(4)~~ **13.16(2)** *Distance to nearest pharmacy that dispenses prescription drugs to outpatients.* The telepharmacy site application shall identify the nearest currently licensed pharmacy that dispenses prescription drugs to outpatients and shall provide evidence identifying the total driving distance between the proposed telepharmacy site and the nearest currently licensed pharmacy that dispenses prescription drugs to outpatients.

*a.* If the distance between the proposed telepharmacy site and the nearest currently licensed pharmacy that dispenses prescription drugs to outpatients is less than ten miles, the telepharmacy site shall submit a request for waiver of the distance requirement. The process and requirements for a request for waiver are identified in subrule ~~13.16(8)~~ **13.16(6)**.

*b.* No change.

~~13.16(5)~~ **13.16(3)** *Written agreement.* The telepharmacy site application shall include the written agreement between the telepharmacy site and the managing pharmacy as described in subrule 13.3(1).

~~13.16(6)~~ **13.16(4)** *Key personnel.* The telepharmacy site application shall identify key personnel including the pharmacist in charge of the managing pharmacy, the pharmacist in charge of the telepharmacy site, ~~and the telepharmacy technician or technicians at the telepharmacy site, and the telepharmacy support person or persons at the telepharmacy site.~~ Identification shall include the names, the license or registration numbers, and the titles of the key personnel. Telepharmacy technician identification shall also include a copy verification of the telepharmacy technician's current national certification ~~or other verification of the telepharmacy technician's current national certification.~~

~~13.16(7)~~ **13.16(5)** *Audiovisual technology.* A description of the audiovisual technology system to be used to link the managing pharmacy and the telepharmacy site, including built-in safeguards relating to verification of the accuracy of the dispensing processes. Safeguards shall include but may not be limited to:

*a. to d.* No change.

~~13.16(8)~~ **13.16(6)** *Request for distance waiver.* The board shall consider a request for waiver of the distance requirement between the proposed telepharmacy site and the nearest currently licensed pharmacy that dispenses prescription drugs to outpatients if the petitioner can demonstrate to the board that the proposed telepharmacy site is located in an area where there is limited access to pharmacy services and that there exist compelling circumstances that justify waiving the distance requirement.

*a. to d.* No change.

ITEM 11. Rescind and reserve rule **657—13.17(124,155A)**.

ITEM 12. Rescind and reserve rule **657—13.21(124,155A)**.

ITEM 13. Rescind and reserve rule **657—13.22(155A)**.

ITEM 14. Amend rule 657—13.23(124,155A) as follows:

**657—13.23(124,155A) Records.** Every inventory or other record required to be kept under Iowa Code chapters 124 and 155A or rules of the board shall be kept by the telepharmacy site and be available for inspection and copying by the board or its representative for at least two years from the date of the inventory or record except as specifically identified by law or rule. Controlled substances records shall be maintained in a readily retrievable manner in accordance with federal requirements and 657—Chapter 10.

**13.23(1)** *Dispensing record.* ~~As provided in rule 657—13.21(124,155A), a~~ A written or electronic record identifying the pharmacist who verified the prescription, the pharmacist who performed drug utilization review, the pharmacist who provided counseling to the patient or the patient's caregiver, and the pharmacy technician who filled the prescription shall be maintained for every prescription fill dispensed by the telepharmacy site.

**13.23(2) to 13.23(4)** No change.

PHARMACY BOARD[657](cont'd)

13.23(5) Policy and procedure review. A written or electronic record of the review of the policy and procedures by the pharmacist in charge shall be retained for two years following the date of the review.

**ARC 6095C****PROFESSIONAL LICENSURE DIVISION[645]****Notice of Intended Action****Proposing rule making related to licensure of optometrists  
and providing an opportunity for public comment**

The Board of Optometry hereby proposes to amend Chapter 180, "Licensure of Optometrists," Iowa Administrative Code.

*Legal Authority for Rule Making*

This rule making is proposed under the authority provided in Iowa Code sections 147.76 and 154.3.

*State or Federal Law Implemented*

This rule making implements, in whole or in part, Iowa Code section 154.3.

*Purpose and Summary*

The proposed amendments update the license application procedures, streamline the requirements for endorsement applications, streamline the requirements for license reactivation and add an examination option for license reactivation.

*Fiscal Impact*

This rule making has no fiscal impact to the State of Iowa.

*Jobs Impact*

After analysis and review of this rule making, no impact on jobs has been found.

*Waivers*

A waiver provision is not included in this rule making because all administrative rules of the professional licensure boards in the Professional Licensure Division are subject to the waiver provisions accorded under 645—Chapter 18.

*Public Comment*

Any interested person may submit written comments concerning this proposed rule making. Written comments in response to this rule making must be received by the Board no later than 4:30 p.m. on January 4, 2022. Comments should be directed to:

Sharon Dozier  
Professional Licensure Division  
Iowa Department of Public Health  
Lucas State Office Building  
321 East 12th Street  
Des Moines, Iowa 50319  
Fax: 515.281.3121  
Email: [sharon.dozier@idph.iowa.gov](mailto:sharon.dozier@idph.iowa.gov)

## PROFESSIONAL LICENSURE DIVISION[645](cont'd)

*Public Hearing*

A public hearing at which persons may present their views orally or in writing will be held as follows:

January 4, 2022  
10 to 11 a.m.

Via video/conference  
Zoom Meeting ID: 893 0769 6946  
Passcode: 249604  
(US) + 1.312.626.6799 (toll)  
Access code: 249604

Persons who wish to make oral comments at the public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rule making. In an effort to ensure accuracy in memorializing a person's comments, a person may provide written comments in addition to or in lieu of oral comments at the hearing.

Any persons who intend to attend the public hearing and have special requirements, such as those related to hearing or mobility impairments, should contact the Board and advise of specific needs.

*Review by Administrative Rules Review Committee*

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rule-making actions are proposed:

ITEM 1. Rescind subrule 180.2(1) and adopt the following **new** subrule in lieu thereof:

**180.2(1)** The following criteria shall apply to licensure:

a. Applicants shall complete a board-approved application. Applications may be completed at the board's website ([www.idph.iowa.gov/licensure](http://www.idph.iowa.gov/licensure)).

b. Applicants shall submit the appropriate fees payable to the Board of Optometry. The fees are nonrefundable.

c. No application will be considered complete until official copies of academic transcripts sent directly to the board from an accredited school or college of optometry are received by the board and the applicant submits proof of satisfactory completion of all educational requirements contained in Iowa Code chapter 154.

d. Applicants shall provide evidence of passing all current NBEO examinations including the Treatment and Management of Ocular Disease examination.

e. Licensees who were issued their licenses within six months prior to the renewal date shall not be required to renew their licenses until the renewal date two years later.

ITEM 2. Rescind subrule 180.3(1) and adopt the following **new** subrule in lieu thereof:

**180.3(1)** Applicants who have been licensed as an optometrist in another state may apply for licensure by endorsement by submitting the following:

a. A completed licensure application and payment of the application fee.

b. Verification of license(s) from every jurisdiction in which the applicant has been licensed showing the licensee's name, date of initial licensure, current licensure status, and any disciplinary action taken against the license.

c. Evidence of a passing score for all parts of the NBEO examination at the time of licensure as an optometrist in another state and evidence of a passing score for the Treatment and Management of Ocular Disease examination.

d. Verification of current competence to practice as an optometrist by satisfying one of the following criteria:

(1) Current CELMO certification; or

## PROFESSIONAL LICENSURE DIVISION[645](cont'd)

- (2) Practice as an optometrist for a minimum of 2,080 hours during the preceding two-year period;  
or
- (3) Employment as a faculty member teaching optometry in an accredited school of optometry for at least one academic year during the preceding two-year period; or
- (4) Completion of a minimum of 50 hours of continuing education during the preceding two-year period; or
- (5) Passing the NBEO examination during the preceding two-year period.

ITEM 3. Rescind rule 645—180.11(17A,147,272C) and adopt the following new rule in lieu thereof:

**645—180.11(17A,147,272C) License reactivation.** To apply for reactivation of an inactive license, a licensee must submit the following:

**180.11(1)** A completed reactivation application and payment of the application fee.

**180.11(2)** Verification of license(s) from every jurisdiction in which the licensee has been licensed showing the licensee's name, date of initial licensure, current licensure status, and any disciplinary action taken against the license.

**180.11(3)** Verification of current competence to practice as an optometrist by satisfying one of the following criteria:

- a.* Current CELMO certification; or
- b.* Practice as an optometrist for a minimum of 2,080 hours during the preceding two-year period;  
or
- c.* Employment as a faculty member teaching optometry in an accredited school of optometry for at least one academic year during the preceding two-year period; or
- d.* Completion of a minimum of 50 hours of continuing education during the preceding two-year period; or
- e.* Passing the NBEO examination during the preceding two-year period.

**ARC 6082C**

**PHARMACY BOARD[657]**

**Notice of Intended Action**

**Proposing rule making related to controlled substances  
and providing an opportunity for public comment**

The Board of Pharmacy hereby proposes to amend Chapter 10, "Controlled Substances," Iowa Administrative Code.

*Legal Authority for Rule Making*

This rule making is proposed under the authority provided in Iowa Code section 124.201.

*State or Federal Law Implemented*

This rule making implements, in whole or in part, Iowa Code section 124.201.

*Purpose and Summary*

This proposed rule making temporarily places one substance into Schedule I of the Iowa Uniform Controlled Substances Act in response to similar scheduling action taken by the federal Drug Enforcement Administration.

*Fiscal Impact*

This rule making has no fiscal impact to the State of Iowa.

## PHARMACY BOARD[657](cont'd)

*Jobs Impact*

After analysis and review of this rule making, no impact on jobs has been found.

*Waivers*

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Board for a waiver of the discretionary provisions, if any, pursuant to 657—Chapter 34.

*Public Comment*

Any interested person may submit written comments concerning this proposed rule making. Written comments in response to this rule making must be received by the Board no later than 4:30 p.m. on January 4, 2022. Comments should be directed to:

Sue Mears  
Board of Pharmacy  
400 S.W. 8th Street, Suite E  
Des Moines, Iowa 50309  
Email: [sue.mears@iowa.gov](mailto:sue.mears@iowa.gov)

*Public Hearing*

No public hearing is scheduled at this time. As provided in Iowa Code section 17A.4(1)“b,” an oral presentation regarding this rule making may be demanded by 25 interested persons, a governmental subdivision, the Administrative Rules Review Committee, an agency, or an association having 25 or more members.

*Review by Administrative Rules Review Committee*

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making at its [regular monthly meeting](#) or at a special meeting. The Committee’s meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rule-making action is proposed:

Adopt the following **new** subrule 10.39(7):

**10.39(7)** Amend Iowa Code section 124.204(6) by adding the following new paragraph:

*j.* 4,4’-Dimethylaminorex. Other names: 4,4’-DMAR;  
4,5-dihydro-4-methyl-5-(4-methylphenyl)-2-oxazolamine;  
40methyl-5-(4-methylphenyl)-4,5-dihydro-1,3-oxazol-2-amine.

## REVENUE DEPARTMENT

### Notice of Electric and Natural Gas Delivery Tax Rates and Municipal Electric and Natural Gas Transfer Replacement Tax Rates for Each Competitive Service Area

Pursuant to the authority of Iowa Code sections 437A.4 and 437A.5, the Director of Revenue hereby gives notice of the electric delivery tax rate, the municipal electric transfer replacement tax rate, the natural gas delivery tax rate, and the municipal natural gas transfer replacement tax rate for each competitive service area in the state. These rates will be used in conjunction with the number of kilowatt hours of electricity and the number of therms of natural gas delivered to consumers in calendar year 2021 by each taxpayer to determine the tax due for each taxpayer in the 2022-2023 fiscal year.

REVENUE DEPARTMENT[701]

**2021 ELECTRIC DELIVERY TAX RATES BY SERVICE AREA**

<b>CO. #</b>	<b>MUNICIPAL ELECTRICS</b>	<b>DELIVERY TAX RATE</b>
3226	Akron Municipal Utilities	0.00005016
3201	Algona Municipal Utilities	0.00025144
3205	Alta Municipal Power Plant	0.00008290
3069	Alta Vista Municipal Utilities	0.00000000
3070	Alton Municipal Light & Power	0.00000000
3207	Ames Municipal Electric System	0.00000094
3071	Anita Municipal Utilities	0.00000000
3227	Anthon Municipal Electric Utility	0.00010389
3209	Atlantic Municipal Utilities	0.00015586
3073	Auburn Municipal Utility	0.00000000
3074	Aurelia Mun. Electric Utility	0.00007365
3211	Bancroft Municipal Utilities	0.00087760
3213	Bellevue Municipal Utilities	0.00007888
3228	Bigelow Municipal Electric Utility	0.00219770
3229	Bloomfield Municipal Electric Utility	0.00003607
3075	Breda Mun. Electric System	0.00000000
3076	Brooklyn Municipal Utilities	0.00132929
3216	Buffalo Municipal Electric System	0.00000203
3217	Burt Municipal Electric Utility	0.00000199
3077	Callender Electric	0.00000000
3078	Carlisle Municipal Utilities	0.00000000
3079	Cascade Municipal Utilities	0.00139918
3221	Cedar Falls Municipal Elec. Utility	0.00030357
3068	City of Afton	0.00000000
3072	City of Aplington	0.00000000
3082	City of Dike	0.00000000
3088	City of Estherville	0.00000000
3089	City of Fairbank	0.00000000
3090	City of Farnhamville	0.00000000
3230	City of Fredericksburg	0.00000420
3106	City of Larchwood	0.00000000
3107	City of Lawler	0.00000000
3108	City of Lehigh	0.00000000
3113	City of Marathon	0.00000000
3311	City of Pella	0.00007414
3125	City of Renwick	0.00000000
3129	City of Sergeant Bluff	0.00000000
3139	City of Westfield	0.00000000
3143	City of Woolstock	0.00000000
3236	Coggon Municipal Light Plant	0.00004374
3237	Coon Rapids Municipal Utilities	0.00052157
3242	Corning Municipal Utilities	0.00031761

## REVENUE DEPARTMENT[701]

<b>CO. #</b>	<b>MUNICIPAL ELECTRICS</b>	<b>DELIVERY TAX RATE</b>
3080	Corwith Municipal Utilities	0.00000000
3243	Danville Municipal Electric Utility	0.00000384
3081	Dayton Light & Power	0.00000000
3244	Denison Municipal Utilities	0.00001027
3245	Denver Municipal Electric Utility	0.00005928
3083	Durant Municipal Electric Plant	0.00000000
3084	Dysart Municipal Utilities	0.00000000
3085	Earlville Municipal Utilities	0.00137177
3087	Ellsworth Municipal Utilities	0.00000000
3091	Fonda Municipal Electric	0.00000000
3252	Fontanelle Municipal Utilities	0.00033407
3092	Forest City Municipal Utilities	0.00000000
3231	Glidden Municipal Electric Utility	0.00000214
3093	Gowrie Municipal Utilities	0.00148389
3256	Graettinger Municipal Light Plant	0.00028010
3094	Grafton Municipal Utilities	0.00000000
3258	Grand Junction Municipal Utilities	0.00000526
3095	Greenfield Municipal Utilities	0.00110806
3096	Grundy Center Light & Power	0.00022173
3232	Guttenberg Municipal Electric	0.00002873
3263	Harlan Municipal Utilities	0.00139596
3097	Hartley Municipal Utilities	0.00000000
3098	Hawarden Municipal Utility	0.00000000
3099	Hinton Municipal Electric/Water	0.00006822
3267	Hopkinton Municipal Utilities	0.00000824
3100	Hudson Municipal Utilities	0.00000000
3101	Independence Light & Power	0.00000000
3271	Indianola Municipal Utilities	0.00000742
3102	Keosauqua Light & Power	0.00000000
3103	Kimballton Municipal Utilities	0.00000000
3104	Lake Mills Municipal Utilities	0.00000000
3105	Lake Park Municipal Utilities	0.00000000
3233	Lake View Municipal Utilities	0.00015764
3274	Lamoni Municipal Utilities	0.00140260
3276	LaPorte City Utilities	0.00000998
3277	Laurens Municipal Utilities	0.00029015
3109	Lenox Mun. Light & Power	0.00058485
3110	Livermore Municipal Utilities	0.00000000
3111	Long Grove Mun. Elec./Water	0.00000000
3282	Manilla Municipal Elec. Utilities	0.00011092
3112	Manning Municipal Electric	0.00034115
3284	Mapleton Municipal Utilities	0.00008732
3285	Maquoketa Municipal Electric	0.00004721
3288	McGregor Municipal Utilities	0.00000695



## REVENUE DEPARTMENT[701]

<b>CO. #</b>	<b>MUNICIPAL ELECTRICS</b>	<b>DELIVERY TAX RATE</b>
3291	Milford Municipal Utilities	0.00018034
3114	Montezuma Municipal Light & Power	0.00000000
3115	Mount Pleasant Municipal Utilities	0.00000000
3293	Muscatine Municipal Utilities	0.00009555
3116	Neola Light & Water System	0.00000000
3297	New Hampton Municipal Light Plant	0.00009487
3298	New London Municipal Utility	0.00052973
3304	Ogden Municipal Utilities	0.00006019
3234	Onawa Municipal Utilities	0.00009815
3117	Orange City Municipal Utilities	0.00000000
3118	Orient Municipal Utilities	0.00000000
3307	Osage Municipal Utilities	0.00004946
3309	Panora Municipal Electric Utility	0.00006300
3119	Paton Municipal Utilities	0.00000000
3120	Paullina Municipal Utilities	0.00000000
3121	Pocahontas Municipal Utilities	0.00000000
3122	Preston Municipal Utilities	0.00000000
3315	Primghar Municipal Light Plant	0.00001643
3123	Readlyn Municipal Utilities	0.00000000
3124	Remsen Municipal Utilities	0.00000000
3318	Rock Rapids Municipal Utilities	0.00000479
3126	Rockford Municipal Light Plant	0.00000000
3127	Sabula Municipal Utilities	0.00000000
3128	Sanborn Municipal Light Plant	0.00000000
3130	Shelby Municipal Utilities	0.00000000
3131	Sibley Municipal Utilities	0.00000000
3321	Sioux Center Municipal Utilities	0.00000087
3323	Southern Minnesota Mun. Power	0.00000000
3324	Spencer Municipal Utilities	0.00012945
3132	Stanhope Municipal Utilities	0.00000000
3360	Stanton Municipal Utilities	0.00000000
3326	State Center Municipal Light Plant	0.00027766
3327	Story City Municipal Electric Utility	0.00010916
3134	Stratford Municipal Utilities	0.00000000
3135	Strawberry Point Electric Utility	0.00000000
3136	Stuart Municipal Utilities	0.00121418
3328	Sumner Municipal Light Plant	0.00020357
3330	Tipton Municipal Utilities	0.00143611
3332	Traer Municipal Utilities	0.00057746
3337	Villisca Municipal Power Plant	0.00022186
3137	Vinton Municipal Utilities	0.00000000
3138	Wall Lake Municipal Utilities	0.00000000
3338	Waverly Light & Power	0.00072786
3342	Webster City Municipal Utilities	0.00042187

## REVENUE DEPARTMENT[701]

<b>CO. #</b>	<b>MUNICIPAL ELECTRICS</b>	<b>DELIVERY TAX RATE</b>
3345	West Bend Municipal Power Plant	0.00082391
3346	West Liberty Municipal Electric Util.	0.00000641
3347	West Point Municipal Utility System	0.00012115
3140	Whittemore Municipal Utilities	0.00000000
3141	Wilton Municipal Light & Power	0.00000000
3351	Winterset Municipal Utilities	0.00133211
3142	Woodbine Municipal Utilities	0.00000000

<b>CO. #</b>	<b>IOUs — ELECTRIC</b>	<b>DELIVERY TAX RATE</b>
7206	Amana Society Service Co.	0.00060803
7248	Eldridge Electric & Water Utilities	0.00054889
7354	Geneseo Municipal Utilities	0.00000000
7270	IES Utilities	0.00237888
7272	Interstate Power	0.00103630
7289	MidAmerican Energy	0.00259183
7296	Nebraska Public Power District	0.00000000
7302	Northwestern Corporation	0.00000000
7305	Omaha Public Power District	0.00123835
7334	Union Electric	0.00000000

<b>CO. #</b>	<b>RECs</b>	<b>DELIVERY TAX RATE</b>
4319	Access Energy Coop	0.00047950
4203	Allamakee Clayton Electric Coop	0.00093586
4208	Atchison-Holt Electric Coop	0.00085628
4214	Boone Valley Electric Coop	0.00085075
4218	Butler County REC	0.00068865
4219	Calhoun County Electric Coop	0.00109354
4220	Cass Electric Coop	0.00004596
4224	Central Iowa Power Coop	0.00000000
4225	Chariton Valley Electric Coop	0.00102029
4235	Clarke Electric Coop	0.00234795
4287	Consumers Energy	0.00134019
4240	Corn Belt Power Coop	0.00000000
4246	East-Central Iowa REC	0.00193233
4247	Eastern Iowa Light & Power	0.00068026
4250	Farmers Electric Coop - Greenfield	0.00258206
4249	Farmers Electric Coop - Kalona	0.00047680
4251	Federated Rural Electric	0.00030922
4253	Franklin Rural Electric Coop	0.00081291
4254	Freeborn-Mower Cooperative	0.00161385

## REVENUE DEPARTMENT[701]

<b>CO. #</b>	<b>RECs</b>	<b>DELIVERY TAX RATE</b>
4255	Glidden Rural Electric Coop	0.00072443
4259	Grundy County REC	0.00068781
4260	Grundy Electric Cooperative	0.00052083
4261	Guthrie County REC	0.00121604
4262	Hancock Co. REC	0.00097751
4265	Harrison County REC	0.00064288
4266	Hawkeye REC	0.00051726
4223	Heartland Power Coop	0.00033885
4268	Humboldt County REC	0.00096090
4273	Iowa Lakes Electric Coop	0.00068661
4279	Linn County REC	0.00133993
4280	Lyon Rural Electric Coop	0.00051847
4286	Maquoketa Valley Electric Coop	0.00221262
4290	Midland Power Cooperative	0.00110248
4299	Nishnabotna Valley REC	0.00059726
4300	North West Rural Electric Coop	0.00034671
4301	Northwest Iowa Power Coop	0.00000000
4308	Osceola Electric Coop	0.00029411
4310	Pella Cooperative Electric	0.00182080
4313	Pleasant Hill Community Line	0.00023188
4316	Rideta Electric Coop	0.00263826
4320	Sac County Rural Electric Coop	0.00064621
4322	Southern Iowa Electric Coop	0.00134566
4379	Southwest Iowa Service Coop	0.00284449
4329	T.I.P. Rural Electric Coop	0.00203782
4333	Tri-County Electric Coop	0.00092430
4336	United Electric Coop	0.00112324
4348	Western Iowa Power Coop	0.00108160
4352	Woodbury County REC	0.00104762
4353	Wright County REC	0.00039701

**2021 NATURAL GAS DELIVERY TAX RATES BY SERVICE AREA**

<b>CO. #</b>	<b>MUNICIPAL GAS</b>	<b>DELIVERY TAX RATE</b>
5021	Bedford Municipal Gas	0.00000000
5215	Brighton Gas	0.00701487
5023	Brooklyn Municipal Gas	0.00000000
5024	Cascade Municipal Gas	0.00000000
5025	Cedar Falls Municipal Gas	0.00000000
5022	City of Bloomfield	0.00000000
5026	City of Clearfield	0.00000000
5028	City of Everly	0.00000000

## REVENUE DEPARTMENT[701]

<b>CO. #</b>	<b>MUNICIPAL GAS</b>	<b>DELIVERY TAX RATE</b>
5029	City of Fairbank	0.00000000
5238	Coon Rapids Municipal Gas	0.00004455
5241	Corning Municipal Gas	0.00000765
5027	Emmetsburg Municipal Gas	0.00000000
5030	Gilmore City Municipal Gas	0.00000000
5031	Graettinger Municipal Gas	0.00000000
5032	Guthrie Center Municipal Gas	0.00000000
5033	Harlan Municipal Gas	0.00000000
5034	Hartley Municipal Gas	0.00000000
5035	Hawarden Municipal Gas	0.00000000
5036	Lake Park Municipal Gas	0.00000000
5275	Lamoni Municipal Gas	0.00097388
5037	Lenox Municipal Gas	0.00000000
5038	Lineville City Natural Gas	0.00000000
5039	Lorimor Municipal Gas	0.00000000
5281	Manilla Municipal Gas	0.00045297
5283	Manning Municipal Gas	0.00011619
5040	Montezuma Natural Gas	0.00000000
5041	Morning Sun Municipal Gas	0.00000000
5042	Moulton Municipal Gas	0.00000000
5306	Osage Municipal Gas	0.00002468
5043	Prescott Municipal Gas	0.00000000
5044	Preston Municipal Gas	0.00000000
5055	Remsen Municipal Gas	0.00000000
5317	Rock Rapids Municipal Gas	0.00011148
5056	Rolfe Municipal Gas	0.00000000
5057	Sabula Municipal Gas	0.00000000
5058	Sac City Municipal Gas	0.00000000
5059	Sanborn Municipal Gas	0.00000000
5060	Sioux Center Municipal Gas	0.00000000
5061	Tipton Municipal Gas	0.00000000
5063	Waukee Municipal Gas	0.00000000
5340	Wayland Municipal Gas	0.00021523
5064	Wellman Municipal Gas	0.00000000
5344	West Bend Municipal Gas	0.00002714
5065	Whittemore Municipal Gas	0.00000000
5349	Winfield Municipal Gas	0.00079637
5066	Woodbine Gas	0.00000000

## REVENUE DEPARTMENT[701]

<b>CO. #</b>	<b>IOUs — GAS</b>	<b>DELIVERY TAX RATE</b>
5204	Allerton Gas	0.02459997
5270	IES Utilities-Gas	0.00677129
5272	Interstate Power-Gas	0.00250175
5289	MidAmerican Energy-Gas	0.00641133
5312	Peoples Natural Gas	0.00640722
5335	United Cities Gas	0.01230380

**2021 MUNICIPAL ELECTRIC TRANSFER REPLACEMENT TAX RATES**

<b>CO. #</b>	<b>COMPANY</b>	<b>REPLACEMENT TAX RATE</b>
3226	Akron Municipal Utilities	0.01537067
3201	Algona Municipal Utilities	*
3205	Alta Municipal Power Plant	*
3069	Alta Vista Municipal Utilities	*
3070	Alton Municipal Light & Power	0.00227089
3207	Ames Municipal Electric System	*
3071	Anita Municipal Utilities	0.00478727
3227	Anthon Municipal Electric Utility	0.00000000
3209	Atlantic Municipal Utilities	0.00237452
3073	Auburn Municipal Utility	*
3074	Aurelia Municipal Electric Utility	*
3211	Bancroft Municipal Utilities	*
3213	Bellevue Municipal Utilities	*
3228	Bigelow Municipal Utilities	*
3229	Bloomfield Municipal Electric Utility	0.01794528
3075	Breda Municipal Electric System	0.00000000
3076	Brooklyn Municipal Utilities	*
3216	Buffalo Municipal Electric System	*
3217	Burt Municipal Electric Utility	*
3077	Callender Electric	0.00663751
3078	Carlisle Municipal Utilities	*
3079	Cascade Municipal Utilities	0.00000000
3221	Cedar Falls Mun. Electric Utility	*
3068	City of Afton	*
3072	City of Aplington	0.00594418
3082	City of Dike	0.00000000
3088	City of Estherville	0.02087519
3089	City of Fairbank	*
3090	City of Farnhamville	*
3230	City of Fredericksburg	0.00608485
3106	City of Larchwood	0.00000000
3107	City of Lawler	0.00000000

## REVENUE DEPARTMENT[701]

<b>CO. #</b>	<b>COMPANY</b>	<b>REPLACEMENT TAX RATE</b>
3108	City of Lehigh	*
3113	City of Marathon	0.00647623
3311	City of Pella	0.00395749
3125	City of Renwick	0.00000000
3129	City of Sergeant Bluff	0.00000000
3139	City of Westfield	*
3143	City of Woolstock	*
3236	Coggon Municipal Light Plant	0.00000000
3237	Coon Rapids Municipal Utilities	*
3242	Corning Municipal Utilities	*
3080	Corwith Municipal Utilities	*
3243	Danville Municipal Electric Utility	0.00000000
3081	Dayton Light & Power	*
3244	Denison Municipal Utilities	0.00189184
3245	Denver Municipal Electric Utility	*
3083	Durant Municipal Electric Plant	0.00000000
3084	Dysart Municipal Utilities	0.01990026
3085	Earlville Municipal Utilities	*
3086	Eldridge Electric & Water Utility	0.00000000
3087	Ellsworth Municipal Utilities	*
3091	Fonda Municipal Electric	*
3252	Fontanelle Municipal Utilities	0.00000000
3092	Forest City Municipal Utilities	*
3231	Glidden Municipal Electric Utility	0.01040507
3093	Gowrie Municipal Utilities	0.00484955
3256	Graettinger Municipal Light Plant	0.00239194
3094	Grafton Municipal Utilities	0.01576729
3258	Grand Junction Municipal Utilities	*
3095	Greenfield Municipal Utilities	0.00249338
3096	Grundy Center Light & Power	*
3232	Guttenberg Municipal Electric	*
3263	Harlan Municipal Utilities	0.00351274
3097	Hartley Municipal Utilities	0.02669890
3098	Hawarden Municipal Utility	*
3099	Hinton Municipal Electric/Water	*
3267	Hopkinton Municipal Utilities	*
3100	Hudson Municipal Utilities	*
3101	Independence Light & Power	*
3271	Indianola Municipal Utilities	0.00610949
3102	Keosauqua Light & Power	0.00000000
3103	Kimballton Municipal Utilities	*
3104	Lake Mills Municipal Utilities	*
3105	Lake Park Municipal Utilities	0.00425857
3233	Lake View Municipal Utilities	*

## REVENUE DEPARTMENT[701]

<b>CO. #</b>	<b>COMPANY</b>	<b>REPLACEMENT TAX RATE</b>
3274	Lamoni Municipal Utilities	*
3276	LaPorte City Utilities	*
3277	Laurens Municipal Utilities	0.00360141
3109	Lenox Municipal Light & Power	*
3110	Livermore Municipal Utilities	*
3111	Long Grove Mun. Elec./Water	0.00000000
3282	Manilla Municipal Elec. Utilities	0.00234765
3112	Manning Municipal Electric	*
3284	Mapleton Municipal Utilities	0.00680931
3285	Maquoketa Municipal Electric	0.00248453
3288	McGregor Municipal Utilities	0.00191925
3291	Milford Municipal Utilities	0.00011269
3114	Montezuma Municipal Light & Power	0.00179686
3115	Mount Pleasant Municipal Utilities	*
3293	Muscatine Municipal Utilities	0.00000000
3116	Neola Light & Water System	*
3297	New Hampton Municipal Light Plant	*
3298	New London Municipal Utility	0.00510694
3304	Ogden Municipal Utilities	0.00292160
3234	Onawa Municipal Utilities	*
3117	Orange City Municipal Utilities	*
3118	Orient Municipal Utilities	*
3307	Osage Municipal Utilities	*
3309	Panora Municipal Electric Utility	*
3119	Paton Municipal Utilities	*
3120	Paullina Municipal Utilities	0.01106553
3121	Pocahontas Municipal Utilities	*
3122	Preston Municipal Utilities	0.00000000
3315	Primghar Municipal Light Plant	0.00000000
3123	Readlyn Municipal Utilities	0.00000000
3124	Remsen Municipal Utilities	*
3318	Rock Rapids Municipal Utilities	0.00000000
3126	Rockford Municipal Light Plant	*
3127	Sabula Municipal Utilities	0.00669379
3128	Sanborn Municipal Light Plant	*
3130	Shelby Municipal Utilities	*
3131	Sibley Municipal Utilities	*
3321	Sioux Center Municipal Utilities	0.00423840
3324	Spencer Municipal Utilities	*
3132	Stanhope Municipal Utilities	0.00916787
3360	Stanton Municipal Utilities	0.00394320
3326	State Center Municipal Light Plant	*
3327	Story City Municipal Electric Utility	*
3134	Stratford Municipal Utilities	0.02967134

## REVENUE DEPARTMENT[701]

<b>CO. #</b>	<b>COMPANY</b>	<b>REPLACEMENT TAX RATE</b>
3135	Strawberry Point Electric Utility	0.17877332
3136	Stuart Municipal Utilities	*
3328	Sumner Municipal Light Plant	*
3330	Tipton Municipal Utilities	0.02977477
3332	Traer Municipal Utilities	0.00853831
3337	Villisca Municipal Power Plant	0.00000000
3137	Vinton Municipal Utilities	0.00232874
3138	Wall Lake Municipal Utilities	*
3338	Waverly Light & Power	0.00586096
3342	Webster City Municipal Utilities	*
3345	West Bend Municipal Power Plant	0.00214508
3346	West Liberty Municipal Electric Util.	*
3347	West Point Municipal Utility System	0.00498689
3140	Whittemore Municipal Utilities	*
3141	Wilton Municipal Light & Power	*
3351	Winterset Municipal Utilities	0.00470268
3142	Woodbine Municipal Utilities	0.00346836
3143	Woolstock Municipal Utilities	*

\*No rate provided to the Department by the Municipal

**2021 MUNICIPAL NATURAL GAS TRANSFER REPLACEMENT TAX RATES**

<b>CO. #</b>	<b>COMPANY</b>	<b>REPLACEMENT TAX RATE</b>
5401	Alton Municipal Gas	0.00000000
5021	Bedford Municipal Gas	*
5215	Brighton Gas	*
5023	Brooklyn Municipal Gas	*
5024	Cascade Municipal Gas	0.00000000
5025	Cedar Falls Municipal Gas	*
5022	City of Bloomfield	0.00061146
5026	City of Clearfield	*
5028	City of Everly	*
5029	City of Fairbank	*
5238	Coon Rapids Municipal Gas	*
5241	Corning Municipal Gas	*
5027	Emmetsburg Municipal Gas	*
5030	Gilmore City Municipal Gas	*
5031	Graettinger Municipal Gas	0.53789080
5032	Guthrie Center Municipal Gas	0.00000000
5033	Harlan Municipal Gas	*
5034	Hartley Municipal Gas	0.08628769
5035	Hawarden Municipal Gas	*
5036	Lake Park Municipal Gas	0.00796596
5275	Lamoni Municipal Gas	*



## REVENUE DEPARTMENT[701]

CO. #	COMPANY	REPLACEMENT TAX RATE
5037	Lenox Municipal Gas	*
5038	Lineville City Natural Gas	*
5039	Lorimor Municipal Gas	*
5281	Manilla Municipal Gas	0.12097832
5283	Manning Municipal Gas	*
5402	Mapleton Municipal Gas	0.00000000
5040	Montezuma Natural Gas	0.00000000
5041	Morning Sun Municipal Gas	*
5042	Moulton Municipal Gas	*
5369	Orange City Municipal Gas	*
5306	Osage Municipal Gas	*
5043	Prescott Municipal Gas	*
5044	Preston Municipal Gas	0.00000000
5055	Remsen Municipal Gas	*
5317	Rock Rapids Municipal Gas	*
5056	Rolfe Municipal Gas	*
5057	Sabula Municipal Gas	0.04398182
5058	Sac City Municipal Gas	*
5059	Sanborn Municipal Gas	*
5060	Sioux Center Municipal Gas	0.01069082
5061	Tipton Municipal Gas	*
5067	Wall Lake Municipal Gas	*
5063	Waukee Municipal Gas	*
5340	Wayland Municipal Gas	0.04135178
5064	Wellman Municipal Gas	*
5344	West Bend Municipal Gas	0.04756269
5065	Whittemore Municipal Gas	*
5349	Winfield Municipal Gas	*
5066	Woodbine Gas	*

\*No rate provided to the Department by the Municipal

**Notice of Electric and Natural Gas Delivery Tax Rates and Municipal Electric and Natural Gas Transfer Replacement Tax Rates for Each Competitive Service Area**

Pursuant to the authority of Iowa Code sections 437A.4 and 437A.5, the Director of Revenue hereby gives notice of the electric delivery tax rate, the municipal electric transfer replacement tax rate, the natural gas delivery tax rate, and the municipal natural gas transfer replacement tax rate for each competitive service area in the state. These rates will be used in conjunction with the number of kilowatt hours of electricity and the number of therms of natural gas delivered to consumers in calendar year 2021 by each taxpayer to determine the tax due for each taxpayer in the 2022-2023 fiscal year.

REVENUE DEPARTMENT[701](cont'd)

**2021 RATE-REGULATED WATER UTILITIES DELIVERY TAX RATE BY SERVICE AREA**

CO. #	RATE-REGULATED WATER	DELIVERY TAX RATE
6020	Iowa American Water	0.00057387

**ARC 6075C****TRANSPORTATION DEPARTMENT[761]****Notice of Intended Action****Proposing rule making related to persons with disabilities parking permits  
and providing an opportunity for public comment**

The Transportation Department hereby proposes to amend Chapter 411, "Persons with Disabilities Parking Permits," Iowa Administrative Code.

*Legal Authority for Rule Making*

This rule making is proposed under the authority provided in Iowa Code sections 307.12 and 321L.8.

*State or Federal Law Implemented*

This rule making implements, in whole or in part, Iowa Code chapter 321L.

*Purpose and Summary*

This proposed rule making relates to persons with disabilities (PWD) parking permits and aligns with existing legal authority and Department practice and eliminates outdated or irrelevant requirements or options.

The rule defining a medical provider's statement of disability is proposed to be amended to align with Iowa Code section 321L.2, which requires a medical provider's statement of disability to be on the medical provider's stationery. The proposed amendments clarify that stationery can include any communication, electronic or otherwise, that the Department can reasonably identify as originating from the applicant's medical provider, which aligns with current Department practice and streamlines PWD parking permit application processing.

The rule outlining the requirements for a PWD parking sticker is proposed to be amended to clarify that a PWD sticker is not intended to be placed on a PWD license plate because placing a PWD sticker on a PWD license plate would be redundant.

The proposed amendments to the PWD parking permit application requirements align with Iowa Code requirements. These amendments allow the Department to accept a PWD parking permit application without the social security number, driver's license number, or nonoperator's identification card number of a person with a disability if the application is made on behalf of a person less than one year old. They also require a PWD parking permit application submitted by an organization to include both the name of the organization and the name of the authorized representative of the organization on the application, and they clarify that a PWD parking permit that is no longer being used may be returned to the Department, any driver's license service center, or any law enforcement office.

*Fiscal Impact*

This rule making has no fiscal impact to the State of Iowa.

*Jobs Impact*

After analysis and review of this rule making, no impact on jobs has been found.

## TRANSPORTATION DEPARTMENT[761](cont'd)

*Waivers*

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any, pursuant to 761—Chapter 11.

*Public Comment*

Any interested person may submit written comments concerning this proposed rule making or may submit a written request to make an oral presentation at a public hearing. Written comments or requests to present oral comments in response to this rule making must be received by the Department no later than 4:30 p.m. on January 4, 2022. Comments should be directed to:

Tracy George  
Department of Transportation  
DOT Rules Administrator, Government and Community Relations  
800 Lincoln Way  
Ames, Iowa 50010  
Email: [tracy.george@iowadot.us](mailto:tracy.george@iowadot.us)

*Public Hearing*

If requested, a public hearing to hear oral presentations will be held on January 6, 2022, via conference call at 10 a.m. Persons who wish to participate in the conference call should contact Tracy George before 4:30 p.m. on January 4, 2022, to facilitate an orderly hearing. A conference call number will be provided to participants prior to the hearing.

Persons who wish to make oral comments at the public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rule making.

Any persons who intend to attend the public hearing and have special requirements, such as those related to hearing or mobility impairments, should contact Tracy George, the Department's rules administrator, and advise of specific needs.

The public hearing will be canceled without further notice if no oral presentation is requested.

*Review by Administrative Rules Review Committee*

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rule-making actions are proposed:

ITEM 1. Amend rule 761—411.1(321L) as follows:

**761—411.1(321L) Information and applications.** Information and applications regarding persons with disabilities parking permits are available, electronically or otherwise, by mail from the ~~Office of Vehicle and Motor Carrier Services~~ Vehicle Division, Iowa Department of Transportation, P.O. Box 9278, Des Moines, Iowa 50306-9278; in person at 6310 SE Convenience Blvd., Ankeny, Iowa; by telephone at (515)237-3110; by facsimile at (515)237-3056; by email at [vscusto@iowadot.us](mailto:vscusto@iowadot.us); or on the department's ~~Web site~~ website at [www.iowadot.gov](http://www.iowadot.gov).

ITEM 2. Amend subrule 411.2(2) as follows:

**411.2(2)** As used in this chapter, ~~unless the context otherwise requires:~~  
“Child” means the same as defined in 761—subrule 401.20(2).

## TRANSPORTATION DEPARTMENT[761](cont'd)

“*Health care provider*” means a physician licensed under Iowa Code chapter 148 or 149, a physician assistant licensed under Iowa Code chapter 148C, an advanced registered nurse practitioner licensed under Iowa Code chapter 152, or a chiropractor licensed under Iowa Code chapter 151, or a physician, physician assistant, nurse practitioner, or chiropractor licensed to practice in a contiguous state as set forth in Iowa Code section 321L.2(1).

“*Nonexpiring removable windshield placard*” means a removable windshield placard issued on or before December 31, 2016, to a person with a permanent disability.

“*Organization*” means an applicant that is a corporation, partnership, sole proprietorship, business trust, estate, trust, limited liability company, association, joint venture, government, governmental subdivision, agency, instrumentality, public corporation, or any other legal or commercial entity lawfully doing business in the state of Iowa that has a program for transporting persons with disabilities or elderly persons.

“*Permanent disability*” means an applicant is a person with a disability as defined in Iowa Code section 321L.1(8) and the disability will continue indefinitely without resolution and is reasonably expected to last the applicant’s lifetime.

“*Standard removable windshield placard*” means a removable windshield placard issued on or after January 1, 2017, to a person with a permanent disability.

“*Statement of disability*” means a communication, electronic or otherwise, originating from the applicant’s health care provider, which attests that the applicant is a person with a disability as defined in Iowa Code section 321L.1(8). The statement must state the nature of the applicant’s disability and indicate whether the applicant’s disability is “temporary” or “permanent.” If the disability is temporary, the statement shall state the period of time during which the applicant is expected to be disabled and the period of time for which the permit should be issued, not to exceed six months. The statement must reasonably identify, on or within its contents, that it originated from the applicant’s health care provider be written on the health care provider’s stationery.

“*Stationery*” means any communication, electronic or otherwise, from which the department may reasonably identify, on or within its contents, that it originated from the applicant’s health care provider.

“*Temporary disability*” means an applicant is a person with a disability as defined in Iowa Code section 321L.1(8) and the disability is not permanent and is reasonably expected to last for only a limited period of time.

“*Temporary removable windshield placard*” means a removable windshield placard issued to a person with a temporary disability.

ITEM 3. Amend rule 761—411.3(321L) as follows:

**761—411.3(321L) Application for persons with disabilities parking permit.**

**411.3(1)** No change.

**411.3(2)** *Application requirements.* An application shall include the applicant’s full legal name, address, date of birth, social security number or Iowa driver’s license number or Iowa nonoperator’s identification number, and a statement of disability from the applicant’s health care provider. However, if the application is made on behalf of a person who is less than one year old, the application does not have pursuant to Iowa Code section 321L.2, the department may accept the application without the requirement to include a social security number, Iowa driver’s license number, or nonoperator’s identification card number for the person. In lieu of a statement of disability from a health care provider, an applicant who is certified by the U.S. Department of Veterans Affairs as having a permanent disability may submit both of the following with an otherwise completed persons with disabilities parking permit application:

*a.* and *b.* No change.

**411.3(3)** *Availability of application.* Applications may be obtained from any of the following:

- a.* The department’s ~~Web site~~ website as set forth in rule 761—411.1(321L).
- b.* The department’s ~~office of vehicle and motor carrier services~~ motor vehicle division.
- c.* A driver’s license ~~station~~ service center.
- d.* No change.

## TRANSPORTATION DEPARTMENT[761](cont'd)

~~e.—The Office of Persons with Disabilities, Iowa Department of Human Rights, Lucas State Office Building, 321 E. 12th Street, Des Moines, Iowa 50319.~~

**411.3(4) Application submission.** Completed applications shall be submitted, ~~electronically or otherwise, to~~ in any of the following ways:

a. ~~The department's office of vehicle and motor carrier services~~ By mail to the Motor Vehicle Division, Iowa Department of Transportation, P.O. Box 9278, Des Moines, Iowa 50306-9278; in person at 6310 SE Convenience Blvd., Ankeny, Iowa; by facsimile at (515)237-3056; or by email at [vscusto@iowadot.us](mailto:vscusto@iowadot.us).

b. A In person at a driver's license station service center.

c. A To the county treasurer's office.

**411.3(5) Application submitted by an organization.** An application submitted by an organization shall include the name, ~~of the organization; the name of its authorized representative; the mailing address, telephone number, and signature of its authorized representative;~~ and if required to obtain one, the organization's federal employer identification number or federal tax identification number.

ITEM 4. Amend subrule 411.5(1) as follows:

**411.5(1) Eligibility.** A persons with disabilities special registration plate parking sticker may be issued to a person with a permanent disability who owns a motor vehicle for which the person has been issued disabled veteran plates under Iowa Code section 321.105 or registration plates under Iowa Code section 321.34. A special registration plate parking sticker shall not be issued to a person with a temporary disability or to an organization. In no event shall a special registration plate parking sticker be placed on persons with disabilities special plates issued under Iowa Code section 321.34(14).

ITEM 5. Amend rule 761—411.7(321L) as follows:

**761—411.7(321L) Return of persons with disabilities parking permit.** A persons with disabilities parking permit issued pursuant to this chapter and Iowa Code section 321L.2 shall be returned to the department, to a driver's license service center, or to any law enforcement office within ten days of an occurrence of any of the events set forth in Iowa Code section 321L.3(1) and in the manner prescribed in Iowa Code section 321L.3(3).

ITEM 6. Amend subrule 411.9(2) as follows:

**411.9(2)** The request shall be submitted in writing, to the director of the ~~office of vehicle and motor carrier services~~ vehicle division, at the address listed in rule 761—411.1(321L), and may be submitted ~~electronically by facsimile, e-mail~~ email or other means prescribed by the department. To be timely, the request must be submitted within ten days of the receipt of notice of revocation.

ARC 6087C

**ECONOMIC DEVELOPMENT AUTHORITY[261]****Adopted and Filed Emergency After Notice****Rule making related to Hoover presidential library tax credit**

The Economic Development Authority hereby adopts new Chapter 43, “Hoover Presidential Library Tax Credit,” Iowa Administrative Code.

*Legal Authority for Rule Making*

This rule making is adopted under the authority provided in Iowa Code section 15.106A and 2021 Iowa Acts, House File 588.

*State or Federal Law Implemented*

This rule making implements, in whole or in part, 2021 Iowa Acts, House File 588.

*Purpose and Summary*

Pursuant to 2021 Iowa Acts, House File 588, the Authority will develop a system for authorization of tax credits and will control the distribution of tax credits for donations to the Hoover Presidential Library Foundation for its library and museum renovation project fund.

The tax credit created by House File 588 is allowed against specific taxes for tax years beginning on or after January 1, 2021, but before January 1, 2024. The aggregate amount of tax credits authorized is \$5 million.

These rules implement the legislation.

*Public Comment and Changes to Rule Making*

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on September 22, 2021, as **ARC 5908C**. No public comments were received. One change from the Notice has been made. A reference to 2021 Iowa Acts, House File 588, has been removed from the implementation sentence of Chapter 43 since the amendments in the House File will be codified by the time this rule making becomes effective.

*Reason for Waiver of Normal Effective Date*

Pursuant to Iowa Code section 17A.5(2)“b”(1)(b), the Authority finds that the normal effective date of this rule making, 35 days after publication, should be waived and the rule making made effective on November 19, 2021, because the rule implements a new tax credit for the benefit of donors to the Hoover Presidential Library Foundation.

*Adoption of Rule Making*

This rule making was adopted by the Authority Board on November 19, 2021.

*Fiscal Impact*

This rule making has no fiscal impact to the State of Iowa beyond that of the legislation it implements.

*Jobs Impact*

After analysis and review of this rule making, no impact on jobs has been found.

## ECONOMIC DEVELOPMENT AUTHORITY[261](cont'd)

*Waivers*

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Authority for a waiver of the discretionary provisions, if any, pursuant to 261—Chapter 199.

*Review by Administrative Rules Review Committee*

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

*Effective Date*

This rule making became effective on November 19, 2021.

The following rule-making action is adopted:

Adopt the following **new** 261—Chapter 43:

CHAPTER 43  
HOOVER PRESIDENTIAL LIBRARY TAX CREDIT

**261—43.1(15E) Purpose.** The purpose of the Hoover presidential library tax credit is to encourage donations to the Hoover presidential foundation for the Hoover presidential library and museum renovation project.

**261—43.2(15E) Definitions.**

“*Authority*” means the economic development authority created in Iowa Code section 15.105.

“*Department*” means the Iowa department of revenue.

“*Donor*” means a person who makes an unconditional charitable donation to the Hoover presidential foundation for the Hoover presidential library and museum renovation project fund.

“*Tax credit*” means the amount a taxpayer may claim against the taxes imposed in Iowa Code chapter 422, subchapters II, III, and V, and in Iowa Code chapter 432, and against the moneys and credits tax imposed in Iowa Code section 533.329.

**261—43.3(15E) Authorization of tax credits.**

**43.3(1)** For tax years beginning on or after January 1, 2021, but before January 1, 2024, a tax credit shall be allowed against the taxes imposed in Iowa Code chapter 422, subchapters II, III, and V, and in Iowa Code chapter 432, and against the moneys and credits tax imposed in Iowa Code section 533.329, equal to 25 percent of a donor's charitable donation made on or after July 1, 2021, to the Hoover presidential foundation for the Hoover presidential library and museum renovation project fund.

**43.3(2)** A donor shall not claim a tax credit for a donation made during a tax year beginning before January 1, 2021, or after December 31, 2023.

**43.3(3)** To receive the tax credit, a donor shall file a claim with the department in accordance with any applicable administrative rules adopted by the department.

**261—43.4(15E) Tax credit limitations.**

**43.4(1)** The aggregate amount of tax credits authorized for the program shall not exceed a total of \$5 million.

**43.4(2)** The maximum amount of tax credits granted to any one person shall not exceed \$250,000.

**43.4(3)** Ten percent of the aggregate amount of tax credits authorized, or \$500,000, shall be reserved for those donations in amounts of \$30,000 or less. If any portion of the reserved tax credits has not been

## ECONOMIC DEVELOPMENT AUTHORITY[261](cont'd)

distributed by September 1, 2023, the remaining reserved tax credits shall be available after September 1, 2023, to any other eligible person.

**261—43.5(15E) Distribution process and review criteria.**

**43.5(1)** The authority shall develop and make available a standardized application pertaining to the authorization and distribution of tax credits. The application shall request information to document that a qualified donation has been made, and any other information required by the authority. Qualifying donors shall be issued a tax credit certificate to be included with the donor's Iowa tax return.

**43.5(2)** Applications will be accepted and awarded on an ongoing basis.

**43.5(3)** If, before September 1, 2023, the authority receives tax credit applications in excess of \$4.5 million for donations greater than \$30,000, the authority shall establish a waitlist to receive any portion of the reserved tax credits that are not distributed by September 1, 2023. Applications on the waitlist shall be prioritized by the date the authority received the applications. If any portion of the reserved tax credits under subrule 43.4(3) becomes available after September 1, 2023, the authority shall approve the waitlisted applications and issue tax credit certificates in the order they are listed on the waitlist, up to the amount of the remaining reserved tax credits. Placement on a waitlist does not constitute a promise binding the state that persons placed on the waitlist will actually receive a tax credit in a future year. The availability of a tax credit and approval of a tax credit application in a future year is contingent upon the availability of tax credits in that particular year.

These rules are intended to implement Iowa Code section 15E.364.

[Filed Emergency After Notice 11/19/21, effective 11/19/21]

[Published 12/15/21]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 12/15/21.

**ARC 6072C**

**PUBLIC SAFETY DEPARTMENT[661]****Adopted and Filed Emergency After Notice****Rule making related to electrical installations**

The Electrical Examining Board hereby amends Chapter 504, "Standards for Electrical Work," Iowa Administrative Code.

*Legal Authority for Rule Making*

This rule making is adopted under the authority provided in Iowa Code section 103.6(1).

*State or Federal Law Implemented*

This rule making implements, in whole or in part, 2021 Iowa Acts, House File 871.

*Purpose and Summary*

This rule making removes the January 1, 2022, expiration date in rule 661—504.1(103) and brings that rule into alignment with 2021 Iowa Acts, House File 871, section 25. This rule making provides consistency and predictability regarding the rules applicable to electrical installations in Iowa by clarifying that the amendments in rule 661—504.1(103) will remain in effect until the Board issues additional rule making in response to any changes to the National Electrical Code, 2020 edition.

*Public Comment and Changes to Rule Making*

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on August 11, 2021, as **ARC 5838C**. An Amended Notice of Intended Action was published in the Iowa



PUBLIC SAFETY DEPARTMENT[661](cont'd)

Administrative Bulletin on September 22, 2021, as **ARC 5918C**. A public hearing was held on October 21, 2021. No one attended the public hearing. No public comments were received. No changes from the Notice have been made.

*Reason for Waiver of Normal Effective Date*

Pursuant to Iowa Code section 17A.5(2)“b”(1)(b), the Board finds that the normal effective date of this rule making, 35 days after publication, should be waived and the rule making made effective on January 1, 2022, because the existing sunset provision expires on January 1, 2022, in contravention of 2021 Iowa Acts, House File 871, section 25. Bringing the rule into alignment with House File 871 before the provision expires provides a benefit to licensed electricians, home builders, and the general public by making clear what amendments are still in effect for 2022 with regard to the National Electrical Code.

*Adoption of Rule Making*

This rule making was adopted by the Board on November 15, 2021.

*Fiscal Impact*

This rule making has no fiscal impact to the State of Iowa.

*Jobs Impact*

After analysis and review of this rule making, no impact on jobs has been found.

*Waivers*

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any, pursuant to the provisions of rule 661—10.222(17A).

*Review by Administrative Rules Review Committee*

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

*Effective Date*

This rule making will become effective on January 1, 2022.

The following rule-making action is adopted:

Amend rule 661—504.1(103), introductory paragraph, as follows:

**661—504.1(103) Installation requirements.** The provisions of the National Electrical Code, 2020 edition, published by the National Fire Protection Association, 1 Batterymarch Park, Quincy, MA 02169-7471, are adopted as the requirements for electrical installations performed by persons licensed pursuant to 661—Chapters 500 through 503 and to installations subject to inspection pursuant to Iowa Code chapter 103 with the following amendments, which shall expire on January 1, 2022. The following amendments are effective as of May 1, 2021, shall not expire, and shall remain in effect until, at minimum, the effective date of rules adopted by the board in regard to either (1) a subsequent edition

PUBLIC SAFETY DEPARTMENT[661](cont'd)

of the National Electrical Code; or (2) subsequent amendments, issued and adopted by the National Fire Protection Association, to the National Electrical Code, 2020 edition:

[Filed Emergency After Notice 11/15/21, effective 1/1/22]

[Published 12/15/21]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 12/15/21.

**ARC 6090C**

**ADMINISTRATIVE SERVICES DEPARTMENT[11]**

**Adopted and Filed**

**Rule making related to blood, bone marrow,  
and living organ donation leave for state employees**

The Administrative Services Department hereby amends Chapter 63, "Leave," Iowa Administrative Code.

*Legal Authority for Rule Making*

This rule making is adopted under the authority provided in Iowa Code sections 8A.104, 8A.413(20), 17A.3 and 17A.4.

*State or Federal Law Implemented*

This rule making implements, in whole or in part, Iowa Code section 70A.39 as amended by 2021 Iowa Acts, Senate File 336.

*Purpose and Summary*

These amendments update Chapter 63, "Leave," to comport with changes to the Iowa Code made by 2021 Iowa Acts, Senate File 336, which relates to the blood, bone marrow, and living organ donation incentive program for state employees. These amendments update terms to align with this legislation. In addition, they include procedures appointing authorities may take to ensure adequate staffing in the event of blood donation requests.

*Public Comment and Changes to Rule Making*

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on October 20, 2021, as **ARC 5980C**. A public hearing was held on November 9, 2021, at 10 a.m. in the Procurement Conference Room, A Level, Hoover State Office Building, 1305 East Walnut Street, Des Moines, Iowa. No one attended the public hearing. No public comments were received.

References to 2021 Iowa Acts, Senate File 336, have been removed since the amendments in the Senate File will have been codified by the time this rule making becomes effective. No other changes from the Notice have been made.

*Adoption of Rule Making*

This rule making was adopted by the Department on November 24, 2021.

*Fiscal Impact*

A fiscal impact cannot be determined because it is impossible to know how many State employees will elect to donate blood and how often. In addition, the Department cannot predict how often or how many employees will donate bone marrow or a living organ and thus cannot estimate the total amount of leave taken from work.

*Jobs Impact*

After analysis and review of this rule making, no impact on jobs has been found.

*Waivers*

The Department will not grant waivers under the provisions of these rules, other than as may be allowed under Chapter 9 of the Department's rules concerning waivers.

ADMINISTRATIVE SERVICES DEPARTMENT[11](cont'd)

*Review by Administrative Rules Review Committee*

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

*Effective Date*

This rule making will become effective on January 19, 2022.

The following rule-making action is adopted:

Amend rule 11—63.20(8A,70A) as follows:

**11—63.20(8A,70A) Bone Blood, bone marrow, and living organ donation leave.** Employees, excluding employees covered by a collective bargaining agreement that provides otherwise, shall be granted leave pursuant to Iowa Code section 70A.39. An employee who is granted a leave of absence under Iowa Code section 70A.39 shall receive leave without loss of seniority, pay, vacation time, personal days, sick leave, insurance and health coverage benefits, or earned overtime accumulation. To ensure adequate staffing, an appointing authority may require employees to request leave, in advance, to serve as a voluntary blood donor pursuant to Iowa Code section 70A.39(2)“c.” An employee who requests leave to serve as a voluntary blood donor pursuant to Iowa Code section 70A.39(2)“c” may be denied such leave by the appointing authority if granting the leave would unreasonably impact the operational efficiency of the agency. The employee shall be compensated at the employee's regular rate of pay for those regular work hours during which the employee is absent from work. An employee deemed to be on leave under Iowa Code section 70A.39 shall not be deemed to be an employee of the state for purposes of workers' compensation or for purposes of the Iowa tort claims Act, Iowa Code chapter 669.

[Filed 11/24/21, effective 1/19/22]

[Published 12/15/21]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 12/15/21.

**ARC 6089C**

**ADMINISTRATIVE SERVICES DEPARTMENT[11]**

**Adopted and Filed**

**Rule making related to continuation of health insurance coverage for surviving spouses and children of eligible department of correction employees**

The Administrative Services Department hereby amends Chapter 64, "Benefits," Iowa Administrative Code.

*Legal Authority for Rule Making*

This rule making is adopted under the authority provided in Iowa Code sections 8A.104, 8A.413, 17A.3 and 17A.4.

*State or Federal Law Implemented*

This rule making implements, in whole or in part, Iowa Code section 8A.402(1)“c” as amended by 2021 Iowa Acts, House File 861, section 32.

ADMINISTRATIVE SERVICES DEPARTMENT[11](cont'd)

*Purpose and Summary*

These amendments comport with 2021 Iowa Acts, House File 861, section 32. This legislation creates new Iowa Code section 509A.13D, which provides for continuing health care benefits coverage for the surviving spouse and each surviving child of an eligible employee of the Iowa Department of Corrections. Pursuant to Iowa Code section 8A.402(1)“c,” the Department is the central agency responsible for state human resource management, including employee benefits. This new Iowa Code section says, in part, that the governing body of the State shall permit continuation of existing health insurance coverage for the surviving spouse and each surviving child of an eligible employee of the Iowa Department of Corrections in the event of that employee’s death in the line of duty.

*Public Comment and Changes to Rule Making*

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on October 20, 2021, as **ARC 5982C**. A public hearing was held on November 9, 2021, at 1 p.m. in the Procurement Conference Room, A Level, Hoover State Office Building, 1305 East Walnut Street, Des Moines, Iowa.

At the public hearing, Michael Savala of the Iowa Department of Corrections submitted a comment in support of this rule making in light of the tragedy at the Anamosa prison earlier this year. No other public comments were received.

One change from the Notice has been made in Item 2 to replace the reference to 2021 Iowa Acts, House File 861, with the reference to the upcoming 2022 Iowa Code.

*Adoption of Rule Making*

This rule making was adopted by the Department on November 24, 2021.

*Fiscal Impact*

The fiscal impact cannot be determined since it is impossible to predict how many eligible employees would fall into this category in the future and what varying health care coverage details would be involved.

*Jobs Impact*

After analysis and review of this rule making, no impact on jobs has been found.

*Waivers*

The Department will not grant waivers under this provision of these rules, other than as may be allowed under Chapter 9 of the Department’s rules concerning waivers.

*Review by Administrative Rules Review Committee*

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making at its [regular monthly meeting](#) or at a special meeting. The Committee’s meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

*Effective Date*

This rule making will become effective on January 19, 2022.

The following rule-making actions are adopted:

ADMINISTRATIVE SERVICES DEPARTMENT[11](cont'd)

ITEM 1. Amend subrule 64.15(3) as follows:

**64.15(3)** The surviving spouse and each surviving child of an eligible peace officer or fire fighter, as defined in ~~2018 Iowa Acts, House File 2502~~ Iowa Code section 509A.13C, are eligible for the continuation of existing, or reenrollment in previously existing, health insurance coverage.

ITEM 2. Adopt the following **new** subrule 64.15(4):

**64.15(4)** The surviving spouse and each surviving child of an eligible employee of the Iowa department of corrections, as defined in Iowa Code section 509A.13D, are eligible for the continuation of existing, or reenrollment in previously existing, health insurance coverage.

[Filed 11/24/21, effective 1/19/22]

[Published 12/15/21]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 12/15/21.

**ARC 6094C**

## **CREDIT UNION DIVISION[189]**

**Adopted and Filed**

### **Rule making related to education requirements**

The Credit Union Division hereby amends Chapter 2, "Organization, Chartering and Field of Membership of a Credit Union," Iowa Administrative Code.

#### *Legal Authority for Rule Making*

This rule making is adopted under the authority provided in Iowa Code sections 533.104 and 533.107.

#### *State or Federal Law Implemented*

This rule making implements, in whole or in part, Iowa Code sections 533.113A, 533.205(3)"c," and 533.205(3)"g."

#### *Purpose and Summary*

This amendment codifies the Division's expectations regarding state credit union boards of directors' education requirements and is comparable to requirements for federally chartered credit unions' boards of directors.

#### *Public Comment and Changes to Rule Making*

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on August 25, 2021, as **ARC 5880C**. No public comments were received. No changes from the Notice have been made.

#### *Adoption of Rule Making*

This rule making was adopted by the Credit Union Review Board on September 29, 2021.

#### *Fiscal Impact*

This rule making has no fiscal impact to the State of Iowa.

#### *Jobs Impact*

After analysis and review of this rule making, no impact on jobs has been found.

CREDIT UNION DIVISION[189](cont'd)

*Waivers*

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Division for a waiver of the discretionary provisions, if any, pursuant to 189—Chapter 23.

*Review by Administrative Rules Review Committee*

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

*Effective Date*

This rule making will become effective on January 19, 2022.

The following rule-making action is adopted:

Amend rule 189—2.9(533) as follows:

**189—2.9(533) Board of directors meeting requirements.**

**2.9(1)** The board of directors shall hold at least 12 regular meetings each calendar year. No more than one regular meeting shall be held in one calendar month.

**2.9(2)** A quorum shall be required to undertake any credit union business and required at any meeting of the board of directors called by the superintendent pursuant to Iowa Code chapter 533.

**2.9(3)** A director or committee member must be able to read and understand the credit union's balance sheet and income statement, have a working knowledge of basic finance and generally accepted accounting principles (GAAP) utilized in the credit union, be able to understand the risk found in depository institutions and credit union board governance, and understand the internal control structures of the credit union. If a director or committee member does not have the requisite skills when elected or appointed, the director or committee member must obtain these skills in a timely manner, not to exceed 12 months.

This rule is intended to implement Iowa Code sections ~~533.205(3)“e”~~ 533.205(3)“c,” 533.205(3)“g,” and 533.113A.

[Filed 11/24/21, effective 1/19/22]

[Published 12/15/21]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 12/15/21.

**ARC 6093C****CREDIT UNION DIVISION[189]****Adopted and Filed****Rule making related to secondary capital agreements**

The Credit Union Division hereby amends Chapter 7, “Low-Income Designated Credit Union,” Iowa Administrative Code.

*Legal Authority for Rule Making*

This rule making is adopted under the authority provided in Iowa Code sections 533.104 and 533.107.

CREDIT UNION DIVISION[189](cont'd)

*State or Federal Law Implemented*

This rule making implements, in whole or in part, Iowa Code section 533.301(1).

*Purpose and Summary*

This amendment articulates requirements for credit unions to notify the Division prior to funding secondary capital agreements.

*Public Comment and Changes to Rule Making*

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on August 25, 2021, as **ARC 5879C**. No public comments were received. No changes from the Notice have been made.

*Adoption of Rule Making*

This rule making was adopted by the Credit Union Review Board on September 29, 2021.

*Fiscal Impact*

This rule making has no fiscal impact to the State of Iowa.

*Jobs Impact*

After analysis and review of this rule making, no impact on jobs has been found.

*Waivers*

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Division for a waiver of the discretionary provisions, if any, pursuant to 189—Chapter 23.

*Review by Administrative Rules Review Committee*

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

*Effective Date*

This rule making will become effective on January 19, 2022.

The following rule-making action is adopted:

Adopt the following **new** rule 189—7.7(533):

**189—7.7(533) Funding secondary capital.** At least 30 days prior to funding any secondary capital agreement, a credit union shall notify the superintendent and provide the secondary capital account contract agreement, accurately disclosing the terms and conditions of the agreement, and due diligence completed by the credit union.

[Filed 11/24/21, effective 1/19/22]

[Published 12/15/21]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 12/15/21.



**ARC 6091C****CREDIT UNION DIVISION[189]****Adopted and Filed****Rule making related to membership voting**

The Credit Union Division hereby amends Chapter 12, “Votes of the Membership,” Iowa Administrative Code.

*Legal Authority for Rule Making*

This rule making is adopted under the authority provided in Iowa Code sections 533.201 and 533.203.

*State or Federal Law Implemented*

This rule making implements, in whole or in part, Iowa Code sections 533.201 and 533.203.

*Purpose and Summary*

These amendments are intended to simplify and update the technical requirements for substantive votes of the credit union membership. These amendments consolidate technical rules into a comprehensive voting system and articulate substantive components in individual subrules.

*Public Comment and Changes to Rule Making*

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on August 25, 2021, as **ARC 5882C**.

The Iowa Division of Credit Unions received clarification questions regarding subrule 12.2(3), rule 189—12.3(533), and rule 189—12.4(533). Questions were submitted via email. Requests included adding in-person voting to absentee voting, not requiring direct notice mailings, and clarifying additional nomination procedures.

No changes from the Notice have been made.

*Adoption of Rule Making*

This rule making was adopted by the Credit Union Review Board on September 29, 2021.

*Fiscal Impact*

This rule making has no fiscal impact to the State of Iowa.

*Jobs Impact*

After analysis and review of this rule making, no impact on jobs has been found.

*Waivers*

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Division for a waiver of the discretionary provisions, if any, pursuant to 189—Chapter 23.

*Review by Administrative Rules Review Committee*

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making at its [regular monthly meeting](#) or at a special meeting. The Committee’s meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

CREDIT UNION DIVISION[189](cont'd)

*Effective Date*

This rule making will become effective on January 19, 2022.

The following rule-making actions are adopted:

ITEM 1. Amend rule 189—12.1(533) as follows:

**189—12.1(533) Voting requirements and eligibility.**

**12.1(1) to 12.1(6)** No change.

**12.1(7)** The quorum for membership votes shall be no less than twice the members of the board of directors, plus two, as recorded in the credit union's bylaws.

**12.1(8)** Member voting shall be conducted in accordance with rules 189—12.2(533) and 189—12.3(533) and any specific voting requirements established for individual substantive voting.

ITEM 2. Renumber rules **189—12.2(533)** to **189—12.12(533)** as **189—12.4(533)** to **189—12.14(533)**.

ITEM 3. Adopt the following **new** rule 189—12.2(533):

**189—12.2(533) Voting procedures.**

**12.2(1)** *Vote by board of directors.* The board of directors shall, by majority vote, select the method of voting for any vote of the membership, in accordance with Iowa Code section 533.203. Each credit union member shall have a meaningful opportunity to vote in a membership vote.

**12.2(2)** *Election committee.* The board shall appoint an election committee of not fewer than five members, none of whom may have a vested interest in the substantive vote and no more than two of whom may be from the board of directors.

*a.* It is the duty of the election committee to oversee balloting, to tabulate votes or cause the votes to be tabulated by an independent vendor, to ensure that each member shall only be allowed to vote once, and to ensure that multiple ballots submitted by the same member are disqualified.

*b.* Prior to any meeting where voting is also scheduled to take place, the election committee shall tally all properly cast ballots and take the tallies to the meeting. If no meeting is scheduled for voting, the election committee shall tally the votes and certify the vote count to the board no later than five days after the closing date of balloting for ballots submitted other than in person during voting at a meeting held for the purpose of voting, and shall publish the results in accordance with rule 189—12.12(533). The election committee shall elect a chairperson from among the committee members. The chairperson of the election committee shall announce the results of the vote at the meeting of the membership.

*c.* No member or agent of the election committee shall reveal the manner in which any member voted.

*d.* If the board of directors, by majority vote, has elected to utilize electronic voting, the election committee shall test the integrity of the electronic voting system at regular intervals during the election period. In the event of a malfunction of the electronic voting system, the board may in its discretion order the election to be held in another form, consistent with Iowa Code section 533.203.

*e.* For electronic ballots, it is the duty of the election committee to verify, or cause to be verified, the name and credit union account number of the voter as registered in the electronic voting system.

*f.* For mail-in ballots, including absentee ballots, it is the duty of the election committee to verify, or cause to be verified, the name and credit union account number of the voter as they appear on the identification form; to place the verified identification form and the sealed ballot envelope in a place of safekeeping pending the count of the vote; and, in the case of a questionable or challenged identification form, to retain the identification form and sealed ballot envelope together until the verification or challenge has been resolved.

**12.2(3)** *Notice of balloting.* At least 20 days but not more than 60 days prior to the closing date of balloting, the secretary shall set forth the substantive vote in its entirety, including the reasoning of the board of directors or the nominees for election, in a notice to all members eligible to vote.

## CREDIT UNION DIVISION[189](cont'd)

*a.* The notice shall set forth the rules and procedures for voting, the date of the close of balloting for ballots submitted other than in person at a meeting held for the purpose of voting, that balloting is subject to an affirmative vote of a majority of ballots cast, and that no other vote on the subject shall be taken after the closing date of balloting except for votes cast in person at a meeting held for the purpose of voting. The notice shall also contain a summary of the board's reasons for submitting the vote.

(1) The close of balloting for ballots submitted other than in person during voting at a meeting held for the purpose of voting shall be at least five days prior to any meeting where voting will occur.

(2) Electronic ballots shall be submitted no later than midnight on the date balloting closes for ballots submitted other than in person during voting at a meeting held for the purpose of voting in order to be considered valid.

(3) Ballots mailed to the credit union shall be postmarked no later than the closing date of balloting for ballots submitted other than in person during voting at a meeting held for the purpose of voting and shall be received within five business days after the closing date of balloting for ballots submitted other than in person during voting at a meeting held for the purpose of voting in order to be considered valid.

(4) Ballots hand-delivered to the credit union shall be received prior to the close of normal credit union business hours on the closing date of balloting for ballots submitted other than in person during voting at a meeting held for the purpose of voting in order to be considered valid.

(5) If more than one method of voting will be used, the notice shall also communicate that members have the right to vote through any of the methods of voting designated by the board but that members will only be allowed to vote once.

*b.* The notice must be sent to each member through an independent mailing to members, statements, or newsletters, and posted on the credit union's website, or on signs posted in the credit union.

*c.* The notice may be sent electronically to those members who have opted to receive notices electronically.

ITEM 4. Adopt the following new rule 189—12.3(533):

**189—12.3(533) Voting methods and requirements.**

**12.3(1) Mailed ballots.** If the board of directors, by majority vote, has elected to conduct the election in whole or in part by mailed ballot, then the secretary shall send with the notice of balloting a mail-in ballot.

*a.* The secretary shall include the following materials for balloting:

(1) One ballot, clearly identified as the ballot meeting the specific requirements of the topic of voting.

(2) One ballot envelope clearly marked "ballot" with instructions that the completed ballot shall be placed in that envelope and sealed.

(3) One identification form to be completed by the voter to include the name, address, signature, and credit union account number of the voter.

(4) One mailing envelope in which the voter, following instructions provided, shall insert the sealed "ballot" envelope and the identification form. The mailing envelope shall be preaddressed for return to the election committee.

*b.* If the credit union will also be conducting electronic voting, the mail-in ballot is not required for members who have opted to receive notices or statements electronically, and electronic mail may be used to provide the instructions for the electronic voting procedure.

*c.* Ballots mailed to the election committee or hand-delivered to the credit union shall be received unopened and placed in ballot boxes. The ballot boxes shall be opened by and the vote tallied by the election committee.

*d.* If voting will also occur at the membership meeting, the ballot boxes shall be opened by and the vote tallied by the election committee, the tallies placed in the ballot boxes, and the ballot boxes resealed to be taken to the meeting. If voting is not scheduled to occur at a meeting of the membership, the election committee shall tally the votes and certify the vote count to the board no later than five days

## CREDIT UNION DIVISION[189](cont'd)

after the close of balloting for ballots submitted other than in person during voting at the membership meeting.

**12.3(2) *Electronic voting.*** The board of directors shall vote to conduct the vote in whole by electronic voting only if all members have access to an electronic voting device. If the number of members who have opted to receive notices electronically is less than all members, the board may provide access to an electronic device in each credit union office for the members to vote electronically or written ballots in the credit union in order to satisfy the access requirement. Otherwise, the board shall also conduct the vote in part by mail-in ballot or in person at the meeting of the membership, pursuant to the requirements of this rule.

**12.3(3) *Instructions for electronic voting.*** If the board of directors, by majority vote, has elected to conduct the election in whole or in part by electronic voting, then the secretary shall include with the notice of balloting specific instructions for electronic voting.

*a.* The instruction sheet for electronic voting shall contain specific instructions for electronic voting, including how to access and use the electronic voting system, and the period of time in which votes will be taken.

*b.* For those members who have opted to receive notices or statements electronically, the instructions for electronic voting required under this subrule may be communicated electronically.

*c.* The electronic voting shall be tallied by the election committee. If voting will also occur at the membership meeting, then the results shall be verified at the meeting.

*d.* If voting is not scheduled to occur at the membership meeting, the election committee shall tally the votes and certify the vote count to the board no later than five days after the close of balloting for ballots submitted other than in person during voting at the membership meeting.

**12.3(4) *Absentee ballots.*** If the board of directors, by majority vote, has elected to conduct the election other than mail-in only, the board may also, by majority vote, utilize absentee ballots when no additional nominations will be taken from the floor at a meeting of the members and when, in the opinion of the board, it is in the best interest of the credit union and its membership.

*a.* The notice of balloting shall include a notification that a member may vote by absentee ballot if the member submits a written or electronic request for an absentee ballot, or requests a ballot in person at a credit union branch, and returns the ballot prior to the close of balloting for ballots submitted other than in person during voting at the meeting, or by the close of balloting for each voting method if a subsequent in-person vote is not held.

*b.* Upon request, the balloting materials specified in paragraph 12.3(1)“*a*” shall be provided to each member who is eligible to vote and who has submitted an in-person, written, or electronic request for an absentee ballot.

*c.* Absentee ballots mailed to the election committee or hand-delivered to the credit union shall be received unopened and deposited in ballot boxes. The ballot boxes shall be opened by and the vote tallied by the election committee, the tallies placed in the ballot boxes, and the ballot boxes resealed to be taken to the meeting of the membership or tallies shall be added to remaining vote tallies if no meeting of the membership is held.

**12.3(5) *In-person voting at meeting.*** If the board of directors has elected, upon a favorable vote of the majority, to conduct a vote in whole or in part at a meeting of members, printed ballots shall be given at the meeting to those members who have not voted by another method.

*a.* The completed ballots shall be deposited in ballot boxes placed in conspicuous locations by the election committee before the meeting.

*b.* After the members have been given an opportunity to vote, balloting shall be closed, the ballot boxes opened and the vote tallied by the election committee and added to any previous count of mailed or electronic ballots.

*c.* The election committee shall immediately certify the vote count to the board. The chairperson of the election committee shall announce the result of the vote at the meeting.

CREDIT UNION DIVISION[189](cont'd)

ITEM 5. Amend renumbered rule 189—12.4(533) as follows:

**189—12.4(533) ~~Nomination procedures~~ Specific voting requirements for the board of directors elections.**

**12.4(1) *Nominating committee.*** If the board has determined that voting for directors at the annual meeting will be conducted ~~via one or more methods~~ other than only in-person voting at the meeting, then at least 120 days before each annual meeting, the chairperson of the board shall appoint a nominating committee of three or more members, none of whom are directors currently eligible for reelection or their immediate family members.

*a.* It is the duty of the nominating committee to nominate at least one member for each vacancy, including for any unexpired-term vacancy, for which elections are being held and to obtain a signed certificate from the members nominated that they ~~are agreeable~~ agree to the placing of their names in nomination, will accept office if elected, and will cooperate with any background check required by the credit union.

*b.* The nominating committee shall file its nominations with the secretary of the credit union board of directors at least 90 days before the annual meeting.

*c.* Nominations made by the nominating committee are not subject to the petition process in subrule ~~12.2(2)~~ 12.4(2).

**12.4(2) *Nominations by petition.*** If the board of directors determines pursuant to subrule ~~12.3(1)~~ 12.2(1) that voting for directors will be conducted in whole or in part by mail or electronic ballots prior to the annual meeting, then nominations shall not be taken from the floor at the annual meeting and the nominating committee shall accept additional nominations by petition.

*a.* At least 90 days before the annual meeting, the secretary shall notify in writing all members eligible to vote that nominations for vacancies may be made by petition signed by at least 1 percent of the members, subject to a minimum of 20 members and a maximum of 200 members.

(1) The notice shall indicate that there will be no nominations from the floor at the annual meeting.

(2) The notice shall include a list of the nominating committee's nominees and a brief statement of the nominees' qualifications and biographical data in a form approved by the board of directors. ~~Each nominee by petition shall submit a similar statement of qualifications and biographical data with the petition.~~

(3) Nominations by petition shall be accompanied by a statement of qualifications and biographical data, as well as a signed certificate from the nominee stating that the nominee is agreeable agrees to nomination, will serve if elected to office, and will cooperate with any background check required by the credit union, and understands and agrees to the board of director oath of office.

(4) ~~The period for receiving nominations by petition shall extend~~ Nominations by petition shall be accepted for at least 30 days from the date that the notice is sent. Petitions shall must be filed with the secretary of the credit union board of directors at least 60 days before the annual meeting.

(5) Nominations by petition which are received after the closing date, or which are otherwise incomplete ~~because they do not include a statement of qualifications and biographical data, or certification agreeing to the nomination and indicating a willingness to serve~~, shall be disqualified by the board secretary. The secretary shall immediately notify the nominee of the disqualification and of the reason. A petition for a disqualified nominee may be refiled provided that all requirements, including the closing date for receiving nominations by petition, are met.

*b.* The notice may be included with the notice of annual meeting, in statements or newsletters, on the credit union website, or on signs posted in ~~the~~ each credit union office.

*c.* The secretary may use electronic mail to notify members who have opted to receive notices or statements electronically.

**12.4(3) *Posting of nominations.*** The secretary shall ensure that all nominations are posted in a conspicuous place in each credit union office and interactive teller machine (ITM) terminal at least 30 days but no more than 60 days before the annual meeting.

**12.4(4) *Alternative schedule Nominations from the floor—voting only in person at annual meeting.*** If the board of directors determines that voting at the annual meeting shall only be conducted

## CREDIT UNION DIVISION[189](cont'd)

in person, and nominations will be taken from the floor at the annual meeting, the chairperson of the board shall appoint a nominating committee of three or more members, none of whom are directors currently eligible for reelection or their immediate family members, at least 60 days before the annual meeting. The nominating committee shall not solicit additional nominations by petition pursuant to subrule ~~12.2(2)~~ 12.4(2). Nominations shall be posted according to subrule ~~12.2(3)~~ 12.4(3).

*a.* If no electronic, mail-in, or absentee balloting has occurred and nominations will be taken from the floor, then at the annual meeting, printed ballots shall be distributed to those in attendance after additional nominations are taken from the floor or the ballots shall have blank spaces to write in additional names. The ballots shall be deposited in ballot boxes placed in conspicuous locations by the election committee before the meeting.

*b.* After members have been given an opportunity to vote, balloting shall be closed, the ballot boxes opened and the vote tallied by the election committee.

*c.* The election committee shall immediately certify the vote count to the board. The chairperson of the election committee shall announce the result of the vote at the annual meeting.

**12.4(5) *Nomination notification by newsletter.*** The board of directors may determine that the entire credit union membership will be notified via newsletter or other written communication of the opportunity to nominate an individual for the board of directors.

*a.* If the membership is notified of nominations via newsletter or other written communication at least 90 days before the annual meeting, the secretary shall:

(1) Send the newsletter or other written communication to the entire membership via U.S. mail or electronic mail to members who have opted to receive notices or statements electronically and indicate a physical location or email address where nominations can be sent;

(2) Indicate in the notice that there will be no nominations from the floor at the annual meeting; and

(3) Indicate in the notice that the nominating committee will vet the candidates to confirm each candidate is eligible and present a list of the eligible candidates prior to the voting period.

*b.* If the board of directors utilizes the nomination notification by newsletter pursuant to this rule, then nominations shall not be taken from the floor at the annual meeting as set forth in subrule ~~12.3(7)~~ 12.4(4) and nomination notifications made pursuant to this rule are not subject to the nomination-by-petition process in subrule ~~12.2(2)~~ 12.4(2).

ITEM 6. Amend renumbered rule 189—12.5(533) as follows:

**189—12.5(533) Election Specific election procedures for the board of directors elections.**

**12.5(1)** No change.

~~**12.5(2) *Election committee.***~~ The board of directors shall appoint an election committee of not fewer than five members, none of whom may be a current director or nominee for office or an immediate family member of any director or nominee for office.

~~*a.* It is the duty of the election committee to oversee balloting, to tabulate votes, and to ensure that each member shall only be allowed to vote once and that multiple ballots submitted by the same member are disqualified.~~

~~*b.* The election committee shall elect a chairperson from among the committee members. The chairperson of the election committee shall announce the results of the election at the annual meeting.~~

~~*c.* No member or agent of the election committee shall reveal the manner in which any member voted.~~

~~*d.* If the board of directors, by majority vote, has elected to utilize electronic voting, the election committee shall test the integrity of the electronic voting system at regular intervals during the election period. In the event of a malfunction of the electronic voting system, the board may in its discretion order the election to be held in another form, consistent with Iowa Code section 533.203.~~

~~*e.* For electronic ballots, it is the duty of the election committee to verify, or cause to be verified, the name and credit union account number of the voter as registered in the electronic voting system.~~

~~*f.* For mail-in ballots, including absentee ballots, it is the duty of the election committee to verify, or cause to be verified, the name and credit union account number of the voter as they appear on the identification form, to place the verified identification form and the sealed ballot envelope in a place of~~

## CREDIT UNION DIVISION[189](cont'd)

safekeeping pending the count of the vote, and, in the case of a questionable or challenged identification form, to retain the identification form and sealed ballot envelope together until the verification or challenge has been resolved.

~~12.5(3)~~ **12.5(2)** *Notice of balloting.* At least 20 days but not more than 30 days prior to the close of balloting, the secretary shall produce a notice of balloting. In addition to the requirements in subrule 12.2(3), the notice of balloting for board of directors elections shall include the following:

*a.* to *c.* No change.

*d.*—The notice shall set forth the rules and procedures for voting and the date of the close of balloting for ballots submitted other than in person during voting at the annual meeting.

(1) The close of balloting for ballots submitted other than in person during voting at the annual meeting shall be at least two days prior to any meeting where voting will occur.

(2) Electronic ballots shall be submitted no later than midnight on the date balloting closes for ballots submitted other than in person during voting at the annual meeting in order to be considered valid.

(3) Ballots mailed to the credit union shall be postmarked no later than the closing date of balloting for ballots submitted other than in person during voting at the annual meeting and received within five business days after the closing date of balloting for ballots submitted other than in person during voting at the annual meeting in order to be considered valid.

(4) Ballots hand delivered to the credit union shall be received prior to the close of normal credit union business hours on the closing date of balloting for ballots submitted other than in person during voting at the annual meeting in order to be considered valid.

(5) If more than one method of voting will be used, the notice shall also communicate that members have the right to vote through any of the methods of voting designated by the board, but that members will only be allowed to vote once.

*e.*—The notice may be included with notice of the annual meeting and in statements or newsletters, on the credit union website, or on signs posted in the credit union.

*f.*—Electronic mail may be used to provide the notice of balloting to members who have opted to receive notices or statements electronically.

**12.5(4)** *Mailed ballots.* If the board of directors, by majority vote, has elected to conduct the election in whole or in part by mailed ballot, then the secretary shall send with the notice of balloting a mail-in ballot.

*a.*—The secretary shall include the following materials for balloting:

(1) One ballot, clearly identified as the ballot, on which the names of the candidates for the board of directors are printed in random order.

(2) One ballot envelope clearly marked “ballot” with instructions that the completed ballot shall be placed in that envelope and sealed.

(3) One identification form to be completed so as to include the name, address, signature, and credit union account number of the voter.

(4) One mailing envelope in which the voter, following instructions provided, shall insert the sealed “ballot” envelope and the identification form. The mailing envelope shall be preaddressed for return to the election committee.

*b.*—If the credit union will also be conducting electronic voting, the mail-in ballot is not required for members who have opted to receive notices or statements electronically, and electronic mail may be used to provide the instructions for the electronic voting procedure.

*c.*—Ballots mailed to the election committee or hand-delivered to the credit union shall be received unopened and placed in ballot boxes. The ballot boxes shall be opened by and the vote tallied by the election committee.

*d.*—If voting will also occur at the annual meeting, the ballot boxes shall be opened by and the vote tallied by the election committee, the tallies placed in the ballot boxes, and the ballot boxes resealed to be taken to the annual meeting. If voting is not scheduled to occur at the annual meeting, the election committee shall tally the votes and certify the vote count to the board no later than five days after the close of balloting for ballots submitted other than in person during voting at the annual meeting.

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~~12.5(5) *Electronic voting.* If the board of directors, by majority vote, has elected to conduct the election in whole or in part by electronic voting, then the secretary shall include with the notice of balloting specific instructions for electronic voting.~~

~~a.—The instruction sheet for electronic voting shall contain specific instructions for electronic voting, including how to access and use the electronic voting system, and the period of time in which votes will be taken.~~

~~b.—For those members who have opted to receive notices or statements electronically, the instructions for electronic voting required under this subrule may be communicated electronically.~~

~~c.—The electronic voting shall be tallied by the election committee. If voting will also occur at the annual meeting, then the results shall be verified at the meeting.~~

~~d.—If voting is not scheduled to occur at the annual meeting, the election committee shall tally the votes and certify the vote count to the board no later than five days after the close of balloting for ballots submitted other than in person during voting at the annual meeting.~~

~~12.5(6) *Absentee ballots—subsequent in-person vote at meeting.* If the board of directors, by majority vote, has elected to conduct the election only in person at the annual meeting, the board may also, by majority vote, utilize absentee ballots when no additional nominations will be taken from the floor at the annual meeting and when, in the opinion of the board, it is in the best interest of the credit union and its membership.~~

~~a.—The secretary shall include with the notice of annual meeting a notification that members may vote either in person at the annual meeting or by absentee ballot if the member submits a written or electronic request for an absentee ballot and returns the ballot prior to the close of balloting for ballots submitted other than in person during voting at the annual meeting.~~

~~b.—The secretary shall mail the balloting materials specified in paragraph 12.3(4)“a” to each member who is eligible to vote and who has submitted a written or electronic request for an absentee ballot.~~

~~c.—Ballots mailed to the election committee or hand-delivered to the credit union shall be received unopened and deposited in ballot boxes. The ballot boxes shall be opened by and the vote tallied by the election committee, the tallies placed in the ballot boxes, and the ballot boxes resealed to be taken to the annual meeting.~~

~~d.—At the meeting of members, printed ballots shall be given to those members who have not voted. The completed ballots shall be deposited in ballot boxes placed in conspicuous locations by the election committee before the meeting. After the members have been given an opportunity to vote, balloting shall be closed, the ballot boxes opened and the vote tallied by the election committee and added to any previous count of absentee ballots. The election committee shall immediately certify the vote count to the board. The chairperson of the election committee shall announce the result of the vote at the meeting.~~

~~12.5(7) *Nominations from the floor—subsequent in-person vote at meeting.* If the board of directors did not elect to accept additional nominations by petition, then additional nominations shall be taken from the floor at the annual meeting, provided that no electronic, mail-in, or absentee balloting has occurred.~~

~~a.—At the annual meeting, printed ballots shall be distributed to those in attendance after additional nominations are taken from the floor, or the ballots shall also have blank spaces to write in the additional names. The ballots shall be deposited in ballot boxes placed in conspicuous locations by the election committee before the meeting.~~

~~b.—After members have been given an opportunity to vote, balloting shall be closed, the ballot boxes opened and the vote tallied by the election committee.~~

~~c.—The election committee shall immediately certify the vote count to the board. The chairperson of the election committee shall announce the result of the vote at the annual meeting.~~

~~12.5(8) *In-person vote at meeting.* If the board of directors elected to accept additional nominations by petition, and if the board of directors also chose to conduct the vote in whole or in part by in-person voting at the annual meeting, printed ballots shall be distributed to those in attendance at the annual meeting who have not voted.~~

~~a.—The ballots shall be deposited in ballot boxes placed in conspicuous locations by the election committee before the meeting.~~



## CREDIT UNION DIVISION[189](cont'd)

~~b. After those members have been given an opportunity to vote, balloting shall be closed, the ballot boxes opened and the vote tallied by the election committee and added to any previous count of mailed or electronic ballots.~~

~~c. The election committee shall immediately certify the vote count to the board. The chairperson of the election committee shall announce the result of the vote at the annual meeting.~~

~~12.5(9) 12.5(3) Preservation of ballots.~~ Ballots shall be preserved according to the provisions of 189—12.9(533) rule 189—12.11(533). The 60-day retention period required by subrule ~~12.9(2) 12.11(2)~~ shall run from the date the results are certified to the board by the election committee.

~~12.5(10) 12.5(4) Publication of results.~~ Results of the election shall be reported to members according to the provisions of 189—12.10(533) rule 189—12.12(533). The 60-day posting period required by subrule ~~12.10(4) 12.12(1)~~ shall run from the date the results are certified to the board by the election committee.

ITEM 7. Amend renumbered rule 189—12.6(533) as follows:

**189—12.6(533) Vote to amend bylaws or articles of incorporation.**

**12.6(1) and 12.6(2)** No change.

**12.6(3) Membership vote.** The board of directors may vote to conduct the vote on the amendment by a method other than a majority vote of the board of directors, as provided in Iowa Code section 533.201. ~~Each credit union member shall have a meaningful opportunity to vote in a membership vote. The board of directors shall vote to conduct the vote in whole by electronic voting only if all members have access to an electronic voting device. If the number of members who have opted to receive notices electronically is less than all members, the board may provide access to an electronic device in each credit union office for the members to vote electronically in order to satisfy the access requirement. Otherwise, the board shall also conduct the vote in part by mail-in ballot or in person at a meeting held for the purpose of voting, pursuant to the requirements of this rule.~~

**12.6(4) Election committee.** If the board of directors votes to conduct the vote on the amendment by a method other than a majority vote of the board of directors, as provided in Iowa Code section 533.201, then the board shall appoint an election committee of not fewer than five members, none of whom may be directors.

~~a. It is the duty of the election committee to oversee balloting, to tabulate votes, and to ensure that each member shall only be allowed to vote once and that multiple ballots submitted by the same member are disqualified.~~

~~b. The election committee shall elect a chairperson from among the committee members. The chairperson of the election committee shall announce the results of the vote at the annual meeting.~~

~~c. No member or agent of the election committee shall reveal the manner in which any member voted.~~

~~d. If the board of directors, by majority vote, has elected to utilize electronic voting, the election committee shall test the integrity of the electronic voting system at regular intervals during the election period. In the event of a malfunction of the electronic voting system, the board may in its discretion order the election to be held in another form, consistent with Iowa Code section 533.201.~~

~~e. For electronic ballots, it is the duty of the election committee to verify, or cause to be verified, the name and credit union account number of the voter as registered in the electronic voting system.~~

~~f. For mail-in ballots, including absentee ballots, it is the duty of the election committee to verify, or cause to be verified, the name and credit union account number of the voter as they appear on the identification form, to place the verified identification form and the sealed ballot envelope in a place of safekeeping pending the count of the vote, and, in the case of a questionable or challenged identification form, to retain the identification form and sealed ballot envelope together until the verification or challenge has been resolved.~~

**12.6(5) Notice of balloting.** The secretary shall set forth the proposed amendment in its entirety in a notice to all members eligible to vote at least 20 days but not more than 30 days prior to the closing date of balloting.

## CREDIT UNION DIVISION[189](cont'd)

~~a.—The notice shall set forth the rules and procedures for voting, the date of the close of balloting for ballots submitted other than in person at a meeting held for the purpose of voting, that balloting is subject to an affirmative vote of a majority of all members eligible to vote, and that no other vote on the subject shall be taken after the closing date of balloting except for votes cast in person at a meeting held for the purpose of voting. The notice shall also contain a summary of the board's reasons for recommending the amendment.~~

~~(1) The close of balloting for ballots submitted other than in person during voting at a meeting held for the purpose of voting shall be at least five days prior to any meeting where voting will occur.~~

~~(2) Electronic ballots shall be submitted no later than midnight on the date balloting closes for ballots submitted other than in person during voting at a meeting held for the purpose of voting in order to be considered valid.~~

~~(3) Ballots mailed to the credit union shall be postmarked no later than the closing date of balloting for ballots submitted other than in person during voting at a meeting held for the purpose of voting and received within five business days after the closing date of balloting for ballots submitted other than in person during voting at a meeting held for the purpose of voting in order to be considered valid.~~

~~(4) Ballots hand-delivered to the credit union shall be received prior to the close of normal credit union business hours on the closing date of balloting for ballots submitted other than in person during voting at a meeting held for the purpose of voting in order to be considered valid.~~

~~(5) If more than one method of voting will be used, the notice shall also communicate that members have the right to vote on the proposed amendment through any of the methods of voting designated by the board, but that members will only be allowed to vote once.~~

~~b.—The notice may be included in statements or newsletters, on the credit union website, or on signs posted in the credit union.~~

~~c.—The notice may be sent electronically to those members who have opted to receive notices electronically.~~

~~**12.6(6) Mailed ballots.** If the board of directors has elected, upon a favorable vote of the majority, to conduct a vote on the proposed amendment in whole or in part via mailed ballot:~~

~~a.—The secretary shall include the following materials for balloting with the notice of balloting:~~

~~(1) One ballot, clearly identified as the ballot, on which the proposed amendment is printed in full.~~

~~(2) One ballot envelope clearly marked "ballot" with instructions that the completed ballot shall be placed in that envelope and sealed.~~

~~(3) One identification form to be completed so as to include the name, address, signature, and credit union account number of the voter.~~

~~(4) One mailing envelope in which the voter, following instructions provided, shall insert the sealed "ballot" envelope and the identification form. The mailing envelope shall be preaddressed for return to the election committee.~~

~~b.—If the credit union will also be conducting electronic voting, the mail-in ballot is not required for members who have opted to receive notices or statements electronically, and electronic mail may be used to provide the instructions and notices for the electronic voting procedure.~~

~~c.—Ballots mailed to the election committee or hand-delivered to the credit union shall be received unopened and placed in ballot boxes. The ballot boxes shall be opened by and the vote tallied by the election committee.~~

~~d.—If additional voting will be conducted at a meeting of members, the tallies shall be placed in the ballot boxes, and the ballot boxes shall be resealed to be taken to the meeting. If voting is not scheduled to occur at a meeting, the election committee shall tally the total votes and certify the vote count to the board no later than five days after the closing date of balloting for ballots submitted other than in person during voting at a meeting held for the purpose of voting.~~

~~**12.6(7) Electronic voting.** If the board of directors, by majority vote, has elected to conduct the vote in whole or in part by electronic voting, then the secretary shall include with the notice of balloting specific instructions for electronic voting to each member eligible to vote.~~

## CREDIT UNION DIVISION[189](cont'd)

~~a.~~—The instruction sheet for electronic voting shall contain specific instructions for electronic voting, including how to access and use the electronic voting system, and the period of time in which votes will be taken.

~~b.~~—For those members who have opted to receive notices or statements electronically, the instructions required under this subrule may be communicated electronically.

~~c.~~—The electronic voting shall be tallied by the election committee. If voting will also occur at a meeting, then the results shall be verified at the meeting.

~~d.~~—If voting is not scheduled to occur at a meeting, the election committee shall tally the votes and certify the vote count to the board no later than five days after the closing date of balloting for ballots submitted other than in person during voting at a meeting held for the purpose of voting.

~~12.6(8) Absentee ballots—subsequent in-person vote at meeting.~~ If the board of directors, by majority vote, has elected to conduct the vote only in person at a meeting of members, the board may also, by majority vote, utilize absentee ballots when, in the opinion of the board, it is in the best interest of the credit union and its membership.

~~a.~~—The secretary shall include with the notice of balloting a statement that members may vote either in person at the meeting of members or by absentee ballot if the member submits a written or electronic request for an absentee ballot and returns the ballot prior to the close of balloting for ballots submitted other than in person during voting at a meeting held for the purpose of voting.

~~b.~~—The secretary shall mail the balloting materials specified in paragraph 12.4(6) “a” to each member who is eligible to vote and who has submitted a written or electronic request for an absentee ballot.

~~c.~~—Ballots mailed to the election committee or hand-delivered to the credit union shall be received unopened and deposited in ballot boxes. The ballot boxes shall be opened by and the vote tallied by the election committee, the tallies placed in the ballot boxes, and the ballot boxes resealed to be taken to the meeting.

~~d.~~—At the meeting of members, printed ballots shall be given to those members who have not voted. The completed ballots shall be deposited in ballot boxes placed in conspicuous locations by the election committee before the meeting. After the members have been given an opportunity to vote, balloting shall be closed, the ballot boxes opened and the vote tallied by the election committee and added to any previous count of absentee ballots. The election committee shall immediately certify the vote count to the board. The chairperson of the election committee shall announce the result of the vote at the meeting.

~~12.6(9) In-person voting at meeting.~~ If the board of directors has elected, upon a favorable vote of the majority, to present the proposed amendment for a vote in whole or in part at a meeting of members, printed ballots shall be given at the meeting to those members who have not voted by another method.

~~a.~~—The completed ballots shall be deposited in ballot boxes placed in conspicuous locations by the election committee before the meeting.

~~b.~~—After the members have been given an opportunity to vote, balloting shall be closed, the ballot boxes opened and the vote tallied by the election committee and added to any previous count of mailed or electronic ballots.

~~c.~~—The election committee shall immediately certify the vote count to the board. The chairperson of the election committee shall announce the result of the vote at the meeting.

~~12.6(10) 12.6(5) Preservation of ballots.~~ Ballots shall be preserved according to the requirements of 189—12.9(533) rule 189—12.11(533). The 60-day retention period required by subrule 12.9(2) 12.11(2) shall run from the date of final approval or denial of the amendment by the superintendent.

~~12.6(11) 12.6(6) Submission to superintendent.~~ The board of directors shall submit the amendment to the superintendent for approval before the amendment becomes effective. The board shall submit the following documentation in support of its request for approval:

~~a. to d.~~ No change.

~~12.6(12) 12.6(7) Publication of results.~~ The board shall inform the membership of the results of the vote and whether the amendment received the approval of the superintendent, according to the provisions of 189—12.10(533) rule 189—12.12(533). The 60-day posting period required by subrule 12.10(1) 12.12(1) shall run from the date of final approval or denial of the amendment by the superintendent.

CREDIT UNION DIVISION[189](cont'd)

ITEM 8. Amend renumbered rule 189—12.7(533) as follows:

**189—12.7(533) ~~Vote~~ Specific voting requirements to modify, amend, or reverse an act of the board of directors or to instruct the board to take action.**

**12.7(1)** No change.

**12.7(2) *Subsequent vote of membership.*** In order to be binding upon the board of directors, any action taken by the membership to modify, amend, or reverse an act of the board, or to instruct the board to take action, requires an affirmative vote of a majority of all eligible members obtained by submitting the modification, amendment, reversal, or instruction to the members for a vote.

*a.* After a majority of members present at a meeting have voted to modify, amend, or reverse any act of the board of directors, or to instruct the board to take action not inconsistent with the articles, the bylaws, or the Iowa credit union Act or administrative rules, the board of directors shall meet to determine the method of voting for the membership vote and shall, within 60 days of the date of the meeting where the majority of members voted to modify, amend, or reverse an act of the board of directors, or to instruct the board to take action, submit the issue to all eligible voters of record as of the date of the meeting.

*b.* The board of directors shall, by majority vote, select the method of voting for the membership vote, in accordance with Iowa Code section 533.203. Each credit union member shall have a meaningful opportunity to vote in a membership vote. The board of directors shall vote to conduct the vote in whole by electronic voting only if all members have access to an electronic voting device. If the number of members who have opted to receive notices electronically is less than all members, the board may provide access to an electronic device in each credit union office for the members to vote electronically in order to satisfy the access requirement. Otherwise, the board shall also conduct the vote in part by mail-in ballot or in person at a meeting held for the purpose of voting, pursuant to the requirements of this rule.

*c.* If a simple majority of all eligible ~~members vote~~ votes cast are in favor of the amendment, modification, reversal or instruction to take action, the vote of the members taken at the annual or special meeting shall be considered affirmed, and the board of directors shall take immediate action to comply with the directions of the membership. However, if a simple majority of all eligible ~~members failed to vote~~ votes cast are not in favor of the amendment, modification, reversal or instruction to take action, the vote of the members taken at the annual or special meeting is not affirmed, and the prior action of the board of directors shall be considered upheld.

**~~12.7(3) *Election committee.*~~** ~~The board shall appoint an election committee of not fewer than five members, no more than two of whom may be from the board of directors.~~

~~*a.* It is the duty of the election committee to oversee balloting, to tabulate votes, and to ensure that each member shall only be allowed to vote once and that multiple ballots submitted by the same member are disqualified.~~

~~*b.* The election committee shall elect a chairperson from among the committee members. If the balloting includes a vote taken at a meeting of members, the chairperson of the election committee shall announce the results of the election at the meeting; otherwise, the chairperson shall certify the vote to the board within five days of the close of balloting.~~

~~*c.* No member or agent of the election committee shall reveal the manner in which any member voted.~~

~~*d.* If the board of directors, by majority vote, has elected to utilize electronic voting, the election committee shall test the integrity of the electronic voting system at regular intervals during the election period. In the event of a malfunction of the electronic voting system, the board may in its discretion order the election to be held in another form, consistent with Iowa Code section 533.203.~~

~~*e.* For electronic ballots, it is the duty of the election committee to verify, or cause to be verified, the name and credit union account number of the voter as registered in the electronic voting system.~~

~~*f.* For mail-in ballots, including absentee ballots, it is the duty of the election committee to verify, or cause to be verified, the name and credit union account number of the voter as they appear on the identification form, to place the verified identification form and the sealed ballot envelope in a place of safekeeping pending the count of the vote, and, in the case of a questionable or challenged identification~~

## CREDIT UNION DIVISION[189](cont'd)

form, to retain the identification form and sealed ballot envelope together until the verification or challenge has been resolved.

**12.7(4) Notice of balloting.** The secretary shall set forth the proposed amendment, modification, reversal or instruction to take action in its entirety in a notice to all members eligible to vote at least 20 days but not more than 30 days prior to the closing date of balloting.

*a.*—The notice shall set forth the rules and procedures for voting, the date of the close of balloting for ballots submitted other than in person during voting at a meeting held for the purpose of voting, that balloting is subject to an affirmative vote of a majority of all members eligible to vote, and that no other vote on the subject shall be taken after the closing date of balloting except for votes cast in person during voting at a meeting held for the purpose of voting. The notice shall also contain a summary of the board's reasons for its action or inaction, as well as a summary of the reasons, if known, for the vote to amend, modify, or reverse the board action, or to instruct the board to take action.

(1) The close of balloting for ballots submitted other than in person during voting at a meeting held for the purpose of voting shall be at least five days prior to any meeting where voting will occur.

(2) Electronic ballots shall be submitted no later than midnight on the date balloting closes for ballots submitted other than in person during voting at a meeting held for the purpose of voting in order to be considered valid.

(3) Ballots mailed to the credit union shall be postmarked no later than the closing date of balloting for ballots submitted other than in person during voting at a meeting held for the purpose of voting and received within five business days after the closing date of balloting for ballots submitted other than in person during voting at a meeting held for the purpose of voting in order to be considered valid.

(4) Ballots hand-delivered to the credit union shall be received prior to the close of normal credit union business hours on the closing date of balloting for ballots submitted other than in person during voting at a meeting held for the purpose of voting in order to be considered valid.

(5) If more than one method of voting will be used, the notice shall also communicate that members have the right to vote through any of the methods of voting designated by the board, but that members will only be allowed to vote once.

*b.*—The notice may be included in statements or newsletters, on the credit union website, or on signs posted in the credit union.

*c.*—The notice may be sent electronically to those members who have opted to receive notices electronically.

**12.7(5) Mailed ballots.** If the board voted by majority vote to conduct the vote in whole or in part by mailed ballot:

*a.*—The secretary shall include the following balloting materials with the notice of balloting:

(1) One ballot, clearly identified as the ballot, on which the proposed amendment, modification, or reversal, or instruction to the board to take action, is printed in full.

(2) One ballot envelope clearly marked "ballot" with instructions that the completed ballot shall be placed in that envelope and sealed.

(3) One identification form to be completed so as to include the name, address, signature, and credit union account number of the voter.

(4) One mailing envelope in which the voter, following instructions provided, shall insert the sealed "ballot" envelope and the identification form. The mailing envelope shall be preaddressed for return to the election committee.

*b.*—If the credit union will also be conducting electronic voting, the mail-in ballot is not required for members who have opted to receive notices or statements electronically, and electronic mail may be used to provide the instructions and notices for the electronic voting procedure.

*c.*—Ballots mailed to the election committee or hand-delivered to the credit union shall be received unopened and placed in ballot boxes. The ballot boxes shall be opened by and the vote tallied by the election committee.

*d.*—If additional voting will be conducted at a meeting of members, the tallies shall be placed in the ballot boxes, and the ballot boxes shall be resealed to be taken to the meeting. If no other voting is scheduled to occur, the election committee shall tally the total votes and certify the vote count to the

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board no later than five days after the closing date of balloting for ballots submitted other than in person during voting at a meeting held for the purpose of voting.

~~12.7(6) *Electronic voting.* If the board voted by majority vote to conduct the vote in whole or in part by electronic voting:~~

~~a.—The secretary shall include with the notice of balloting specific instructions for electronic voting, including how to access and use the electronic voting system, and the period of time in which votes will be taken.~~

~~b.—For those members who have opted to receive notices or statements electronically, the instructions required under this subrule may be communicated electronically.~~

~~c.—The electronic voting shall be tallied by the election committee prior to any meeting where voting is also scheduled to take place, and the committee shall take the tallies to the meeting. If no meeting is scheduled for voting, the election committee shall tally the votes and certify the vote count to the board no later than five days after the closing date of balloting for ballots submitted other than in person during voting at a meeting held for the purpose of voting.~~

~~12.7(7) *Absentee ballots—subsequent in-person vote at meeting.* If the board of directors, by majority vote, has elected to conduct the vote only in person at a meeting of members, the board may also, by majority vote, utilize absentee ballots when, in the opinion of the board, it is in the best interest of the credit union and its membership.~~

~~a.—The secretary shall include with the notice of balloting a statement that members may vote either in person at the meeting of members or by absentee ballot if the member submits a written or electronic request for an absentee ballot and returns the ballot prior to the close of balloting for ballots submitted other than in person during voting at a meeting held for the purpose of voting.~~

~~b.—The secretary shall mail the balloting materials specified in paragraph 12.5(5) “a” to each member who is eligible to vote and who has submitted a written or electronic request for an absentee ballot.~~

~~c.—Ballots mailed to the election committee or hand-delivered to the credit union shall be received unopened and deposited in ballot boxes. The ballot boxes shall be opened by and the vote tallied by the election committee, the tallies placed in the ballot boxes, and the ballot boxes resealed to be taken to the meeting.~~

~~d.—At the meeting of members, printed ballots shall be given to those members who have not voted. The completed ballots shall be deposited in ballot boxes placed in conspicuous locations by the election committee before the meeting. After the members have been given an opportunity to vote, balloting shall be closed, the ballot boxes opened and the vote tallied by the election committee and added to any previous count of absentee ballots. The election committee shall immediately certify the vote count to the board. The chairperson of the election committee shall announce the result of the vote at the meeting.~~

~~12.7(8) *In-person vote at meeting.* If the board voted by majority vote to conduct the vote in whole or in part at a meeting of members, then printed ballots on which the proposed amendment, modification, or reversal, or instruction to the board to take action, is printed in full shall be distributed to those in attendance at the meeting who have not voted by another method, and the ballots shall be deposited in ballot boxes placed in conspicuous locations by the election committee before the meeting. After those members have been given an opportunity to vote at the meeting, balloting shall be closed, the ballot boxes opened and the vote tallied by the election committee and added to any previous count of mailed or electronic ballots. The election committee shall immediately certify the vote count to the board. The chairperson of the election committee shall announce the result of the vote at the meeting.~~

~~12.7(9) 12.7(3) *Preservation of ballots.* Ballots shall be preserved according to the requirements of 189—12.9(533) rule 189—12.11(533). The 60-day retention period required by subrule 12.9(2) 12.11(2) shall run from the date the results are certified to the board by the election committee.~~

~~12.7(10) 12.7(4) *Publication of results.* The board shall inform the membership of the results of the vote according to the provisions of 189—12.10(533) rule 189—12.12(533). The 60-day posting period required by subrule 12.10(1) 12.12(1) shall run from the date the results are certified to the board by the election committee.~~

## CREDIT UNION DIVISION[189](cont'd)

ITEM 9. Amend renumbered rule 189—12.8(533) as follows:

**189—12.8(533) ~~Vote on~~ Specific voting requirements regarding merger.**

**12.8(1)** *Vote by board of directors.* A state credit union that seeks to merge with another credit union shall proceed pursuant to a plan agreed upon by a favorable vote of a majority of directors.

**12.8(2)** *Subsequent vote of the membership.* Following a vote by the board of directors to merge with another credit union, the board shall submit the merger to a vote of the membership of the merging credit union unless the superintendent finds that an emergency exists justifying the waiver of the membership vote.

*a.* The board of the continuing credit union shall, within ~~three~~ ten days of voting to merge, notify the superintendent of the merger vote.

*b.* After the superintendent has given preliminary approval to the merger, the board of the merging credit union shall submit the issue within ~~30~~ 60 days to all eligible voters of record as of the date of the vote by the board of directors. ~~The board of directors shall, by majority vote, select the method of voting for the membership vote, in accordance with Iowa Code section 533.203. Each credit union member shall have a meaningful opportunity to vote in a membership vote. The board of directors shall vote to conduct the vote in whole by electronic voting only if all members have access to an electronic voting device. If the number of members who have opted to receive notices electronically is less than all members, the board may provide access to an electronic device in each credit union office for the members to vote electronically in order to satisfy the access requirement. Otherwise, the board shall also conduct the vote in part by mail-in ballot or in person at a meeting held for the purpose of voting, pursuant to the requirements of this rule.~~

*c.* The approval of the merger is not final until approved by the superintendent after the membership vote of the merging credit union.

**12.8(3)** *Election committee.* The board shall appoint an election committee of not fewer than five members, no more than two of whom may be from the board of directors.

*a.* ~~It is the duty of the election committee to oversee balloting, to tabulate votes, and to ensure that each member shall only be allowed to vote once and that multiple ballots submitted by the same member are disqualified.~~

*b.* ~~The election committee shall elect a chairperson from among the committee members. If the balloting includes a vote taken at a meeting of members, the chairperson of the election committee shall announce the results of the vote at the meeting; otherwise, the chairperson shall certify the vote to the board within five days of the close of balloting.~~

*c.* ~~No member or agent of the election committee shall reveal the manner in which any member voted.~~

*d.* ~~If the board of directors, by majority vote, has elected to utilize electronic voting, the election committee shall test the integrity of the electronic voting system at regular intervals during the election period. In the event of a malfunction of the electronic voting system, the board may in its discretion order the election to be held in another form, consistent with Iowa Code section 533.203.~~

*e.* ~~For electronic ballots, it is the duty of the election committee to verify, or cause to be verified, the name and credit union account number of the voter as registered in the electronic voting system.~~

*f.* ~~For mail-in ballots, including absentee ballots, it is the duty of the election committee to verify, or cause to be verified, the name and credit union account number of the voter as they appear on the identification form, to place the verified identification form and the sealed ballot envelope in a place of safekeeping pending the count of the vote, and, in the case of a questionable or challenged identification form, to retain the identification form and sealed ballot envelope together until the verification or challenge has been resolved.~~

**12.8(4)** *Notice of balloting.* The secretary shall set forth the proposed merger in a notice to all members eligible to vote at least 20 days but not more than 30 days prior to the closing date of balloting.

*a.* ~~The notice shall set forth the rules and procedures for voting, the date of the close of balloting for ballots submitted other than in person during voting at a meeting held for the purpose of voting, that balloting is subject to an affirmative vote of a majority of all members eligible to vote, and that no other~~

## CREDIT UNION DIVISION[189](cont'd)

vote on the subject shall be taken after the closing date of balloting except for votes cast in person during voting at a meeting held for the purpose of voting. The notice shall also contain a summary of the board's reasons for voting to merge.

(1) ~~The close of balloting for ballots submitted other than in person during voting at a meeting held for the purpose of voting shall be at least five days prior to any meeting where voting will occur.~~

(2) ~~Electronic ballots shall be submitted no later than midnight on the date balloting closes for ballots submitted other than in person during voting at a meeting held for the purpose of voting in order to be considered valid.~~

(3) ~~Ballots mailed to the credit union shall be postmarked no later than the closing date of balloting for ballots submitted other than in person during voting at a meeting held for the purpose of voting and received within five business days after the closing date of balloting in order to be considered valid.~~

(4) ~~Ballots hand-delivered to the credit union shall be received prior to the close of normal credit union business hours on the closing date of balloting for ballots submitted other than in person during voting at a meeting held for the purpose of voting in order to be considered valid.~~

(5) ~~If more than one method of voting will be used, the notice shall also communicate that members have the right to vote on the proposed merger through any of the methods of voting designated by the board, but that members will only be allowed to vote once.~~

*b.* ~~The notice may be included in statements or newsletters, on the credit union website, or on signs posted in the credit union.~~

*c.* ~~The notice may be sent electronically to those members who have opted to receive notices electronically.~~

**12.8(5) Mailed ballots.** ~~If the board voted by majority vote to conduct the vote in whole or in part by mailed ballot:~~

*a.* ~~The secretary shall include the following balloting materials with the notice of balloting:~~

(1) ~~One ballot, clearly identified as the ballot.~~

(2) ~~One ballot envelope clearly marked "ballot" with instructions that the completed ballot shall be placed in that envelope and sealed.~~

(3) ~~One identification form to be completed so as to include the name, address, signature, and credit union account number of the voter.~~

(4) ~~One mailing envelope in which the voter, following instructions provided, shall insert the sealed "ballot" envelope and the identification form. The mailing envelope shall be preaddressed for return to the election committee.~~

*b.* ~~If the credit union will also be conducting electronic voting, the mail-in ballot is not required for members who have opted to receive notices or statements electronically, and electronic mail may be used to provide the instructions and notices for the electronic voting procedure.~~

*c.* ~~Ballots mailed to the election committee or hand-delivered to the credit union shall be received unopened and placed in ballot boxes. The ballot boxes shall be opened by and the vote tallied by the election committee.~~

*d.* ~~If additional voting will be conducted at a meeting of members, the tallies shall be placed in the ballot boxes, and the ballot boxes shall be resealed to be taken to the meeting. If no other voting is scheduled to occur, the election committee shall tally the total votes and certify the vote count to the board no later than five days after the closing date of balloting for ballots submitted other than in person during voting at a meeting held for the purpose of voting.~~

**12.8(6) Electronic voting.** ~~If the board voted by majority vote to conduct the vote in whole or in part by electronic voting:~~

*a.* ~~The secretary shall include with the notice of balloting specific instructions for electronic voting, including how to access and use the electronic voting system, and the period of time in which votes will be taken.~~

*b.* ~~For those members who have opted to receive notices or statements electronically, the instructions required under this subrule may be communicated electronically.~~

*c.* ~~The electronic voting shall be tallied by the election committee prior to any meeting where voting is also scheduled to take place, and the committee shall take the tallies to the meeting. If no~~



## CREDIT UNION DIVISION[189](cont'd)

meeting is scheduled for voting, the election committee shall tally the votes and certify the vote count to the board no later than five days after the closing date of balloting for ballots submitted other than in person during voting at a meeting held for the purpose of voting.

~~12.8(7) Absentee ballots subsequent in-person vote at meeting.~~ If the board of directors, by majority vote, has elected to conduct the vote only in person at a meeting of members, the board may also, by majority vote, utilize absentee ballots when, in the opinion of the board, it is in the best interest of the credit union and its membership.

~~a.~~ The secretary shall include with the notice of balloting a statement that members may vote either in person at the meeting of members or by absentee ballot if the member submits a written or electronic request for an absentee ballot and returns the ballot prior to the close of balloting for ballots submitted other than in person during voting at a meeting held for the purpose of voting.

~~b.~~ The secretary shall mail the balloting materials specified in paragraph 12.6(5) "a" to each member who is eligible to vote and who has submitted a written or electronic request for an absentee ballot.

~~c.~~ Ballots mailed to the election committee or hand-delivered to the credit union shall be received unopened and deposited in ballot boxes. The ballot boxes shall be opened by and the vote tallied by the election committee, the tallies placed in the ballot boxes, and the ballot boxes resealed to be taken to the meeting.

~~d.~~ At the meeting of members, printed ballots shall be given to those members who have not voted. The completed ballots shall be deposited in ballot boxes placed in conspicuous locations by the election committee before the meeting. After the members have been given an opportunity to vote, balloting shall be closed, the ballot boxes opened and the vote tallied by the election committee and added to any previous count of absentee ballots. The election committee shall immediately certify the vote count to the board. The chairperson of the election committee shall announce the result of the vote at the meeting.

~~12.8(8) In-person vote at meeting.~~ If the board voted by majority vote to conduct the vote in whole or in part at a meeting of members, then printed ballots shall be distributed to those in attendance at the meeting who have not voted by another method, and the ballots shall be deposited in ballot boxes placed in conspicuous locations by the election committee before the meeting. After those members have been given an opportunity to vote at the meeting, balloting shall be closed, the ballot boxes opened and the vote tallied by the election committee and added to any previous count of mailed or electronic ballots. The election committee shall immediately certify the vote count to the board. The chairperson of the election committee shall announce the result of the vote at the meeting.

~~12.8(9) 12.8(3) Preservation of ballots.~~ Ballots shall be preserved according to the requirements of ~~189—12.9(533) rule 189—12.11(533)~~. The 60-day retention period required by subrule ~~12.9(2) 12.11(2)~~ shall run from the date the results are certified to the board by the election committee.

~~12.8(10) 12.8(4) Submission to superintendent.~~ The board of directors shall submit the merger to the superintendent for approval before the merger becomes effective. The board shall submit the following documentation in support of its request for approval:

~~a. to d.~~ No change.

~~12.8(11) 12.8(5) Publication of results.~~ The board shall inform the membership of the results of the vote according to the provisions of ~~189—12.10(533) rule 189—12.12(533)~~. The 60-day posting period required by subrule ~~12.10(1) 12.12(1)~~ shall run from the date the results are certified to the board by the election committee.

ITEM 10. Amend renumbered rule 189—12.9(533) as follows:

**189—12.9(533) ~~Vote on~~ Specific voting requirements for voluntary dissolution.**

**12.9(1) Vote of board of directors.** A state credit union that seeks to dissolve shall proceed pursuant to a plan agreed upon by a favorable vote of a majority of directors. Within ~~three~~ ten days of the vote and prior to sending notice of the membership vote, the board of directors shall notify the superintendent of the intention to dissolve.

**12.9(2) Subsequent vote of the membership.** Following a vote by the board of directors to dissolve, the board shall submit the dissolution to a vote of the membership.

## CREDIT UNION DIVISION[189](cont'd)

*a.* The board shall submit the issue to the membership within ~~30~~ 60 days of voting to dissolve.

*b.* to *d.* No change.

~~12.9(3) Election committee.~~ The board shall appoint an election committee of not fewer than five members, no more than two of whom may be from the board of directors.

*a.*—It is the duty of the election committee to oversee balloting, to tabulate votes, and to ensure that each member shall only be allowed to vote once and that multiple ballots submitted by the same member are disqualified.

*b.*—The election committee shall elect a chairperson from among the committee members. If the balloting includes a vote taken at a meeting of members, the chairperson of the election committee shall announce the results of the election at the meeting; otherwise, the chairperson shall certify the vote to the board within five days of the close of balloting.

*c.*—No member or agent of the election committee shall reveal the manner in which any member voted.

*d.*—If the board of directors, by majority vote, has elected to utilize electronic voting, the election committee shall test the integrity of the electronic voting system at regular intervals during the election period. In the event of a malfunction of the electronic voting system, the board may in its discretion order the election to be held in another form, consistent with Iowa Code section 533.203.

*e.*—For electronic ballots, it is the duty of the election committee to verify, or cause to be verified, the name and credit union account number of the voter as registered in the electronic voting system.

*f.*—For mail-in ballots, including absentee ballots, it is the duty of the election committee to verify, or cause to be verified, the name and credit union account number of the voter as they appear on the identification form, to place the verified identification form and the sealed ballot envelope in a place of safekeeping pending the count of the vote, and, in the case of a questionable or challenged identification form, to retain the identification form and sealed ballot envelope together until the verification or challenge has been resolved.

~~12.9(4) Notice of balloting.~~ The secretary shall set forth the proposed dissolution in a notice to all members eligible to vote at least 20 days but not more than 30 days prior to the closing date of balloting.

*a.*—The notice shall set forth the rules and procedures for voting, the date of the close of balloting for ballots submitted other than in person during voting at a meeting held for the purpose of voting, that balloting is subject to an affirmative vote of a majority of all members eligible to vote, and that no other vote on the subject shall be taken after the closing date of balloting except for votes cast in person during voting at a meeting held for the purpose of voting. The notice shall also contain a summary of the board's reasons for voting for the voluntary dissolution.

(1) The close of balloting for ballots submitted other than in person during voting at a meeting held for the purpose of voting shall be at least five days prior to any meeting where voting will occur.

(2) Electronic ballots shall be submitted no later than midnight on the date balloting closes for ballots submitted other than in person during voting at a meeting held for the purpose of voting in order to be considered valid.

(3) Ballots mailed to the credit union shall be postmarked no later than the closing date of balloting for ballots submitted other than in person during voting at a meeting held for the purpose of voting and received within five business days after the closing date of balloting for ballots submitted other than in person during voting at a meeting held for the purpose of voting in order to be considered valid.

(4) Ballots hand-delivered to the credit union shall be received prior to the close of normal credit union business hours on the closing date of balloting for ballots submitted other than in person during voting at a meeting held for the purpose of voting in order to be considered valid.

(5) If more than one method of voting will be used, the notice shall also communicate that members have the right to vote on the proposed dissolution through any of the methods of voting designated by the board, but that members will only be allowed to vote once.

*b.*—The notice may be included in statements or newsletters, on the credit union website, or on signs posted in the credit union.

*c.*—The notice may be sent electronically to those members who have opted to receive notices electronically.

## CREDIT UNION DIVISION[189](cont'd)

~~12.9(5) Mailed ballots.~~ If the board voted by majority vote to conduct the vote in whole or in part by mailed ballot:

~~a.~~—The secretary shall include the following balloting materials with the notice of balloting:

~~(1) One ballot, clearly identified as the ballot.~~

~~(2) One ballot envelope clearly marked “ballot” with instructions that the completed ballot shall be placed in that envelope and sealed.~~

~~(3) One identification form to be completed so as to include the name, address, signature, and credit union account number of the voter.~~

~~(4) One mailing envelope in which the voter, following instructions provided, shall insert the sealed “ballot” envelope and the identification form. The mailing envelope shall be preaddressed for return to the election committee.~~

~~b.~~—If the credit union will also be conducting electronic voting, the mail-in ballot is not required for members who have opted to receive notices or statements electronically, and electronic mail may be used to provide the instructions and notices for the electronic voting procedure.

~~c.~~—Ballots mailed to the election committee or hand-delivered to the credit union shall be received unopened and placed in ballot boxes. The ballot boxes shall be opened by and the vote tallied by the election committee.

~~d.~~—If additional voting will be conducted at a meeting of members, the tallies shall be placed in the ballot boxes, and the ballot boxes shall be resealed to be taken to the meeting. If no other voting is scheduled to occur, the election committee shall tally the total votes and certify the vote count to the board no later than five days after the closing date of balloting for ballots submitted other than in person during voting at a meeting held for the purpose of voting.

~~12.9(6) Electronic voting.~~ If the board voted by majority vote to conduct the vote in whole or in part by electronic voting:

~~a.~~—The secretary shall include with the notice of balloting specific instructions for electronic voting, including how to access and use the electronic voting system, and the period of time in which votes will be taken.

~~b.~~—For those members who have opted to receive notices or statements electronically, the instructions required under this subrule may be communicated electronically.

~~c.~~—The electronic voting shall be tallied by the election committee prior to any meeting where voting is also scheduled to take place, and the committee shall take the tallies to the meeting. If no meeting is scheduled for voting, the election committee shall tally the votes and certify the vote count to the board no later than five days after the closing date of balloting for ballots submitted other than in person during voting at a meeting held for the purpose of voting.

~~12.9(7) Absentee ballots—subsequent in-person vote at meeting.~~ If the board of directors, by majority vote, has elected to conduct the vote only in person at a meeting of members, the board may also, by majority vote, utilize absentee ballots when, in the opinion of the board, it is in the best interest of the credit union and its membership.

~~a.~~—The secretary shall include with the notice of balloting a statement that members may vote either in person at the meeting of members or by absentee ballot if the member submits a written or electronic request for an absentee ballot and returns the ballot prior to the close of balloting for ballots submitted other than in person during voting at a meeting held for the purpose of voting.

~~b.~~—The secretary shall mail the balloting materials specified in paragraph 12.7(5) “a” to each member who is eligible to vote and who has submitted a written or electronic request for an absentee ballot.

~~c.~~—Ballots mailed to the election committee or hand-delivered to the credit union shall be received unopened and deposited in ballot boxes. The ballot boxes shall be opened by and the vote tallied by the election committee, the tallies placed in the ballot boxes, and the ballot boxes resealed to be taken to the meeting.

~~d.~~—At the meeting of members, printed ballots shall be given to those members who have not voted. The completed ballots shall be deposited in ballot boxes placed in conspicuous locations by the election committee before the meeting. After the members have been given an opportunity to vote, balloting

CREDIT UNION DIVISION[189](cont'd)

shall be closed, the ballot boxes opened and the vote tallied by the election committee and added to any previous count of absentee ballots. The election committee shall immediately certify the vote count to the board. The chairperson of the election committee shall announce the result of the vote at the meeting.

~~12.9(8) *In-person vote at meeting.* If the board voted by majority vote to conduct the vote in whole or in part at a meeting of members, then printed ballots shall be distributed to those in attendance at the meeting who have not voted by another method, and the ballots shall be deposited in ballot boxes placed in conspicuous locations by the election committee. After those members have been given an opportunity to vote at the meeting, balloting shall be closed, the ballot boxes opened and the vote tallied by the election committee and added to any previous count of mailed or electronic ballots. The election committee shall immediately certify the vote count to the board. The chairperson of the election committee shall announce the result of the vote at the meeting.~~

~~12.9(9) 12.9(3) *Preservation of ballots.* Ballots shall be preserved according to the requirements of 189—12.9(533) rule 189—12.11(533). The 60-day retention period required by subrule 12.9(2) 12.11(2) shall run from the date the results are certified to the board by the election committee.~~

~~12.9(10) 12.9(4) *Submission to superintendent.* The board of directors shall submit the dissolution to the superintendent for review before the dissolution becomes effective. The state credit union shall cease existence when the superintendent issues a certificate of dissolution. The board shall submit the following documentation:~~

~~a. to e. No change.~~

~~12.9(11) 12.9(5) *Publication of results.* The board shall inform the membership of the results of the vote according to the provisions of 189—12.10(533) rule 189—12.12(533). The 60-day posting period required by subrule 12.10(1) 12.12(1) shall run from the date the results are certified to the board by the election committee.~~

ITEM 11. Amend renumbered rule 189—12.10(533) as follows:

**189—12.10(533) Vote Specific voting requirements to remove or reinstate an officer, director, or member of the auditing committee.**

**12.10(1) *Auditing committee vote.*** If the auditing committee deems the action to be necessary to the proper conduct of the state credit union, the auditing committee may suspend, by majority vote, any officer, director, or member of the auditing committee.

**12.10(2) *Subsequent vote of membership.*** Following a vote by the auditing committee to suspend an officer, director, or member of the auditing committee, the suspension shall be put to a vote of the membership.

a. The members may vote to sustain the suspension and remove the officer, director, or auditing committee member permanently or may vote to reinstate the officer, director, or auditing committee member.

b. The board of directors shall meet to determine the method of voting for the membership vote and shall, within 30 days of the date of the auditing committee's vote, submit the issue to all eligible voters of record as of the date of the auditing committee's meeting. The board of directors shall, by majority vote, select the method of voting for the membership vote, in accordance with Iowa Code section 533.203. Each credit union member shall have a meaningful opportunity to vote in a membership vote. ~~The board of directors shall vote to conduct the vote in whole by electronic voting only if all members have access to an electronic voting device. If the number of members who have opted to receive notices electronically is less than all members, the board may provide access to an electronic device in each credit union office for the members to vote electronically in order to satisfy the access requirement. Otherwise, the board shall also conduct the vote in part by mail-in ballot or in person at a meeting held for the purpose of voting, pursuant to the requirements of this rule.~~

**12.10(3) *Election committee.*** The board shall appoint an election committee of not fewer than five members, no more than two of whom may be from the board of directors and none of whom may be from the auditing committee.

## CREDIT UNION DIVISION[189](cont'd)

*a.*—It is the duty of the election committee to oversee balloting, to tabulate votes, and to ensure that each member shall only be allowed to vote once and that multiple ballots submitted by the same member are disqualified.

*b.*—The election committee shall elect a chairperson from among the committee members. If the balloting includes a vote taken at a meeting of members, the chairperson of the election committee shall announce the results of the election at the meeting; otherwise, the chairperson shall certify the vote to the board within five days of the close of balloting.

*c.*—No member or agent of the election committee shall reveal the manner in which any member voted.

*d.*—If the board of directors, by majority vote, has elected to utilize electronic voting, the election committee shall test the integrity of the electronic voting system at regular intervals during the election period. In the event of a malfunction of the electronic voting system, the board may in its discretion order the election to be held in another form, consistent with Iowa Code section 533.203.

*e.*—For electronic ballots, it is the duty of the election committee to verify, or cause to be verified, the name and credit union account number of the voter as registered in the electronic voting system.

*f.*—For mail-in ballots, including absentee ballots, it is the duty of the election committee to verify, or cause to be verified, the name and credit union account number of the voter as they appear on the identification form, to place the verified identification form and the sealed ballot envelope in a place of safekeeping pending the count of the vote, and, in the case of a questionable or challenged identification form, to retain the identification form and sealed ballot envelope together until the verification or challenge has been resolved.

**12.10(4) Notice of balloting.** The secretary shall set forth the suspension and proposed removal in a notice to all members eligible to vote at least 20 days but not more than 30 days prior to the closing date of balloting.

*a.*—The notice shall set forth the rules and procedures for voting, the date of the close of balloting for ballots submitted other than in person during voting at a meeting held for the purpose of voting, that balloting is subject to an affirmative vote of a majority of all members eligible to vote, and that no other vote on the subject shall be taken after the closing date of balloting except for votes cast in person during voting at a meeting held for the purpose of voting. The notice shall also contain a summary of the auditing committee's reasons for voting to suspend the officer, director, or member of the auditing committee, as well as a summary of the reasons, if known, that the officer, director, or member of the auditing committee believes that the officer, director, or member should be reinstated.

(1) The close of balloting for ballots submitted other than in person during voting at a meeting held for the purpose of voting shall be at least five days prior to any meeting where voting will occur.

(2) Electronic ballots shall be submitted no later than midnight on the date balloting closes for ballots submitted other than in person during voting at a meeting held for the purpose of voting in order to be considered valid.

(3) Ballots mailed to the credit union shall be postmarked no later than the closing date of balloting for ballots submitted other than in person during voting at a meeting held for the purpose of voting and received within five business days after the closing date of balloting for ballots submitted other than in person during voting at a meeting held for the purpose of voting in order to be considered valid.

(4) Ballots hand-delivered to the credit union shall be received prior to the close of normal credit union business hours on the closing date of balloting for ballots submitted other than in person during voting at a meeting held for the purpose of voting in order to be considered valid.

(5) If more than one method of voting will be used, the notice shall also communicate that members have the right to vote on the proposed removal through any of the methods of voting designated by the board, but that members will only be allowed to vote once.

*b.*—The notice may be included in statements or newsletters, on the credit union website, or on signs posted in the credit union.

*c.*—The notice may be sent electronically to those members who have opted to receive notices electronically.

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~~12.10(5) Mailed ballots.~~ If the board voted by majority vote to conduct the vote in whole or in part by mailed ballot:

~~a.~~—The secretary shall include the following balloting materials with the notice of balloting:

~~(1)~~—One ballot, clearly identified as the ballot.

~~(2)~~—One ballot envelope clearly marked “ballot” with instructions that the completed ballot shall be placed in that envelope and sealed.

~~(3)~~—One identification form to be completed so as to include the name, address, signature, and credit union account number of the voter.

~~(4)~~—One mailing envelope in which the voter, following instructions provided, shall insert the sealed “ballot” envelope and the identification form. The mailing envelope shall be preaddressed for return to the election committee.

~~b.~~—If the credit union will also be conducting electronic voting, the mail-in ballot is not required for members who have opted to receive notices or statements electronically, and electronic mail may be used to provide the instructions and notices for the electronic voting procedure.

~~c.~~—Ballots mailed to the election committee or hand-delivered to the credit union shall be received unopened and placed in ballot boxes. The ballot boxes shall be opened by and the vote tallied by the election committee.

~~d.~~—If additional voting will be conducted at a meeting of members, the tallies shall be placed in the ballot boxes, and the ballot boxes shall be resealed to be taken to the meeting. If no other voting is scheduled to occur, the election committee shall tally the total votes and certify the vote count to the board no later than five days after the closing date of balloting for ballots submitted other than in person during voting at a meeting held for the purpose of voting.

~~12.10(6) Electronic voting.~~ If the board voted by majority vote to conduct the vote in whole or in part by electronic voting:

~~a.~~—The secretary shall include with the notice of balloting specific instructions for electronic voting, including how to access and use the electronic voting system, and the period of time in which votes will be taken.

~~b.~~—For those members who have opted to receive notices or statements electronically, the instructions required under this subrule may be communicated electronically.

~~c.~~—The electronic voting shall be tallied by the election committee prior to any meeting where voting is also scheduled to take place, and the committee shall take the tallies to the meeting. If no meeting is scheduled for voting, the election committee shall tally the votes and certify the vote count to the board no later than five days after the closing date of balloting for ballots submitted other than in person during voting at a meeting held for the purpose of voting.

~~12.10(7) Absentee ballots—subsequent in-person vote at meeting.~~ If the board of directors, by majority vote, has elected to conduct the vote only in person at a meeting of members, the board may also, by majority vote, utilize absentee ballots when, in the opinion of the board, it is in the best interest of the credit union and its membership.

~~a.~~—The secretary shall include with the notice of balloting a statement that members may vote either in person at the meeting of members or by absentee ballot if the member submits a written or electronic request for an absentee ballot and returns the ballot prior to the close of balloting for ballots submitted other than in person during voting at a meeting held for the purpose of voting.

~~b.~~—The secretary shall mail the balloting materials specified in paragraph 12.8(5) “a” to each member who is eligible to vote and who has submitted a written or electronic request for an absentee ballot.

~~c.~~—Ballots mailed to the election committee or hand-delivered to the credit union shall be received unopened and deposited in ballot boxes. The ballot boxes shall be opened by and the vote tallied by the election committee, the tallies placed in the ballot boxes, and the ballot boxes resealed to be taken to the meeting.

~~d.~~—At the meeting of members, printed ballots shall be given to those members who have not voted. The completed ballots shall be deposited in ballot boxes placed in conspicuous locations by the election committee before the meeting. After the members have been given an opportunity to vote, balloting

## CREDIT UNION DIVISION[189](cont'd)

shall be closed, the ballot boxes opened and the vote tallied by the election committee and added to any previous count of absentee ballots. The election committee shall immediately certify the vote count to the board. The chairperson of the election committee shall announce the result of the vote at the meeting.

~~12.10(8) *In-person vote at meeting.* If the board voted by majority vote to conduct the vote in whole or in part at a meeting of members, then printed ballots shall be distributed to those in attendance at the meeting who have not voted by another method, and the ballots shall be deposited in ballot boxes placed in conspicuous locations by the election committee. After those members have been given an opportunity to vote at the meeting, balloting shall be closed, the ballot boxes opened and the vote tallied by the election committee and added to any previous count of mailed or electronic ballots. The election committee shall immediately certify the vote count to the board. The chairperson of the election committee shall announce the result of the vote at the meeting.~~

~~12.10(9) 12.10(4) *Preservation of ballots.* Ballots shall be preserved according to the requirements of 189—12.9(533) rule 189—12.11(533). The 60-day retention period required by subrule 12.9(2) 12.11(2) shall run from the date the results are certified to the board by the election committee.~~

~~12.10(10) 12.10(5) *Publication of results.* The board shall inform the membership of the results of the vote according to the provisions of 189—12.10(533) rule 189—12.12(533). The 60-day posting period required by subrule 12.10(1) 12.12(1) shall run from the date the results are certified to the board by the election committee.~~

ITEM 12. Amend renumbered rule 189—12.13(533) as follows:

**189—12.13(533) ~~Vote on~~ Specific voting requirements for the sale of assets by corporate central credit union.**

**12.13(1) *Board of directors' vote.*** A corporate central credit union that seeks to sell all of its assets to another corporate credit union shall proceed pursuant to a plan agreed upon by a favorable vote of a majority of directors. The board shall notify the superintendent within ~~three~~ ten days.

**12.13(2) *Subsequent vote of the membership.*** Following a vote by the board of directors to approve a plan to sell all of the corporate central credit union's assets to another corporate credit union, the board shall submit the plan to a vote of the membership.

*a.* The board shall submit the issue within ~~30~~ 60 days of voting to approve the plan to all eligible voters of record as of the date of the vote by the board of directors.

*b.* The board of directors shall, by majority vote, select the method of voting for the membership vote, in accordance with Iowa Code section 533.203. Each credit union member shall have a meaningful opportunity to vote in a membership vote. ~~The board of directors shall vote to conduct the vote in whole by electronic voting only if all members have access to an electronic voting device. Otherwise, the board shall also conduct the vote in part by mail-in ballot or in person at a meeting held for the purpose of voting, pursuant to the requirements of this rule.~~

*c.* The approval of the sale is not final until approved by the superintendent after the membership vote.

~~12.13(3) *Election committee.* The board shall appoint an election committee of not fewer than five members, no more than two of whom may be from the board of directors.~~

~~*a.* It is the duty of the election committee to oversee balloting, to tabulate votes, and to ensure that each member shall only be allowed to vote once and that multiple ballots submitted by the same member are disqualified.~~

~~*b.* The election committee shall elect a chairperson from among the committee members. If the balloting includes a vote taken at a meeting of members, the chairperson of the election committee shall announce the results of the election at the meeting; otherwise, the chairperson shall certify the vote to the board within five days of the close of balloting.~~

~~*c.* No member or agent of the election committee shall reveal the manner in which any member voted.~~

~~*d.* If the board of directors, by majority vote, has elected to utilize electronic voting, the election committee shall test the integrity of the electronic voting system at regular intervals during the election~~

## CREDIT UNION DIVISION[189](cont'd)

period. In the event of a malfunction of the electronic voting system, the board may in its discretion order the election to be held in another form, consistent with Iowa Code section 533.203.

*e.*—For electronic ballots, it is the duty of the election committee to verify, or cause to be verified, the name and credit union account number of the voter as registered in the electronic voting system.

*f.*—For mail-in ballots, including absentee ballots, it is the duty of the election committee to verify, or cause to be verified, the name and credit union account number of the voter as they appear on the identification form, to place the verified identification form and the sealed ballot envelope in a place of safekeeping pending the count of the vote, and, in the case of a questionable or challenged identification form, to retain the identification form and sealed ballot envelope together until the verification or challenge has been resolved.

**12.13(4) Notice of balloting.** The secretary shall set forth the proposed sale in a notice to all members eligible to vote at least 20 days but not more than 30 days prior to the closing date of balloting.

*a.*—The notice shall set forth the rules and procedures for voting, the date of the close of balloting for ballots submitted other than in person during voting at a meeting held for the purpose of voting, that balloting is subject to an affirmative vote of a majority of all members eligible to vote, and that no other vote on the subject shall be taken after the closing date of balloting except for votes cast in person during voting at a meeting held for the purpose of voting. The notice shall also contain a summary of the board's reasons for selling the assets.

(1) The close of balloting for ballots submitted other than in person during voting at a meeting held for the purpose of voting shall be at least five days prior to any meeting where voting will occur.

(2) Electronic ballots shall be submitted no later than midnight on the date balloting closes for ballots submitted other than in person during voting at a meeting held for the purpose of voting in order to be considered valid.

(3) Ballots mailed to the credit union shall be postmarked no later than the closing date of balloting for ballots submitted other than in person during voting at a meeting held for the purpose of voting and received within five business days after the closing date of balloting for ballots submitted other than in person during voting at a meeting held for the purpose of voting in order to be considered valid.

(4) Ballots hand-delivered to the credit union shall be received prior to the close of normal credit union business hours on the closing date of balloting for ballots submitted other than in person during voting at a meeting held for the purpose of voting in order to be considered valid.

(5) If more than one method of voting will be used, the notice shall also communicate that members have the right to vote on the proposed sale through any of the methods of voting designated by the board, but that members will only be allowed to vote once.

*b.*—The notice may be included in statements or newsletters or on the credit union website.

*c.*—The notice may be sent electronically to those members who have opted to receive notices electronically.

**12.13(5) Mailed ballots.** If the board voted by majority vote to conduct the vote in whole or in part by mailed ballot:

*a.*—The secretary shall include the following balloting materials with the notice of balloting:

(1) One ballot, clearly identified as the ballot.

(2) One ballot envelope clearly marked "ballot" with instructions that the completed ballot shall be placed in that envelope and sealed.

(3) One identification form to be completed so as to include the name, address, signature, and credit union account number of the voter.

(4) One mailing envelope in which the voter, following instructions provided, shall insert the sealed "ballot" envelope and the identification form. The mailing envelope shall be preaddressed for return to the election committee.

*b.*—If the credit union will also be conducting electronic voting, the mail-in ballot is not required for members who have opted to receive notices or statements electronically, and electronic mail may be used to provide the instructions and notices for the electronic voting procedure.



## CREDIT UNION DIVISION[189](cont'd)

~~c.—Ballots mailed to the election committee or hand-delivered to the credit union shall be received unopened and placed in ballot boxes. The ballot boxes shall be opened by and the vote tallied by the election committee.~~

~~d.—If additional voting will be conducted at a meeting of members, the tallies shall be placed in the ballot boxes, and the ballot boxes shall be resealed to be taken to the meeting. If no other voting is scheduled to occur, the election committee shall tally the total votes and certify the vote count to the board no later than five days after the closing date of balloting for ballots submitted other than in person during voting at a meeting held for the purpose of voting.~~

~~12.13(6) *Electronic voting.* If the board voted by majority vote to conduct the vote in whole or in part by electronic voting:~~

~~a.—The secretary shall include with the notice of balloting specific instructions for electronic voting, including how to access and use the electronic voting system, and the period of time in which votes will be taken.~~

~~b.—For those members who have opted to receive notices or statements electronically, the instructions required under this subrule may be communicated electronically.~~

~~c.—The electronic voting shall be tallied by the election committee prior to any meeting where voting is also scheduled to take place, and the committee shall take the tallies to the meeting. If no meeting is scheduled for voting, the election committee shall tally the votes and certify the vote count to the board no later than five days after the closing date of balloting for ballots submitted other than in person during voting at a meeting held for the purpose of voting.~~

~~12.13(7) *Absentee ballots—subsequent in-person vote at meeting.* If the board of directors, by majority vote, has elected to conduct the vote only in person at a meeting of members, the board may also, by majority vote, utilize absentee ballots when, in the opinion of the board, it is in the best interest of the credit union and its membership.~~

~~a.—The secretary shall include with the notice of balloting a statement that members may vote either in person at the meeting of members or by absentee ballot if the member submits a written or electronic request for an absentee ballot and returns the ballot prior to the close of balloting for ballots submitted other than in person during voting at a meeting held for the purpose of voting.~~

~~b.—The secretary shall mail the balloting materials specified in paragraph 12.11(5) “a” to each member who is eligible to vote and who has submitted a written or electronic request for an absentee ballot.~~

~~c.—Ballots mailed to the election committee or hand-delivered to the credit union shall be received unopened and deposited in ballot boxes. The ballot boxes shall be opened by and the vote tallied by the election committee, the tallies placed in the ballot boxes, and the ballot boxes resealed to be taken to the meeting.~~

~~d.—At the meeting of members, printed ballots shall be given to those members who have not voted. The completed ballots shall be deposited in ballot boxes placed in conspicuous locations by the election committee before the meeting. After the members have been given an opportunity to vote, balloting shall be closed, the ballot boxes opened and the vote tallied by the election committee and added to any previous count of absentee ballots. The election committee shall immediately certify the vote count to the board. The chairperson of the election committee shall announce the result of the vote at the meeting.~~

~~12.13(8) *In-person vote at meeting.* If the board voted by majority vote to conduct the vote in whole or in part at a meeting of members, then printed ballots shall be distributed to those in attendance at the meeting who have not voted by another method, and the ballots shall be deposited in ballot boxes placed in conspicuous locations by the election committee. After those members have been given an opportunity to vote at the meeting, balloting shall be closed, the ballot boxes opened and the vote tallied by the election committee and added to any previous count of mailed or electronic ballots. The election committee shall immediately certify the vote count to the board. The chairperson of the election committee shall announce the result of the vote at the meeting.~~

~~12.13(9) 12.13(3) *Preservation of ballots.* Ballots shall be preserved according to the requirements of 189—12.9(533) rule 189—12.11(533). The 60-day retention period required by subrule 12.9(2) 12.11(2) shall run from the date the results are certified to the board by the election committee.~~

CREDIT UNION DIVISION[189](cont'd)

~~12.13(10)~~ **12.13(4)** *Submission to superintendent.* The board of directors shall submit the plan to the superintendent for approval before the plan to sell all of the assets of the corporate central credit union becomes effective. The board shall submit the following documentation in support of its request for approval:

*a. to d.* No change.

~~12.13(11)~~ **12.13(5)** *Publication of results.* The board shall inform the membership of the results of the vote within ten days of certification of the results of the vote by the election committee. The board shall communicate the results to the membership by at least two of the following methods:

*a. to c.* No change.

[Filed 11/24/21, effective 1/19/22]

[Published 12/15/21]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 12/15/21.

**ARC 6092C**

## **CREDIT UNION DIVISION[189]**

**Adopted and Filed**

**Rule making related to fees**

The Credit Union Division hereby amends Chapter 15, "Foreign Credit Union Branch Offices," Iowa Administrative Code.

### *Legal Authority for Rule Making*

This rule making is adopted under the authority provided in Iowa Code section 533.115.

### *State or Federal Law Implemented*

This rule making implements, in whole or in part, Iowa Code section 533.115.

### *Purpose and Summary*

This amendment updates the annual fees paid by foreign credit unions to the Division.

### *Public Comment and Changes to Rule Making*

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on August 25, 2021, as **ARC 5881C**. No public comments were received.

Since publication of the Notice, the amendment was updated to strike the reference to operating a branch office as the trigger to pay a registration fee.

### *Adoption of Rule Making*

This rule making was adopted by the Credit Union Review Board on September 29, 2021.

### *Fiscal Impact*

This rule making has no fiscal impact to the State of Iowa.

### *Jobs Impact*

After analysis and review of this rule making, no impact on jobs has been found.

CREDIT UNION DIVISION[189](cont'd)

*Waivers*

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Division for a waiver of the discretionary provisions, if any, pursuant to 189—Chapter 23.

*Review by Administrative Rules Review Committee*

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

*Effective Date*

This rule making will become effective on January 19, 2022.

The following rule-making action is adopted:

Amend subrule 15.6(1) as follows:

**15.6(1)** Each credit union operating a ~~branch office~~ in this state pursuant to these rules and Iowa Code section 533.115 shall pay an annual registration fee of \$1,000 plus \$250 for each branch or office located in Iowa to the superintendent on or before February 1 of each year.

[Filed 11/24/21, effective 1/19/22]

[Published 12/15/21]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 12/15/21.

**ARC 6085C**

**ECONOMIC DEVELOPMENT AUTHORITY[261]****Adopted and Filed****Rule making related to broadband forward and telecommuter forward certifications**

The Economic Development Authority hereby rescinds Chapter 24, "Emergency Shelter Grants Program," and adopts a new Chapter 24, "Broadband Forward and Telecommuter Forward Certifications," Iowa Administrative Code.

*Legal Authority for Rule Making*

This rule making is adopted under the authority provided in Iowa Code section 15.106A and 2021 Iowa Acts, House File 871.

*State or Federal Law Implemented*

This rule making implements, in whole or in part, Iowa Code section 15E.167 as enacted by 2021 Iowa Acts, House File 871.

*Purpose and Summary*

Pursuant to 2021 Iowa Acts, House File 871, the Authority shall establish broadband forward and telecommuter forward certifications. The purpose of the broadband forward certification is to encourage cities, counties, and townships ("political subdivisions") to further develop broadband infrastructure and access to broadband. The purpose of the telecommuter forward certification is to encourage political subdivisions to further develop and promote the availability of telecommuting.

## ECONOMIC DEVELOPMENT AUTHORITY[261](cont'd)

New Chapter 24 is replacing the chapter relating to the Emergency Shelter Grants Program. In 2010, administration of the Emergency Shelter Grants Program was transferred to the Iowa Finance Authority.

*Public Comment and Changes to Rule Making*

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on September 22, 2021, as **ARC 5929C**.

Dave Duncan provided the following comment on behalf of the Iowa Communications Alliance: “On behalf of the 115+ community based broadband providers that we represent, we believe that these proposed rules accurately reflect the legislation and the legislative intent, and we support the rules as written. We look forward to helping in any way to get this program rolling so we can celebrate those communities that are broadband advocates!”

One change from the Notice has been made. The reference to 2021 Iowa Acts, House File 871, has been removed from the chapter implementation sentence because the legislation will be codified by the time this rule making becomes effective.

*Adoption of Rule Making*

This rule making was adopted by the Authority Board on November 19, 2021.

*Fiscal Impact*

This rule making has no fiscal impact to the State of Iowa.

*Jobs Impact*

After analysis and review of this rule making, no impact on jobs has been found.

*Waivers*

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Authority for a waiver of the discretionary provisions, if any, pursuant to 261—Chapter 199.

*Review by Administrative Rules Review Committee*

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making at its [regular monthly meeting](#) or at a special meeting. The Committee’s meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

*Effective Date*

This rule making will become effective on January 19, 2022.

The following rule-making action is adopted:

Rescind 261—Chapter 24 and adopt the following **new** chapter in lieu thereof:

CHAPTER 24

BROADBAND FORWARD AND TELECOMMUTER FORWARD CERTIFICATIONS

**261—24.1(15E) Authority.** The authority for establishing this program is provided in Iowa Code section 15E.167 as enacted by 2021 Iowa Acts, House File 871.

**261—24.2(15E) Purposes.** The purpose of the broadband forward certification is to encourage political subdivisions to further develop broadband infrastructure and access to broadband. The purpose of the

## ECONOMIC DEVELOPMENT AUTHORITY[261](cont'd)

telecommuter forward certification is to encourage political subdivisions to further develop and promote the availability of telecommuting.

**261—24.3(15E) Definitions.**

“*Applicant*” means a political subdivision that submits an application to the authority for a broadband forward certification or telecommuter forward certification.

“*Authority*” means the economic development authority created in Iowa Code section 15.105.

“*Broadband*” means the same as defined in Iowa Code section 8B.1.

“*Broadband infrastructure*” means the same as defined in Iowa Code section 8B.1.

“*Certification*” means a certificate issued to a political subdivision that meets the criteria in rule 261—24.5(15E) or 261—24.6(15E).

“*Communications service provider*” means a service provider that provides broadband service.

“*Political subdivision*” means a city, county, or township.

“*Program*” means the broadband forward and telecommuter forward certification program established in this chapter.

**261—24.4(15E) Application; review; approval.**

**24.4(1) Application.** The authority will develop a standardized application process and make information on applying available on the authority’s website at [www.iowaeda.com](http://www.iowaeda.com). To apply for certification under the program, a political subdivision shall submit an application to the authority in the form and manner prescribed by the authority. A political subdivision may apply for broadband forward certification and telecommuter forward certification concurrently.

**24.4(2) Review.** The authority will review each complete application to determine whether an applicant meets the criteria in rule 261—24.5(15E) or 261—24.6(15E).

**24.4(3) Approval.** The authority may approve, deny or defer applications for certification. If the authority approves an application for certification, the authority will issue a broadband forward or telecommuter forward certificate and assist the political subdivision in publicizing its certification.

**261—24.5(15E) Broadband forward certification.**

**24.5(1) Application requirements.** To obtain broadband forward certification, a political subdivision shall submit to the authority an application indicating all of the following:

- a. The political subdivision’s support and commitment to promote the availability of broadband.
- b. Existing or proposed ordinances encouraging the further development of broadband infrastructure and access to broadband.
- c. Efforts to secure local funding for the further development of broadband infrastructure and access to broadband.
- d. A single point of contact for the political subdivision for all matters related to broadband and broadband infrastructure.

**24.5(2) Single point of contact.** The single point of contact designated pursuant to paragraph 24.5(1) “d” shall be responsible for all of the following:

- a. Coordination and partnership with the authority, communications service providers, realtors, economic development professionals, employers, employees, and other broadband stakeholders.
- b. Collaboration with the authority, communications service providers, and employers to identify, develop, and market broadband packages available in the political subdivision.
- c. Familiarity with broadband mapping tools and other state-level resources.
- d. Maintaining regular communication with the authority.
- e. Providing to the political subdivision regular reports regarding the availability of broadband in the political subdivision.

**24.5(3) Evaluation.** The authority will evaluate whether the applicant demonstrates that its efforts or proposed efforts to develop broadband infrastructure and access to broadband will have a sufficient impact that warrants certification.

ECONOMIC DEVELOPMENT AUTHORITY[261](cont'd)

**261—24.6(15E) Telecommuter forward certification.**

**24.6(1)** A political subdivision that meets the criteria for broadband forward certification in rule 261—24.5(15E) may apply for telecommuter forward certification. To obtain telecommuter forward certification, a political subdivision shall submit to the authority an application indicating the following:

- a. The political subdivision's support and commitment to promote the availability of telecommuting options.
- b. Existing or proposed ordinances encouraging the further development of telecommuting options.
- c. Efforts to secure local funding for the further development of telecommuting options.
- d. A single point of contact for coordinating telecommuting opportunities and options.

**24.6(2)** The single point of contact designated pursuant to paragraph 24.6(1) "d" shall be responsible for all of the following:

- a. Coordination and partnership with the authority, communications service providers, realtors, economic development professionals, employers, employees, and other telecommuting stakeholders.
- b. Collaboration with the authority, communications service providers, and employers to identify, develop, and market telecommuter-capable broadband packages available in the political subdivision.
- c. Promotion of telecommuter-friendly workspaces, such as business incubators with telecommuting spaces, if such a workspace has been established in the political subdivision at the time the political subdivision submits the application.
- d. Familiarity with broadband mapping tools and other state-level resources.
- e. Maintaining regular communication with the authority.
- f. Providing to the political subdivision regular reports regarding the availability of telecommuting options in the political subdivision.

**24.6(3)** The authority will evaluate whether the applicant demonstrates that its efforts or proposed efforts to further develop and promote the availability of telecommuting will have a sufficient impact that warrants certification.

**261—24.7(15E) Maintenance of certification.**

**24.7(1) Reports.** A political subdivision certified pursuant to this chapter shall submit an annual report to the authority verifying its continued eligibility for certification pursuant to rule 261—24.5(15E) or 261—24.6(15E). If applicable, the report will also address a political subdivision's compliance with the restrictions in subrule 24.7(2).

**24.7(2) Restrictions on certified broadband forward communities.** A political subdivision that the authority has certified as a broadband forward community pursuant to subrule 24.4(3) shall not do any of the following:

- a. Require an applicant to designate a final contractor to complete a broadband infrastructure project.
- b. Impose a fee to review an application or issue a permit for a broadband infrastructure application in excess of \$100.
- c. Impose a moratorium of any kind on the approval of applications and issuance of permits for broadband infrastructure projects or on construction related to broadband infrastructure.
- d. Discriminate among communications service providers or public utilities with respect to any action described in this rule or otherwise related to broadband infrastructure, including granting access to public rights-of-way, infrastructure and poles, river and bridge crossings, or any other physical assets owned or controlled by the political subdivision.
- e. As a condition for approving an application or issuing a permit for a broadband infrastructure project or for any other purpose, require the applicant to provide any service or make available any part of the broadband infrastructure to the political subdivision or make any payment to or on behalf of the political subdivision, except for the fee allowed under paragraph 24.7(2) "b."

## ECONOMIC DEVELOPMENT AUTHORITY[261](cont'd)

**24.7(3) Revocation of certification.** The authority shall revoke the certification of a political subdivision that does not comply with the requirements of subrule 24.7(1) or 24.7(2) or that the authority otherwise determines is no longer eligible for certification pursuant to this chapter.

These rules are intended to implement Iowa Code section 15E.167.

[Filed 11/19/21, effective 1/19/22]

[Published 12/15/21]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 12/15/21.

**ARC 6086C**

**ECONOMIC DEVELOPMENT AUTHORITY[261]**

**Adopted and Filed**

**Rule making related to workforce housing tax incentives program**

The Economic Development Authority hereby amends Chapter 48, "Workforce Housing Tax Incentives Program," Iowa Administrative Code.

*Legal Authority for Rule Making*

This rule making is adopted under the authority provided in Iowa Code section 15.106A and 2021 Iowa Acts, Senate File 619.

*State or Federal Law Implemented*

This rule making implements, in whole or in part, 2021 Iowa Acts, Senate File 619.

*Purpose and Summary*

2021 Iowa Acts, Senate File 619, amends Iowa Code section 15.354 relating to the Workforce Housing Tax Incentives Program. The legislation (1) replaces examination language with a requirement that recipients provide a statement of the amount of final qualified rehabilitation expenditures and any other information deemed necessary by the Authority, (2) allows the Authority to request additional documentation before approving a sales and use tax refund, (3) allows the Authority to establish an application period for the submission of disaster recovery applications and allows for competitive scoring, and (4) adds a provision that a housing business shall meet the requirements set forth in the Authority's and the Department of Revenue's rules before claiming a refund of sales and use taxes.

This rule making amends certain definitions, incorporates the examination language from Senate File 619 and further elaborates on the attestation procedure, and amends the disaster recovery housing rules to include the authority to establish an application period and a competitive process. This rule making also updates the Authority's address.

*Public Comment and Changes to Rule Making*

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on September 22, 2021, as **ARC 5909C**. No public comments were received.

The following changes from the Notice have been made:

- An additional amendment to paragraph 48.5(2)"d" (new Item 3) was added to be consistent with nonsubstantive changes in the Iowa Code made by 2021 Iowa Acts, House File 739.
- Subsequent items were renumbered accordingly.
- References to processes for claiming tax credits were stricken in subrules 48.6(3) and 48.11(3) (Items 5 and 10 herein).

## ECONOMIC DEVELOPMENT AUTHORITY[261](cont'd)

- The implementation sentence for Chapter 48 has been revised to remove the reference to 2021 Iowa Acts since the amendments in the Acts will be codified by the time this rule making becomes effective.

*Adoption of Rule Making*

This rule making was adopted by the Authority Board on November 19, 2021.

*Fiscal Impact*

This rule making has no fiscal impact to the State of Iowa.

*Jobs Impact*

After analysis and review of this rule making, no impact on jobs has been found.

*Waivers*

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Authority for a waiver of the discretionary provisions, if any, pursuant to 261—Chapter 199.

*Review by Administrative Rules Review Committee*

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

*Effective Date*

This rule making will become effective on January 19, 2022.

The following rule-making actions are adopted:

ITEM 1. Amend rule **261—48.3(15)**, definition of “Costs directly related,” as follows:

“*Costs directly related*” means expenditures that are incurred for construction of a housing project to the extent that they are attributable directly to the improvement of the property or its structures. “Costs directly related” includes expenditures for ~~property acquisition~~, site preparation work, surveying, construction materials, construction labor, architectural services, and engineering services, ~~building permits, building inspection fees, and interest accrued on a construction loan during the time period allowed for project completion under an agreement entered into pursuant to the program.~~ “Costs directly related” does not include expenditures for property acquisition, building permits, building inspection fees, furnishings, appliances, accounting services, legal services, loan origination and other financing costs including interest on construction loans, syndication fees and related costs, developer fees, or the costs associated with selling or renting the dwelling units whether incurred before or after completion of the housing project.

ITEM 2. Adopt the following **new** definition of “Project completion” in rule **261—48.3(15)**:

“*Project completion*” means the same as defined in Iowa Code section 15.355(2).

ITEM 3. Amend paragraph **48.5(2)“d”** as follows:

*d.* An applicant that does not receive a tax incentive award during an application period may make additional applications during subsequent application periods. Such applicant shall be required to submit a new application ~~and~~, which shall be competitively reviewed and scored in the same manner as other ~~applicants~~ applications in that application period.



## ECONOMIC DEVELOPMENT AUTHORITY[261](cont'd)

ITEM 4. Amend paragraphs **48.5(3)“d”** and **“e”** as follows:

*d.* Upon completion of a housing project, ~~an~~ a housing business shall submit all of the following to the authority:

(1) An examination of the project in accordance with the American Institute of Certified Public Accountants' statements on standards for attestation engagements, completed by a certified public accountant (CPA) authorized to practice in this state, shall be submitted to the authority. The attestation applicable to this examination is SSAE No. 10 (as amended by SSAE Nos. 11, 12, 14), AT section 101 and AT section 601. The procedures used by the CPA to conduct the examination should allow the CPA to conclude that, in the CPA's professional judgment, the expenditures claimed are eligible pursuant to the agreement; Iowa Code chapter 15, subchapter II, part 17; and all rules adopted pursuant to Iowa Code chapter 15, subchapter II, part 17, in all material respects. Within ten business days of a request by the authority, the housing business shall make available to the authority the documents reviewed by the CPA unless good cause is shown.

(2) A statement of the final amount of qualifying new investment for the housing project.

(3) Any information the authority deems necessary to ensure compliance with the agreement signed by the housing business pursuant to paragraph 48.5(3)“a”; the requirements of Iowa Code chapter 15, subchapter II, part 17; and these rules and rules adopted by the department of revenue pursuant to Iowa Code section 15.356.

*e.* Upon review of the examination, ~~and~~ verification of the amount of the qualifying new investment, and review of any other information submitted pursuant to subparagraph 48.5(3)“d”(3), the authority may notify the housing business of the amount that the housing business may claim as a refund of the sales and use taxes under subrule 48.6(2) and may issue a tax credit certificate to the housing business stating the amount of workforce housing investment tax credits under rule 261—48.6(15) that the eligible housing business may claim. The sum of the amount that the housing business may claim as a refund of the sales and use tax and the amount of the tax credit certificate shall not exceed the amount of the tax incentive award.

ITEM 5. Amend subrule 48.6(3) as follows:

**48.6(3) *Income tax credits.***

*a.* No change.

*b.* The tax credit shall be allowed against the taxes imposed in Iowa Code chapter 422, ~~divisions~~ subchapters II, III, and V, and in Iowa Code chapter 432, and against the moneys and credits tax imposed in Iowa Code section 533.329.

*c.* ~~An individual may claim a tax credit under this subrule of a partnership, limited liability company, S corporation, estate, or trust electing to have income taxed directly to the individual. The amount claimed by the individual shall be based upon the pro rata share of the individual's earnings from the partnership, limited liability company, S corporation, estate, or trust.~~

*d.* ~~Any tax credit in excess of the taxpayer's liability for the tax year is not refundable but may be credited to the tax liability for the following five years or until depleted, whichever is earlier.~~

*e. c.* ~~(1) To claim a tax credit under this subrule, a taxpayer shall include one or more tax credit certificates with the taxpayer's tax return~~ file a claim with the department of revenue pursuant to the department's applicable rules.

~~(2) The tax credit certificate shall contain the taxpayer's name, address, tax identification number, the amount of the credit, the name of the eligible housing business, any other information required by the department of revenue, and a place for the name and tax identification number of a transferee and the amount of the tax credit being transferred.~~

~~(3) The tax credit certificate, unless rescinded by the authority, shall be accepted by the department of revenue as payment for taxes imposed pursuant to Iowa Code chapter 422, divisions II, III, and V, and in Iowa Code chapter 432, and for the moneys and credits tax imposed in Iowa Code section 533.329, subject to any conditions or restrictions placed by the authority upon the face of the tax credit certificate and subject to the limitations of this program.~~

## ECONOMIC DEVELOPMENT AUTHORITY[261](cont'd)

~~(5) Within 30 days of receiving the transferred tax credit certificate and the transferee's statement, the department of revenue shall issue one or more replacement tax credit certificates to the transferee. Each replacement tax credit certificate must contain the information required for the original tax credit certificate and must have the same expiration date that appeared on the transferred tax credit certificate.~~

~~(6) A tax credit shall not be claimed by a transferee under this rule until a replacement tax credit certificate identifying the transferee as the proper holder has been issued. The transferee may use the amount of the tax credit transferred against the taxes imposed in Iowa Code chapter 422, divisions II, III, and V, and in Iowa Code chapter 432, and against the moneys and credits tax imposed in Iowa Code section 533.329, for any tax year the original transferor could have claimed the tax credit. Any consideration received for the transfer of the tax credit shall not be included as income under Iowa Code chapter 422, divisions II, III, and V. Any consideration paid for the transfer of the tax credit shall not be deducted from income under Iowa Code chapter 422, divisions II, III, and V.~~

~~(4) d. Tax credit certificates issued under an agreement entered into pursuant to subrule 48.5(3) may be transferred to any person pursuant to the department's applicable rules. Within 90 days of transfer, the transferee shall submit the transferred tax credit certificate to the department of revenue along with a statement containing the transferee's name, tax identification number, and address, the denomination that each replacement tax credit certificate is to carry, and any other information required by the department of revenue. However, tax credit certificate amounts of less than \$1,000 shall not be transferable.~~

~~f. For purposes of the individual and corporate income taxes and the franchise tax, the increase in the basis of the property that would otherwise result from the qualifying new investment shall be reduced by the amount of the tax credit computed under this subrule.~~

ITEM 6. Amend subrule 48.8(1) as follows:

**48.8(1)** The authority will develop a standardized application and make the application available to eligible housing businesses and to communities. To apply for assistance under the program, an interested person shall submit an application to the authority. Applications must be submitted online at [www.iowagrants.gov](http://www.iowagrants.gov). Instructions for application submission may be obtained at [www.iowagrants.gov](http://www.iowagrants.gov) or by contacting the Community Development Division, Economic Development Authority, 200 East Grand Avenue 1963 Bell Avenue, Suite 200, Des Moines, Iowa 50309 50315.

ITEM 7. Amend paragraph **48.10(1)“a”** as follows:

~~a. A housing business seeking disaster recovery housing tax incentives pursuant to rule 261—48.11(15) shall make application to the authority in the manner prescribed in this rule. The authority may accept applications on a continuous basis and will review applications in the order received establish a disaster recovery application period following the declaration of a major disaster by the President of the United States for a county in Iowa. The authority will acknowledge receipt of the application and review applications in a timely manner. The authority will notify the applicant within 30 days as to whether the applicants in writing of a tax incentive award for a disaster recovery housing project will be awarded tax incentives pursuant to this rule.~~

ITEM 8. Amend paragraph **48.10(2)“a”** as follows:

~~a. Upon review of the application and scoring of all applications received during a disaster recovery application period, the authority may make a tax incentive award to a disaster recovery housing project under the disaster recovery housing program. The tax incentive award shall represent the maximum amount of tax incentives that the disaster recovery housing project may qualify for under the program. In determining a tax incentive award, the authority shall not use an amount of project costs that exceeds the amount included in the application of the housing business. Tax incentive awards shall be approved by the director of the authority.~~

ITEM 9. Amend paragraphs **48.10(3)“d”** and **“e”** as follows:

~~d. Upon completion of a disaster recovery housing project, an a housing business shall submit all of the following to the authority:~~

~~(1) An examination of the project in accordance with the American Institute of Certified Public Accountants' statements on standards for attestation engagements, completed by a certified public~~

## ECONOMIC DEVELOPMENT AUTHORITY[261](cont'd)

accountant (CPA) authorized to practice in this state, ~~shall be submitted to the authority.~~ The attestation applicable to this examination is SSAE No. 10 (as amended by SSAE Nos. 11, 12, 14), AT section 101 and AT section 601. The procedures used by the CPA to conduct the examination should allow the CPA to conclude that, in the CPA's professional judgment, the expenditures claimed are eligible pursuant to the agreement; Iowa Code chapter 15, subchapter II, part 17; and all rules adopted pursuant to Iowa Code chapter 15, subchapter II, part 17, in all material respects. Within ten business days of a request by the authority, the housing business shall make available to the authority the documents reviewed by the CPA unless good cause is shown.

(2) A statement of the final amount of qualifying new investment for the housing project.

(3) Any information the authority deems necessary to ensure compliance with the agreement signed by the housing business pursuant to paragraph 48.10(3) "a"; the requirements of Iowa Code chapter 15, subchapter II, part 17; and these rules and rules adopted by the department of revenue pursuant to Iowa Code section 15.356.

e. Upon review of the examination as described in paragraph 48.10(3) "d," and verification of the amount of the qualifying new investment, and review of any other information submitted pursuant to subparagraph 48.10(3) "d"(3), the authority may notify the housing business of the amount that the housing business may claim as a refund of the sales and use tax under Iowa Code section 15.355(2), and may issue a tax credit certificate to the housing business stating the amount of disaster recovery housing investment tax credits under rule 261—48.11(15) that the eligible housing business may claim. The sum of the amount that the housing business may claim as a refund of the sales and use tax and the amount of the tax credit certificate shall not exceed the amount of the tax incentive award.

ITEM 10. Amend subrule 48.11(3) as follows:

**48.11(3) Income tax credits.**

a. No change.

b. The tax credit shall be allowed against the taxes imposed in Iowa Code chapter 422, divisions subchapters II, III, and V, and in Iowa Code chapter 432, and against the moneys and credits tax imposed in Iowa Code section 533.329.

~~e.—An individual may claim a tax credit under this subrule of a partnership, limited liability company, S corporation, estate, or trust electing to have income taxed directly to the individual. The amount claimed by the individual shall be based upon the pro rata share of the individual's earnings from the partnership, limited liability company, S corporation, estate, or trust.~~

~~d.—Any tax credit in excess of the taxpayer's liability for the tax year is not refundable but may be credited to the tax liability for the following five years or until depleted, whichever is earlier.~~

~~e. c. (1) To claim a tax credit under this subrule, a taxpayer shall include one or more tax credit certificates with the taxpayer's tax return file a claim with the department of revenue pursuant to the department's applicable rules.~~

~~(2) The tax credit certificate shall contain the taxpayer's name, address, tax identification number, the amount of the credit, the name of the eligible housing business, any other information required by the department of revenue, and a place for the name and tax identification number of a transferee and the amount of the tax credit being transferred.~~

~~(3) The tax credit certificate, unless rescinded by the authority, shall be accepted by the department of revenue as payment for taxes imposed pursuant to Iowa Code chapter 422, divisions II, III, and V, and to Iowa Code chapter 432, and against the moneys and credits tax imposed pursuant to Iowa Code section 533.329, subject to any conditions or restrictions placed by the authority upon the face of the tax credit certificate and subject to the limitations of this program.~~

~~(5) Within 30 days of receiving the transferred tax credit certificate and the transferee's statement, the department of revenue shall issue one or more replacement tax credit certificates to the transferee. Each replacement tax credit certificate must contain the information required for the original tax credit certificate and must have the same expiration date that appeared on the transferred tax credit certificate.~~

~~(6) A tax credit shall not be claimed by a transferee under this rule until a replacement tax credit certificate identifying the transferee as the proper holder has been issued. The transferee may use the~~

ECONOMIC DEVELOPMENT AUTHORITY[261](cont'd)

~~amount of the tax credit transferred against the taxes imposed pursuant to Iowa Code chapter 422, divisions II, III, and V, and in Iowa Code chapter 432, and against the moneys and credits tax imposed in Iowa Code section 533.329, for any tax year the original transferor could have claimed the tax credit. Any consideration received for the transfer of the tax credit shall not be included as income under Iowa Code chapter 422, divisions II, III, and V. Any consideration paid for the transfer of the tax credit shall not be deducted from income under Iowa Code chapter 422, divisions II, III, and V.~~

~~(4) d. A tax credit certificate issued under an agreement entered into pursuant to subrule 48.10(3) may be transferred to any person pursuant to the department's applicable rules. Within 90 days of transfer, the transferee shall submit the transferred tax credit certificate to the department of revenue along with a statement containing the transferee's name, tax identification number, and address; the denomination that each replacement tax credit certificate is to carry; and any other information required by the department of revenue. Tax credit certificate amounts of less than \$1,000 shall not be transferable.~~

~~f. For purposes of individual and corporate income taxes and the franchise tax, the increase in the basis of the property that would otherwise result from the qualifying new investment shall be reduced by the amount of the tax credit described under this subrule.~~

ITEM 11. Amend rule 261—48.12(15) as follows:

**261—48.12(15) Program funding allocation and management of excess demand.**

~~48.12(1) The authority shall allocate \$10 million to disaster recovery housing tax incentives pursuant to rules 261—48.9(15) to 261—48.13(15). In allocating tax credits pursuant to Iowa Code section 15.119(5), as enacted by 2019 Iowa Acts, House File 772, for the period beginning July 1, 2019, and ending June 30, 2024, the authority shall not allocate more than \$10 million for purposes of Iowa Code section 15.119(5).~~

~~48.12(2) The authority shall issue tax incentives under the program for disaster recovery housing projects on a first come, first served basis until the maximum amount of tax incentives allocated under Iowa Code section 15.119(5) is reached.~~

~~48.12(3) The authority will administer a wait list for disaster recovery housing projects in accordance with Iowa Code section 15.354(6) "d."~~

ITEM 12. Amend subrule 48.13(1) as follows:

~~48.13(1) The authority will develop a standardized application and make the application available to eligible housing businesses and to communities. To apply for assistance under the disaster recovery housing program, an interested person shall submit an application to the authority. Applications must be submitted online at [www.iowagrants.gov](http://www.iowagrants.gov). Instructions for application submission may be obtained at [www.iowagrants.gov](http://www.iowagrants.gov) or by contacting the Community Development Division, Economic Development Authority, 200 East Grand Avenue 1963 Bell Avenue, Suite 200, Des Moines, Iowa 50309 50315.~~

ITEM 13. Amend **261—Chapter 48**, implementation sentence, as follows:

These rules are intended to implement Iowa Code ~~section~~ sections 15.351 to 15.356.

[Filed 11/19/21, effective 1/19/22]

[Published 12/15/21]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 12/15/21.

**ARC 6079C**

**EDUCATION DEPARTMENT[281]**

**Adopted and Filed**

**Rule making related to limited English proficiency**

The State Board of Education hereby amends Chapter 60, "Programs for Students of Limited English Proficiency," Iowa Administrative Code.

EDUCATION DEPARTMENT[281](cont'd)

*Legal Authority for Rule Making*

This rule making is adopted under the authority provided in Iowa Code section 256.7(5).

*State or Federal Law Implemented*

This rule making implements, in whole or in part, 2021 Iowa Acts, House File 605.

*Purpose and Summary*

This rule making implements 2021 Iowa Acts, House File 605, which creates two levels of weighting for students who are English learners.

*Public Comment and Changes to Rule Making*

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on August 25, 2021, as **ARC 5876C**. No public comments were received. No changes from the Notice have been made.

*Adoption of Rule Making*

This rule making was adopted by the State Board on November 17, 2021.

*Fiscal Impact*

This rule making has a fiscal impact to the State, according to the Legislative Services Agency's analysis of House File 605. The estimated fiscal impact is between \$84,000 and \$97,000.

*Jobs Impact*

After analysis and review of this rule making, no impact on jobs has been found.

*Waivers*

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the State Board for a waiver of the discretionary provisions, if any, pursuant to 281—Chapter 4.

*Review by Administrative Rules Review Committee*

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

*Effective Date*

This rule making will become effective on January 19, 2022.

The following rule-making actions are adopted:

ITEM 1. Amend rule **281—60.2(280)**, definitions of “Fully English proficient” and “Limited English proficient,” as follows:

“Fully English proficient” refers to a student who is able to read, understand, write, and speak the English language and to use English to ask questions, to understand teachers and reading materials, to test ideas, and to challenge what is being asked in the classroom has attained a level of English language skill in reading, writing, listening, and speaking to be proficient under the state’s English language proficiency standards, as measured by the state-adopted assessment of English language proficiency as required by

EDUCATION DEPARTMENT[281](cont'd)

Section 1111 of the federal Elementary and Secondary Education Act of 1965 as amended by the federal Every Student Succeeds Act, Pub. L. No. 114-95.

“Limited English proficient” refers to a student who has a language background other than English, and the student’s proficiency in English is such that the probability of the student’s academic success in an English-only classroom is below that of an academically successful peer with an English language background. Each limited English proficient student shall be identified as either an intensive student or an intermediate student.

ITEM 2. Adopt the following new definitions of “Intensive student” and “Intermediate student” in rule **281—60.2(280)**:

*“Intensive student”* means a limited English proficient student who, even with support, is not proficient under the state’s English language proficiency standards, as measured by the state-adopted assessment of English language proficiency.

*“Intermediate student”* means a limited English proficient student who, either with or without support, approaches being proficient under the state’s English language proficiency standards, as measured by the state-adopted assessment of English language proficiency.

ITEM 3. Amend paragraph **60.6(1)“a”** as follows:

*a.* A student may be included for weighting if the student meets the definition of a limited English proficient student as either an intensive student or an intermediate student and the student is being provided instruction related to limited English proficiency above the level of instruction provided to pupils in the regular curriculum.

[Filed 11/17/21, effective 1/19/22]

[Published 12/15/21]

EDITOR’S NOTE: For replacement pages for IAC, see IAC Supplement 12/15/21.

**ARC 6078C**

## **EDUCATION DEPARTMENT[281]**

**Adopted and Filed**

### **Rule making related to charter schools**

The State Board of Education hereby adopts new Chapter 19, “Charter Schools,” and amends Chapter 68, “Iowa Public Charter and Innovation Zone Schools,” Iowa Administrative Code.

#### *Legal Authority for Rule Making*

This rule making is adopted under the authority provided in Iowa Code section 256.7.

#### *State or Federal Law Implemented*

This rule making implements, in whole or in part, 2021 Iowa Acts, House File 813, as amended by 2021 Iowa Acts, House File 847.

#### *Purpose and Summary*

This rule making modernizes charter schools in Iowa, in light of recent legislative changes.

In this rule making, cross-references in Chapter 19 to Iowa Code chapter 256E, or sections thereof, and to other new Iowa Code sections, such as 256F.12 and 257.6(1)“a”(9), are to that chapter and those sections as they will be codified in the upcoming 2022 Iowa Code. The content of the yet-to-be codified Iowa Code chapter and sections can be found in 2021 Iowa Acts, House File 813, as amended by 2021 Iowa Acts, House File 847.

EDUCATION DEPARTMENT[281](cont'd)

*Public Comment and Changes to Rule Making*

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on October 6, 2021, as **ARC 5961C**. A public hearing was held on October 26, 2021, at 1 p.m. in the State Board Room, Second Floor, Grimes State Office Building, Des Moines, Iowa, with an option to participate via video/conference call. Seven members of the public attended the hearing, and three provided comments.

The Department also received 12 public comments, including from Reaching Higher Iowa, the Iowa Association of School Boards, the National Alliance for Public Charter Schools, the Urban Education Network, the Rural School Advocates of Iowa, Iowa Legal Aid, one provider of virtual instruction, and several private individuals.

**General.** Several commenters provided comments that were either a positive or negative critique on the concept of charter schools. Other comments suggested that charter schools be required to have a “defined focus” or a “quality curriculum.” The application-and-accountability process set forth in the rules will sufficiently address those concerns. Several commenters referenced requirements that were already included in the proposed rules (licensed teachers and administrators, performance measures). No changes from the Notice have been made based on these comments.

**Virtual instruction.** Several commenters requested that charter schools not be required to have a brick-and-mortar presence. While this would require additional State Board approval under paragraph 19.11(2)“g,” it is possible for a virtual-only charter to be approved. Another commenter requested that each application contain a description of how technology will be used, including how it will be accessed and accessible. This addition would exceed the scope of the statute and accessible technology is already required under state and federal disability law. No changes have been made based on these comments.

**Rule 281—19.4(256E) (definitions).** One commenter requested that the rules make clear that individuals other than the child’s parent may have authority to serve the role of parent under these rules. Based on the federal case cited, the commenter’s point is well made. Based on this comment, a change from the Notice has been made to add a definition of the term “parent” in rule 281—19.4(256E).

**Rule 281—19.6(256E) (general application provisions).** Three commenters requested additional clarity on the application process and performance framework. The performance framework is laid out in rule 281—19.10(256E), and the charter application process and criteria were presented to the State Board in November 2021. No changes have been made based on these comments.

Three commenters asked that the application deadline for future years be moved from August 1 to February 1, citing the possibility of a long (and potentially unnecessary) lag time between application, approval, and signing of the contract. The August 1 deadline was selected to allow the Department a period to provide technical assistance and support for charter applicants with applications that need additional detail. The Department believes that the same work can be completed with a November 1 deadline. Therefore, the application deadline in subrule 19.6(5) for school years on or after the school year beginning July 1, 2023, has been adjusted to November 1.

**Rules 281—19.7(256E) and 281—19.8(256E) (application contents).** Two commenters requested that the application be required to make specific reference to the statutory purposes in rule 281—19.3(256E). No changes have been made based on these comments, because the components of the charter school application and the performance framework align to the purposes in rule 281—19.3(256E).

Two commenters requested that the application describe the area to be served by reference to the districts and nonpublic schools from which students are eligible to enroll. The language in rules 281—19.7(256E) and 281—19.8(256E) align with the statute. The requirements of these rules could be met by using school district boundaries or another boundary. Requiring nonpublic schools to be included is not necessary for the purposes of Iowa Code chapter 256E. No changes have been made based on these comments.

Two commenters requested that the evidence of need in the application should specify how current services are lacking, so that the charter school supplements current services as opposed to supplanting them. The purpose of charter schools is to increase opportunities, which include providing services

EDUCATION DEPARTMENT[281](cont'd)

that are lacking and expanding on services that already exist. Imposing a supplement-not-supplant requirement would be inconsistent with rule 281—19.3(256E) and would limit the innovation that charter schools are designed to foster. A service may exist; however, the charter school may identify a need to provide that service in a more efficient or effective way. No changes have been made based on these comments.

One commenter requested that the application be required to state how a charter school will be required to communicate with parents who are not English speakers. Changes have been made based on this comment, because this is currently a matter of state and federal civil rights law. Another commenter requested that the application describe how charter schools will market themselves to students with disabilities, English language learners, and other groups, as well as specifying the proportional enrollment of said groups. No changes have been made based on this comment, since the enrollment data will be part of the accountability framework and the proposed targeted marketing requirement would impose a new requirement beyond the text of the statute.

One commenter requested that if a charter school is unable to provide background information on its founding group, board, or administration, the charter school must provide a time frame to provide that information. This is a reasonable request, and that language has been added as a parenthetical in paragraphs 19.7(1)“g” and 19.8(1)“g.”

Two commenters raised concerns about student discipline in the application process. One commenter requested that charter schools be required to analyze their proposed disciplinary rules to ensure that the rules do not add additional burdens to students with disabilities or students of color. The requirement not to discriminate based on race or disability is included in the rules (paragraph 19.11(2)“a”) and other law, and no additional regulation is necessary. Another commenter requested that discipline policies include demographic information. As mentioned below in the discussion of rule 281—19.10(256E), disaggregated discipline data will be collected under the state’s accountability system, which will include charter schools. No changes have been made based on these comments.

One commenter stated that any plans for staff recruitment must acknowledge difficulties in recruitment and retention of staff, to ensure that the charter school does not hire staff away from nearby public and nonpublic schools. This request is beyond the statutory text and is inconsistent with one of the purposes set forth in rule 281—19.3(256E): “Create new professional opportunities for teachers and other educators.” No changes have been made based on these comments.

Two commenters requested that any education service provider retained by a charter school be subject to open meetings and open records statutes, as well as financial transparency requirements. The State Board has no authority to directly subject education service providers to Iowa’s open meetings and public records statutes, and paragraph 19.8(1)“z” addresses many of the commenters’ transparency concerns. No changes have been made based on these comments.

One commenter requested that charter schools be required to provide the same level of transportation and food services as public schools. The rules are identical to the statute; however, some clarification about federal law would be appropriate. Paragraphs 19.7(1)“u” and 19.8(1)“u” have been revised slightly to contain a reference to compliance with requirements imposed by federal law on public charter schools.

**Rule 281—19.10(256E) (performance framework).** One commenter requested that the performance framework require charter schools to disaggregate and analyze discipline data based on race, national origin, and other protected characteristics. No changes have been made based on this comment, because these data are collected as part of statewide accountability measures to which charter schools will be held.

One commenter requested that schools be required to report on admissions denials, disaggregated by demographic information. This additional collection of information is an expansion of the requirements of 2021 Iowa Acts, House File 813. No changes have been made based on this comment.

Three commenters requested additional clarification on what is meant by “conditions for learning data” in paragraph 19.10(1)“f.” These data are required to be collected as part of Iowa’s plan under the Every Student Succeeds Act (ESSA). Based on these comments, a clarifying parenthetical has been added to 19.10(1)“f.”



EDUCATION DEPARTMENT[281](cont'd)

**Rule 281—19.11(256E) (general operating powers and duties).** One commenter requested a statement that the federal McKinney-Vento Homeless Assistance Act (McKinney-Vento) applies to charter schools. No changes have been made based on this comment; however, the Department confirms that McKinney-Vento requirements apply to public charter schools.

One commenter requested that charter schools be required to comply with Iowa's administrative rules on seclusion and restraint (281—Chapter 103). Seclusion and restraint rules are premised on health and safety protections for both students and staff. For this reason, an additional parenthetical has been added to paragraph 19.11(2)“a,” which also includes mandatory reporting requirements contained in Iowa Code section 232.69 and Iowa's rules on investigating abuse by school employees under 281—Chapter 102.

One commenter requested that the school fee waiver process under 281—Chapter 18 be included in paragraph 19.11(2)“c.” This paragraph sets forth the exemptions contained in the statute, and it would be impermissible to expand this paragraph's scope. This suggested change to public policy would require legislative action. No changes have been made based on this comment.

One commenter asked that socioeconomic statutes be added to subrule 19.11(5). This language is verbatim from the statute, and a charter school must be tuition-free to any Iowa resident. No changes have been made based on this comment.

Three commenters requested that the rule of construction in proposed subrule 19.11(8) be removed, since it was inconsistent with the statute and unduly restrictive for charter schools. While the rule of construction was proposed to ensure transparency between the charter school and its community, the commenters' critique has merit. For that reason, the subrule that contained the rule of construction was not adopted.

**Rule 281—19.12(256E) (funding).** Three commenters suggested addressing charter schools' eligibility for, calculation of, distribution of, and use of federal funds. The commenters' point is well taken. This rule and the underlying statute focus on state funds; however, there may be federal funds available to charter schools. A new subrule 19.12(8) has been added to address this possibility.

One commenter requested clarification under subrule 19.12(2) regarding whether districts of residence should pay tuition reimbursement under Iowa Code chapter 261E to the charter school or directly to the community college. The commenter requested that the district of residence pay the community college directly, as a matter of efficiency and reduction of errors. After careful consideration of the text of the statute, this change is not possible. The underlying statute requires the charter school to make the payment (“the charter school shall pay”), as does this subrule. The commenter's public policy concerns are best addressed to the Legislature.

One commenter requested clarification of how a school district will know how to count in its certified enrollment any resident students enrolled in charter schools when those students have never been enrolled in the school district. Although prompted by subrule 19.12(4), this concern is a valid concern for the entirety of the rule. For that reason, the Department has added subrule 19.12(9), which requires charter schools to notify districts of residence in a timely manner that allows districts of residence to include children attending out-of-district charter schools in the district's certified enrollment.

**Rule 281—19.13(256E) (oversight—corrective action—contract renewal—revocation).** One commenter requested clarification by rule of the term “reasonable opportunity” in subrule 19.13(3), which gives charter schools a “reasonable opportunity” to correct unsatisfactory compliance or performance. No changes have been made based on this comment. Any reference to reasonability in the law indicates that the inquiry is inherently fact-specific. What is reasonable will depend on, among other factors, the nature, number, severity, duration, cause, repetitiveness, and correctability of the noncompliance, and the weight to be given to these factors will vary based on the facts of each case. Codifying these factors in rule will not significantly aid in the future application of this subrule.

**Rule 281—19.14(256E) (procedures for charter school closure—student enrollment).** One commenter requested that the application process in rules 281—19.7(256E) and 281—19.8(256E) be revised to require the applicant to address how the applicant will deal with closure. This request is inconsistent with rule 281—19.14(256E), which provides that the State Board shall establish charter school closure protocols. Requiring charter applicants to identify closure procedures in their

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

applications would be premature and could potentially conflict with State Board-adopted closure protocols. No changes have been made based on this comment.

**Rule 281—19.15(256E) (reports).** One commenter requested that charter schools be required to publicly report evaluation information and the charter school's performance framework data, and that this data be publicly accessible on the Department's web page. The rules provide such information, so no changes have been made based on this comment.

**Additional comments.** One commenter posed nine questions to the Department, which provided the following preliminary guidance:

Question 1: "Can multiple public school districts join together to create a founding group for a charter school if each of their respective school boards authorize such an application?"

Answer 1: Yes, based on the definition of "founding group" in rule 281—19.4(256E).

Question 2: "Can charter school students and regular public school students in the district be in the same class room for some instruction?"

Answer 2: Yes, if there is an agreement between the charter school and the public school.

Question 3: "Can a student attending a charter school utilize classes offered by the district if not also offered by the charter school?"

Answer 3: Yes, if there is an agreement between the charter school and the public school.

Question 4: "Do the rules for online education offerings that apply to public schools also apply to charter schools?"

Answer 4: To the extent that those rules are included in Iowa Code section 256.11, a charter school would be bound by the rules unless specifically waived by the State Board. To the extent that the rules are not included, the charter school would be exempt from the rules. Any decision to offer or not offer virtual education must comply with applicable civil rights laws, including the obligation to provide virtual education in an accessible manner.

Question 5: "What are the athletic eligibility rules for a charter school student, whether the charter is established under the school board-state board model or the founding group-state board model?"

Answer 5: The same athletic eligibility rules (scholarship rule, transfer rules, etc.) would apply to charter schools that choose to offer interscholastic athletics. Once offered, the charter school is held, as a matter of competitive equity, to the same rules that govern other member schools and associate member schools.

Question 6: "Can a student attending a school board-state board charter school get a school permit? If yes, would the authorizing signature need to come from a school district employee, a charter school employee, or both?"

Answer 6: The Department assumes that charter school students would be eligible; however, this matter is within the primary jurisdiction of the Department of Transportation. As to who can provide the authorizing signature, the Department defers to its colleagues at the Department of Transportation.

Question 7: "Are teachers at the charter school eligible for IPERS [the Iowa Public Employees' Retirement System] since it is considered a public school, regardless of the model which created the charter school?"

Answer 7: This matter is within the jurisdiction of IPERS.

Question 8: "Is a charter school required to issue a diploma or the equivalent for its students?"

Answer 8: The Department expects charter schools that offer a high school program to issue a diploma to every student who completes that program. Graduation rates are part of charter school accountability, including the annual report, ESSA accountability, and attendance center rankings.

Question 9: "Will a student be able to move to postsecondary education with an associate's degree but no high school diploma or equivalent?"

Answer 9: This is a matter for individual institutes of higher education to resolve.

Additionally, a legislative staff member posed two questions to the Department, which provide the following preliminary guidance:

Question 1: "For the proper discipline and discharge of a teacher, does the charter school have to follow Iowa Code chapter 279?"

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

Answer 1: Those provisions of Iowa Code chapter 279 are not listed in the exemptions in subrule 19.11(2). Whether a charter school follows those procedures is a matter of choice, including whether to offer those procedures as a matter of contract.

Question 2: “Does a charter school have to follow truancy laws and procedures?”

Answer 2: Iowa’s truancy law places primary responsibility for school attendance on parents. As stated in Iowa Code section 299.1(1), Iowa’s compulsory attendance law requires parents to “cause the child to attend some public school or an accredited nonpublic school, or place the child under competent private instruction or independent private instruction in accordance with the provisions of chapter 299A, during a school year, as defined under section 279.10.” Also, the accountability framework in this chapter requires attendance data.

*Adoption of Rule Making*

This rule making was adopted by the State Board on November 17, 2021.

*Fiscal Impact*

This rule making has an unknown fiscal impact to the State of Iowa, based on an analysis of 2021 Iowa Acts, House File 813, performed by the Legislative Services Agency ([www.legis.iowa.gov/docs/publications/FN/1220089.pdf](http://www.legis.iowa.gov/docs/publications/FN/1220089.pdf)).

*Jobs Impact*

After analysis and review of this rule making, no impact on jobs has been found.

*Waivers*

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the State Board for a waiver of the discretionary provisions, if any, pursuant to 281—Chapter 4.

*Review by Administrative Rules Review Committee*

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making at its [regular monthly meeting](#) or at a special meeting. The Committee’s meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

*Effective Date*

This rule making will become effective on January 19, 2022.

The following rule-making actions are adopted:

ITEM 1. Adopt the following **new** 281—Chapter 19:

CHAPTER 19  
CHARTER SCHOOLS

**281—19.1(256E) Purpose.** It is the purpose of this chapter to give guidance and direction for the establishment, general operating powers and duties, funding, performance, and oversight of charter schools. All charter schools in Iowa are a part of the state’s program of public education. Charter schools established prior to July 1, 2021, shall continue to operate under and be subject to the requirements of Iowa Code chapter 256F and 281—Chapter 68.

**281—19.2(256E) Establishment of charter schools.**

EDUCATION DEPARTMENT[281](cont'd)

**19.2(1)** A charter school may be established by either of the following methods:

*a. School board-state board model.* A school board may create a founding group to apply to the state board for approval to establish and operate a charter school within and as a part of the school district by establishing a new attendance center, creating a new school within an existing attendance center, or converting an existing attendance center to charter status.

*b. Founding group-state board model.* A founding group may apply to the state board for approval to establish and operate a charter school within the boundaries of the state that operates as a new attendance center independently from a public school district.

**19.2(2)** The state board of education shall be the only authorizer of charter schools under this chapter.

**281—19.3(256E) Purpose of a charter school.** The purpose of a charter school established under this chapter shall be to accomplish the following:

1. Improve student learning, well-being, and postsecondary success.
2. Increase learning opportunities for students in areas of need, including but not limited to science, technology, engineering, and math (STEM), and science, technology, engineering, arts, and math (STEAM).
3. Increase opportunities for work-based learning, early literacy intervention, and serving at-risk populations.
4. Accelerating student learning to prevent learning loss during the COVID-19 pandemic and other significant disruptions to student learning.
5. Encourage the use of evidence-based practices in innovative environments.
6. Require the measurement and evaluation of program implementation and learning outcomes.
7. Establish models of success for Iowa schools.
8. Create new professional opportunities for teachers and other educators.
9. Investigate and establish different organizational structures for schools to use to implement a multi-tiered system of supports for students.
10. Allow greater flexibility to meet the education needs of a diverse student population and changing workforce needs.
11. Allow for the flexible allocation of resources through implementation of specialized school budgets for the benefit of the schools served.
12. Allow greater flexibility for districts and schools to focus on closing gaps in student opportunity and achievement for all students from preschool through postsecondary preparation.

**281—19.4(256E) Definitions.**

*“Attendance center”* means a school building that contains classrooms used for instructional purposes for elementary, middle, or secondary school students.

*“Charter school”* means a school established in accordance with this chapter.

*“Department”* means the department of education.

*“Education service provider”* means an education management organization, charter school management organization, or other person with whom a charter school contracts for educational program implementation of comprehensive management.

*“Founding group”* means a person, group of persons, or education service provider that develops and submits an application for a charter school to the state board under this chapter.

*“Governing board”* means the independent board of a charter school whose members are elected or selected pursuant to the charter school contract, subject to the requirements of Iowa Code section 256E.7(11).

*“Parent”* includes a child's biological or adoptive parent, as well as anyone authorized by state or federal law or court order, judgment, or decree to make educational decisions for the child.

*“School board”* means a board of directors regularly elected by the registered voters of an accredited public school district.

*“State board”* means the state board of education.

EDUCATION DEPARTMENT[281](cont'd)

**281—19.5(256E) Department duty to monitor.** The department shall monitor the effectiveness of charter schools and shall implement the applicable provisions of this chapter.

**281—19.6(256E) General application provisions.** The following general application provisions apply to both the school board-state board and founding group-state board charter establishment models.

**19.6(1) Instructions.** The instructions for completing an application shall include or otherwise inform applicants of all of the following:

- a. The performance framework adopted by the state board for charter school oversight and evaluation requirements in accordance with Iowa Code sections 256E.9 and 256E.10.
- b. The criteria the state board will use in evaluating applications.
- c. The requirements concerning the format and content essential for applicants to demonstrate the capacities necessary to establish and operate a successful charter school.

**19.6(2) Review.** In reviewing and evaluating charter school applications, the state board shall employ procedures, practices, and criteria consistent with nationally recognized principles and standards for reviewing charter school applications. Each application review shall include:

- a. A thorough evaluation of the written application.
- b. An in-person interview with the founding group.
- c. An opportunity in a public forum for local residents to learn about and provide input on each application.

**19.6(3) State board actions following review.** Following review of a charter school application and completion of the process required under subrule 19.6(2), the state board shall do all of the following:

- a. Approve a charter school application only if the founding group has demonstrated competence in each element of the approval criteria and if the founding group is likely to open and operate a successful charter school.
- b. Make application decisions on documented evidence collected through the application review process.
- c. Adhere to the policies and criteria that are transparent, are based on merit, and avoid conflicts of interest or any appearance thereof.

**19.6(4) Application approval.** The state board shall approve a charter school application if the application satisfies the requirements of this chapter.

- a. The state board shall approve or deny a charter school application no later than 75 calendar days after the application is received.
- b. If the state board denies an application, the state board shall provide notice of denial to the founding group in writing within 30 days after the state board's action. The notice shall specify the exact reasons for denial and provide documentation supporting those reasons.
- c. An approval decision may include, if appropriate, reasonable conditions that the founding group must meet before a charter school contract may be executed pursuant to Iowa Code section 256E.6.
- d. An approved charter application shall not serve as a charter school contract.
- e. A decision of the state board relating to an application under this rule is not appealable.
- f. An unsuccessful applicant under this rule may subsequently reapply to the state board.

**19.6(5) Application deadlines and timelines.** For school years on or after the school year beginning on July 1, 2023, applications submitted to the state board on or before November 1 of the preceding school year shall be considered for approval for the establishment of the charter school for the next school year. For the school year beginning on July 1, 2022, applications submitted to the state board on or before February 1, 2022, shall be considered for approval for the establishment of the charter school for the next school year.

**281—19.7(256E) School board-state board model.** A school board may create a founding group to apply to the state board for approval to establish and operate a charter school within and as a part of the school district by establishing a new attendance center, creating a new school within an existing attendance center, or converting an existing attendance center. The application shall demonstrate the founding group's academic and operational vision and plans for the proposed charter school, demonstrate

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the founding group's capacity to execute the vision and plans, and provide the state board a clear basis for assessing the founding group's plans and capacity.

**19.7(1) School board-state board model application.** An application submitted under this rule shall include all of the following items related to the proposed charter school:

- a. An executive summary.
- b. The mission and vision of the proposed charter school, including identification of the targeted student population and the community the charter school intends to serve.
- c. The location of the proposed charter school or the proposed geographic area within the school district where the school is proposed to be located.
- d. Identification of the grades to be served each school year during the duration of the charter school contract.
- e. Minimum, planned, and maximum enrollment per grade for each school year during the duration of the charter school contract.
- f. Evidence of need and community support for the proposed charter school.
- g. Background information on the members of the founding group and background information on the governing board, administration, and management personnel of the proposed charter school, if available (if any or all of this information is not available, a projected date by which it will be available).
- h. The charter school's proposed operations calendar and sample daily schedule.
- i. A description of the academic program and identification of ways the program aligns with state academic standards.
- j. A description of the charter school's instructional model, including the type of learning environment, class size and structure, curriculum overview, and teaching methods.
- k. The charter school's plan for using internal and external assessments to measure and report student progress on the performance framework in accordance with Iowa Code section 256E.9.
- l. Plans for identifying and serving students with disabilities, students who are limited English proficient, students who are academically failing or below grade level, and gifted students, including but not limited to compliance with applicable laws and regulations.
- m. A description of cocurricular and extracurricular programs and how the programs will be funded and delivered.
- n. Plans and timelines for student recruitment, enrollment and transfers, including enrollment preferences and procedures for conducting transparent admissions selections, including admissions lotteries.
- o. The proposed code of student conduct, including applicable procedures and disciplinary sanctions for both general students and special education students.
- p. A chart or description of the charter school's organizational structure and the duties and powers of each position or group, including the delineation of authority and reporting between the governing board, administration, staff, and any related bodies or external organizations that have a role in managing the charter school.
- q. A staffing chart for the charter school's first year and a staffing plan for the duration of the charter school contract.
- r. Plans for recruiting and developing school administrators, staff, and governing board members and the charter school's employment policies, including performance evaluation plans.
- s. Proposed governing bylaws for the charter school.
- t. Identification and explanation of any partnerships or contractual relationships with the founding group or any of the founding group or school board's members that are related to the charter school's operations or mission.
- u. The charter school's plans for providing transportation services, food service, and all other operational or ancillary services (including compliance with any requirement imposed by federal law on public charter schools).
- v. Proposed opportunities and expectations for parent involvement.
- w. A detailed school start-up plan and five-year plan, including all relevant assumptions used, identifying timelines for charter school finances, budget, and insurance coverage; facility construction,

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preparation, and contingencies; and the identification of persons or positions responsible for each such item.

- x. Evidence of anticipated fundraising contributions, if any.
- y. Evidence of the founding group's success in serving student populations similar to that which is proposed in the application and if the founding group operates other charter schools, evidence of past performance of such other charter schools and evidence of the founding group's capacity for an additional charter school.
- z. A description of the proposed charter school's staff performance evaluation measures and compensation structure, methods of contract oversight and dispute resolution, investment disclosures, and conflicts of interest.
  - aa. A proposed duration and outline of the charter school contract, including designation of roles, authority, and duties of the governing board and the charter school staff.
  - ab. The specific statutes and administrative rules with which the charter school does not intend to comply. The department shall provide technical assistance to the applicant concerning statutes and administrative rules that may be waived under the charter school contract in order to facilitate the goals of the charter school.

**19.7(2) Conversion of existing attendance center.** If the founding group proposes to establish a charter school by converting an existing attendance center of the school district, the state board shall not approve the application unless the founding group submits evidence that the attendance center's teachers and parents or guardians of students enrolled at the existing attendance center voted in favor of the conversion. A vote in favor of conversion under this subrule requires the support of a majority of the teachers employed at the school on the date of the vote and a majority of the parents or guardians voting whose children are enrolled at the school, provided that a majority of the parents or guardians eligible to vote participate in the ballot process. Voting could include the following: signing a petition, a ballot, etc. Electronic voting is permitted, provided that it is secure and creates an auditable record. Voting methods must be accessible, including accessible to individuals with a disability. Regardless of the method, documentation is required and must be maintained for inspection by the state board or the department. A parent or guardian voting in accordance with this subrule must be a resident of this state.

**281—19.8(256E) Founding group-state board model.** A founding group may apply to the state board for approval to establish and operate a charter school within the boundaries of the state that operates as a new attendance center independently from a public school district. The application shall demonstrate the founding group's academic and operational vision and plans for the proposed charter school, demonstrate the founding group's capacity to execute the vision and plans, and provide the state board a clear basis for assessing the founding group's plans and capacity.

**19.8(1) Founding group-state board model application.** An application submitted under this rule shall include all of the following items related to the proposed charter school:

- a. An executive summary.
- b. The mission and vision of the proposed charter school, including identification of the targeted student population and the community the school intends to serve.
- c. The location of the proposed charter school or the proposed geographic area within the state where the school is proposed to be located.
- d. Identification of the grades to be served each school year during the duration of the charter school contract.
- e. Minimum, planned, and maximum enrollment per grade for each school year during the duration of the charter school contract.
- f. Evidence of need and community support for the proposed charter school.
- g. Background information on the members of the founding group and background information on the governing board, administration, and management personnel of the proposed charter school, if available (if any or all of this information is not available, a projected date by which it will be available).
- h. The charter school's proposed operations calendar and sample daily schedule.

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- i.* A description of the academic program and identification of ways the program aligns with state academic standards.
- j.* A description of the charter school's instructional model, including the type of learning environment, class size and structure, curriculum overview, and teaching methods.
- k.* The charter school's plan for using internal and external assessments to measure and report student progress on the performance framework in accordance with Iowa Code section 256E.9.
- l.* Plans for identifying and serving students with disabilities, students who are limited English proficient, students who are academically failing or below grade level, and gifted students, including but not limited to compliance with applicable laws and regulations.
- m.* A description of cocurricular and extracurricular programs and how the programs will be funded and delivered.
- n.* Plans and timelines for student recruitment, enrollment, and transfers, including enrollment preferences and procedures for conducting transparent admissions selections, including admissions lotteries.
- o.* The proposed code of student conduct, including applicable procedures and disciplinary sanctions for both general students and special education students.
- p.* A chart or description of the charter school's organizational structure and the duties and powers of each position or group, including the delineation of authority and reporting between the governing board, staff, and any related bodies or external organizations that have a role in managing the charter school.
- q.* A staffing chart for the charter school's first year and a staffing plan for the duration of the charter school contract.
- r.* Plans for recruiting and developing school administrators, staff, and governing board members and the charter school's employment policies, including performance evaluation plans.
- s.* Proposed governing bylaws for the charter school.
- t.* Identification and explanation of any partnerships or contractual relationships with an education service provider that are related to the charter school's operations or mission.
- u.* The charter school's plans for providing transportation services, food service, and all other operational or ancillary services (including compliance with any requirement imposed by federal law on public charter schools).
- v.* Proposed opportunities and expectations for parent involvement.
- w.* A detailed school start-up plan and five-year plan, including all relevant assumptions used, identifying timelines for charter school finances, budget, and insurance coverage; facility construction, preparation, and contingencies; and the identification of persons or positions responsible for each such item.
- x.* Evidence of anticipated fundraising contributions, if any.
- y.* If the application includes a proposal that the governing board contracts with an education service provider, evidence of the education service provider's success in serving student populations similar to that which is proposed in the application and if the education service provider operates other charter schools, evidence of past performance of such other charter schools and evidence of the education service provider's capacity for growth.
- z.* If the application includes a proposal that the governing board contracts with an education service provider, a description of the education service provider's staff performance evaluation measures and compensation structure, methods of contract oversight and dispute resolution, investment disclosures, and conflicts of interest.
- aa.* A proposed duration and outline of the charter school contract, including designation of roles, authority, and duties of the governing board and the charter school staff.
- ab.* The specific statutes and administrative rules with which the charter school does not intend to comply. The department shall provide technical assistance to the applicant concerning statutes and administrative rules that may be waived under the charter school contract in order to facilitate the goals of the charter school.



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**19.8(2) *Special rule.*** A charter school application under this rule shall not be approved if the founding group has another pending application under this rule.

**281—19.9(256E) Charter school contract.** Within the later of 30 days following approval of a charter school application or upon the satisfaction of all reasonable conditions imposed on the applicant in the charter school approval, if any, an enforceable and renewable charter school contract shall be executed between the founding group and the state board setting forth the academic and operational performance expectations and measures by which the charter school will be evaluated pursuant to Iowa Code sections 256E.9 and 256E.10, rules 281—19.10(256E) and 281—19.13(256E), and the other rights and duties of the parties.

**19.9(1) *Initial contract.*** An initial charter school contract shall be granted for a term of five school budget years. The charter school contract shall include the beginning and ending dates of the charter school contract term.

**19.9(2) *Delay of opening.*** An approved charter school may delay its opening for a period of time not to exceed one school year in order to plan and prepare for the charter school's opening. If the charter school requires an opening delay of more than one school year, the charter school may request an extension from the state board.

**19.9(3) *Signed contract.*** Each charter school contract shall be signed by the president of the state board and the president or appropriate officer of the governing body of the founding group.

**19.9(4) *Notification of charter school.*** Within 15 days of the execution of a charter school contract entered into by the state board, the state board shall notify the department and the department of management of the name of the charter school and any applicable education service provider, the proposed location of the charter school, and the charter school's first year projected enrollment.

**19.9(5) *Commencing operations.*** A charter school approved under this chapter shall not commence operations without a valid charter school contract executed in accordance with this rule and approved in an open session of the state board.

**19.9(6) *Conditions prior to opening.*** The contract may provide for requirements or conditions to govern and monitor the start-up progress of an approved charter school prior to the opening of the charter school including but not limited to conditions to ensure that the charter school meets all building, health, safety, insurance, and other legal requirements.

**19.9(7) *Contract governing multiple charter schools.*** A charter school contract may be amended to govern multiple charter schools operated by the same applicant and approved by the state board. However, each charter school that is part of a charter school contract shall be separate and distinct from any other charter school governed by the contract.

**281—19.10(256E) Performance framework.** The performance provisions within the charter school contract shall be based on a performance framework that clearly sets forth the academic and operational performance indicators, measures, and metrics that will guide the evaluation of the charter school by the state board, without compromising individual student privacy.

**19.10(1)** The performance framework shall include:

*a.* Student academic growth and proficiency in English language arts on statewide outcome assessments.

*b.* Student academic growth and proficiency in mathematics on statewide outcome assessments.

*c.* Achievement gaps in both proficiency and growth on statewide outcome assessments between specified populations or groups of students, including groups based on gender, race, poverty, special education status, limited English proficiency, and gifted status.

*d.* Benchmark status on early literacy approved screening measure(s) in grades kindergarten through 3.

*e.* Attendance.

*f.* Conditions for learning data (as required by Iowa's state plan under the Every Student Succeeds Act).

*g.* Enrollment attrition and mobility.

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- h.* Postsecondary readiness for students in grades 9 through 12.
- i.* Goals specified in the charter school's mission.
- j.* Financial performance and sustainability.
- k.* Governing board performance and stewardship, including compliance with all applicable laws, regulations, and terms of the charter contract.

**19.10(2)** Annual performance targets shall be agreed upon between each charter school and the state board. Such performance targets shall be contained in the charter school contract and shall be designed to help each charter school meet applicable federal, state, and local standards. The performance targets contained in the charter school contract may be amended by mutual agreement after the charter school is operating and has collected initial achievement data for the charter school's students.

**19.10(3)** The state board is responsible for collecting, analyzing, and reporting all data from state assessments and other state data sources in accordance with the performance framework. However, all efforts shall be made by all parties to the charter school contract to eliminate or reduce duplicative data reporting requirements.

**19.10(4)** Multiple charter schools operating under a single charter school contract shall be required to report performance data as separate, individual schools, with each charter school held independently accountable for performance.

**19.10(5)** Each charter school established under this chapter shall be evaluated and ranked by the department pursuant to the attendance center performance ranking system developed and adopted by the department.

**281—19.11(256E) General operating powers and duties.** In order to fulfill the charter school's public purpose, a charter school established under this chapter shall be organized as a nonprofit education organization.

**19.11(1) *Operating powers.*** A charter school established under this chapter shall have all the powers necessary for carrying out the terms of the charter school contract including but not limited to the following, as applicable:

- a.* Receive and expend funds for charter school purposes.
- b.* Secure appropriate insurance and enter into contracts and leases.
- c.* Contract with an education service provider for the management and operation of the charter school so long as the governing board retains oversight authority over the charter school.
- d.* Incur debt in anticipation of the receipt of public or private funds.
- e.* Pledge, assign, or encumber the charter school's assets to be used as collateral for loans or extensions of credit.
- f.* Solicit and accept gifts or grants for charter school purposes unless otherwise prohibited by law or by the terms of its charter school contract.
- g.* Acquire from public or private sources real property for use as a charter school or a facility directly related to the operations of the charter school.
- h.* Sue and be sued in the charter school's own name.
- i.* Operate an education program that may be offered by any noncharter public school or school district.

**19.11(2) *Exemptions.*** A charter school established under this chapter is exempt from all state statutes and rules and any local rule, regulation, or policy, applicable to a noncharter school, except that the charter school shall do all of the following:

- a.* Meet all applicable federal, state, and local health and safety requirements (including but not limited to mandatory reporting of child abuse under Iowa Code section 232.69, investigation of abuse by school employees under 281—Chapter 102, and seclusion and restraint under 281—Chapter 103) and laws prohibiting discrimination on the basis of race, creed, color, sex, sexual orientation, gender identity, national origin, religion, ancestry, or disability. If approved under Iowa Code section 256E.4 and rule 281—19.7(256E), the charter school shall be subject to any court-ordered desegregation in effect for the school district at the time the charter school application is approved, unless otherwise specifically provided for in the desegregation order.

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- b.* Operate as a nonsectarian, nonreligious school.
- c.* Be free of tuition and application fees to Iowa resident students between the ages of 5 and 21 years.
- d.* Be subject to and comply with Iowa Code chapters 216 and 216A relating to civil and human rights.
- e.* Provide special education services in accordance with Iowa Code chapter 256B.
- f.* Be subject to the same financial audits, audit procedures, and audit requirements as a school district. The audit shall be consistent with the requirements of Iowa Code sections 11.6, 11.14, 11.19, and 279.29, and Iowa Code section 256.9(20), except to the extent deviations are necessary because of the program at the school. The department, the auditor of state, or the legislative services agency may conduct financial, program, or compliance audits.
- g.* Be subject to and comply with the requirements of Iowa Code section 256.7(21) and the educational standards of Iowa Code section 256.11, unless specifically waived by the state board during the application process.
- h.* Provide instruction for at least the number of days or hours required by Iowa Code section 279.10(1), unless specifically waived by the state board as part of the application process.
- i.* Comply with the requirements of this chapter.
- j.* Conduct governing board meetings in a manner that is open to the public. The governing board shall be a governmental body for purposes of Iowa Code chapters 21 and 22. All records, documents, and electronic data of the charter school and of the governing board shall be public records and shall be subject to the provisions of Iowa Code chapter 22 relating to the examination of public records.

**19.11(3) *Teachers.*** A charter school shall employ or contract with teachers, as defined in Iowa Code section 272.1, who hold valid licenses with an endorsement for the type of instruction or service for which the teachers are employed or under contract.

**19.11(4) *Administrators.*** The chief administrator of the charter school shall be one of the following:

- a.* An administrator who holds a valid license under Iowa Code chapter 272.
- b.* A teacher who holds a valid license under Iowa Code chapter 272.
- c.* An individual who holds an authorization to be a charter school administrator issued by the board of educational examiners under Iowa Code chapter 272. The board of educational examiners shall adopt rules for the issuance of such authorizations not later than December 31, 2021, and such authorizations shall only be valid for service or employment as a charter school administrator.

**19.11(5) *Admissions.*** A charter school shall not discriminate in its student admissions policies or practices on the basis of intellectual or athletic ability, measures of achievement or aptitude, or status as a person with a disability. However, a charter school may limit admission to students who are within a particular range of ages or grade levels or on any other basis that would be legal if initiated by a school district. Enrollment priority shall be given to the siblings of students enrolled in a charter school.

**19.11(6) *Enrollment.*** A charter school shall enroll an eligible student who submits a timely application unless the number of applications exceeds the capacity of a program, class, grade level, or building. In this case, students must be accepted by lot. Upon enrollment of an eligible student, the charter school shall notify the public school district of residence not later than March 1 of the preceding school year.

**19.11(7) *Governing board.***

*a.* Each charter school governing board shall be required to adopt a conflict of interest policy and a code of ethics for all board members and employees.

*b.* Each charter school governing board shall adopt a policy regarding the hiring of family members to avoid nepotism in hiring and supervision. The policy shall include but is not limited to a disclosure to the governing board of potential nepotism in hiring and supervision. Any person subject to the policy with a conflict shall not be involved in the hiring decision or supervision of a potential employee.

*c.* Individuals compensated by an education service provider are prohibited from serving as a voting member on the governing board of any charter school unless the state board waives such prohibition.

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*d.* If the charter school is operated by an education service provider, the governing board of the charter school shall have access to all records of the education service provider that are necessary to evaluate any provision of the contract or evaluate the education service provider's performance under the contract.

*e.* A majority of the membership of each charter school's governing board shall be residents of the geographic area served by the charter school. Each member of the governing board who is not a resident of the geographic area served by the charter school must be a resident of this state.

*f.* The governing board shall post the charter school's annual budget on the charter school's Internet site for public viewing within ten days of approval of the budget. Each posted budget shall continue to be accessible for public viewing on the Internet site for all subsequent budget years.

**281—19.12(256E) Funding.**

**19.12(1)** Each student enrolled in a charter school established under this chapter shall be counted, for state school foundation purposes, in the student's district of residence pursuant to Iowa Code section 257.6(1) "a"(9), including any applicable amounts under Iowa Code section 256B.9. For purposes of this rule, residence means a residence under Iowa Code section 282.1.

**19.12(2)** The school district of residence shall pay to the charter school in which the student is enrolled in the manner required under Iowa Code section 282.18, and pursuant to the timeline in Iowa Code section 282.20(3), an amount equal to the sum of the state cost per pupil for the previous school year, plus the teacher leadership supplement state cost per pupil for the previous fiscal year as provided in Iowa Code section 257.9, plus any moneys received for the student as a result of the non-English speaking weighting under Iowa Code section 280.4(3) for the previous school year, multiplied by the state cost per pupil for the previous year. If a student is an eligible pupil under Iowa Code section 261E.6, the charter school shall pay the tuition reimbursement amount to an eligible postsecondary institution as provided in Iowa Code section 261E.7.

**19.12(3)** For a student requiring special education, the school district of residence shall pay to the charter school the actual costs incurred in providing the appropriate special education.

**19.12(4)** For each student enrolled in the charter school who was not included in the actual enrollment of the district of residence under Iowa Code section 257.6(1) in the previous school year, the amount otherwise required to be paid under subrule 19.12(2) or 19.12(3) shall instead be paid by the department to the charter school for the student's initial year of enrollment in the charter school.

**19.12(5)** There is appropriated annually from the general fund of the state to the department of education an amount necessary to pay all applicable amounts to charter schools under subrule 19.12(4).

**19.12(6)** The charter school shall complete and provide to the students' school districts of residence all documentation necessary to seek Medicaid reimbursement for eligible services.

**19.12(7)** If necessary, and pursuant to rules adopted by the state board, funding amounts required under this rule for the first school year of a new charter school shall be based on enrollment estimates for the charter school included in the charter school contract. Initial amounts paid using estimated enrollments shall be reconciled during the subsequent payment based on actual enrollment of the charter school during the first school year.

**19.12(8)** If a charter school is eligible for federal funds, those federal funds will be calculated and distributed based on relevant federal statute and regulation.

**19.12(9)** For purposes of this rule, each charter school shall notify the district of residence of each child in a time and manner that allow the district of residence to include the child in the district's certified enrollment and any other relevant enrollment data.

**281—19.13(256E) Oversight—corrective action—contract renewal—revocation.**

**19.13(1) *Monitoring.*** The state board shall monitor the performance and compliance of each charter school the state board approves, including collecting and analyzing data according to the charter school contract in order to meet the requirements of this chapter. Such oversight may include inquiries and investigation of the charter school so long as the activities are consistent with the intent of this chapter, adhere to the terms of the charter school contract, and do not unduly inhibit the autonomy granted to

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the charter school. Any performance report resulting from an inquiry or investigation under this rule shall, upon conclusion of such action, be included in the annual report required under Iowa Code section 256E.12.

**19.13(2) *Annual report.*** As part of the charter school contract, the charter school shall submit an annual report to assist the state board in evaluating the charter school's performance and compliance with the performance framework.

**19.13(3) *Noncompliance or unsatisfactory performance.*** If a charter school's performance under the charter school contract or compliance with applicable laws or rules is unsatisfactory, the state board shall notify the charter school of the perceived problem and provide reasonable opportunity for the school to remedy the problem, unless the problem warrants revocation, in which case the revocation provisions of this rule apply.

**19.13(4) *Corrective actions and sanctions.*** The state board may take appropriate corrective actions or impose sanctions, other than revocation, in response to deficiencies in the charter school's performance or compliance with applicable laws and rules. Such actions or sanctions may include requiring the charter school to develop and execute a corrective action plan within a specified time period.

**19.13(5) *Renewal.*** A charter school contract may be renewed for periods of time not to exceed an additional five years.

**19.13(6) *Charter school performance report.*** Annually, by June 30, the state board shall issue a charter school performance report and charter school contract renewal application guidance to each charter school whose charter school contract will expire during the following school budget year. The performance report shall summarize the charter school's performance record to date based on the data required by the charter school contract and by this chapter and shall identify concerns that may jeopardize renewal of the charter school contract if not remedied. The charter school shall have 60 days to respond to the performance report and submit any corrections or clarifications for the report.

**19.13(7) *Renewal application guidance.*** The renewal application guidance shall, at a minimum, include the criteria that will be used when assessing charter school contract renewal decisions and provide an opportunity for the charter school to:

- a. Present additional evidence beyond the data contained in the performance report.
- b. Describe improvements undertaken or planned for the charter school.
- c. Describe the charter school's plans, including any proposed modifications, for the next charter school contract term.

**19.13(8) *Application deadlines.*** No later than October 1, the governing board of a charter school seeking renewal shall submit a renewal application to the state board pursuant to the renewal application guidance. A renewal or denial shall be approved by resolution of the state board within 60 days following the filing of the renewal application.

**19.13(9) *State board responsibilities.*** Unless eligible for expedited renewal under subrule 19.13(13), when reviewing a charter school contract renewal application, the state board shall do all of the following:

- a. Use evidence of the school's performance over the term of the charter school contract in accordance with the applicable performance framework.
- b. Ensure that data used in making renewal decisions is available to the charter school and the public.
- c. Provide a report summarizing the evidence that served as a basis for the decision.

**19.13(10) *Revocation or nonrenewal.*** A charter school contract may be revoked at any time or not renewed if the state board determines that the charter school did any of the following:

- a. Committed a material violation of any of the terms, conditions, standards, or procedures required under the charter school contract or this chapter.
- b. Failed to meet or make sufficient progress toward the performance expectations set forth in the charter school contract.
- c. Failed to meet generally accepted standards of fiscal management.
- d. Violated a provision of law from which the charter school was not exempted.

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**19.13(11) *Contract revocation and nonrenewal standards and procedures.*** The state board shall develop charter school contract revocation and nonrenewal standards and procedures that do all of the following:

- a.* Provide the charter school with a timely notice of the possibility of revocation or nonrenewal and of the reasons therefor.
- b.* Allow the charter school a reasonable period of time in which to prepare a response to any notice received.
- c.* Provide the charter school an opportunity to submit documents and give testimony challenging the decision to revoke the charter school contract or the decision to not renew the contract.
- d.* Allow the charter school the opportunity to hire legal representation and to call witnesses.
- e.* Permit the audio or video recording of such proceedings described in paragraphs 19.13(11) “*c*” and “*d*.”
- f.* Require a final decision to be conveyed in writing to the charter school.

**19.13(12) *Reasons for revocation or nonrenewal.*** A decision to revoke or to not renew a charter school contract shall be by resolution of the state board and shall clearly state the reasons for the revocation or nonrenewal.

**19.13(13) *Expedited renewal.*** If a charter school has been evaluated and graded to be in the exceptional category on the attendance center rankings, or the highest rated category under a succeeding evaluation system, under the evaluation and grading required under Iowa Code section 256E.9(5), for the immediately preceding two school years, and the charter school is in compliance with the current charter school contract and all provisions of this chapter, the charter school’s application renewal under subrule 19.13(8) shall be renewed for an additional period of time equal to the length of the original charter school contract or the most recent renewal of the contract, whichever is longer, unless the state board provides written notice to the charter school of the state board’s rejection of the expedited renewal within 60 days of the filing of the application. The state board shall not reject an expedited renewal application unless the state board finds exceptional circumstances for the rejection or seeks material changes to the charter school contract.

**281—19.14(256E) Procedures for charter school closure—student enrollment.**

**19.14(1)** Prior to any charter school closure decision, the state board shall develop a charter school closure protocol to ensure timely notice to parents and guardians, provide for the orderly transition of students and student records to new schools, and provide proper disposition of school funds, property, and assets in accordance with the requirements of this chapter. The protocol shall specify required actions and timelines and identify responsible parties for each such action.

**19.14(2)** In the event of a charter school closure, the assets of the charter school shall be used first to satisfy outstanding payroll obligations for employees of the school, then to creditors of the school, then to the public school district in which the charter school operated, if applicable, and then to the state general fund. If the assets of the charter school are insufficient to pay all obligations of the charter school, the prioritization of the distribution of assets shall be consistent with this subrule and otherwise determined by the district court.

**281—19.15(256E) Reports.**

**19.15(1) *Annual report.*** Each charter school shall prepare and file an annual report with the department. The department shall prescribe by rule the required contents of the report, but each such report shall include information regarding student achievement, including annual academic growth and proficiency, graduation rates, and financial performance and sustainability. The reports are public records, and the examination, publication, and dissemination of the reports are governed by the provisions of Iowa Code chapter 22. The annual report is due to the department October 1 and shall include data for the prior school year. Required content includes:

- a.* The charter school’s mission statement, including a vision statement and goals, as well as data measuring goal attainment.
- b.* Student demographics, disaggregated by grade level and protected characteristics.

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

- c. Attendance statistics and dropout rate (average daily attendance, dropout rate, student mobility).
- d. Graduation data, including four-year and five-year graduation rates, credit accrual, and number of students on track for graduation.
- e. Student achievement, including annual academic growth and proficiency, including Iowa statewide assessment of student progress (ISASP) data, other assessment data, and aggregate assessment test scores.
- f. Financial performance, including projections of financial stability.
- g. The number and qualifications of teachers and administrators.
- h. Sustainability data, including enrollment trends, staff satisfaction, and parent and student satisfaction.

**19.15(2) Annual financial report.** Each charter school shall submit a Certified Annual Report consistent with the requirements of 281—Chapter 99. The annual financial report is due to the department by September 15.

**19.15(3) Report to general assembly.** The state board shall prepare and file with the general assembly by December 1, annually, a comprehensive report with findings and recommendations relating to the charter school program in the state and whether the charter school program under this chapter is meeting the goals and purposes of the program. The report also shall contain, for each charter school, a copy of the charter school's mission statement, attendance statistics and dropout rate, aggregate assessment test scores, projections of financial stability, and the number and qualifications of teachers and administrators.

**281—19.16(256E) Operation of existing charter schools.** Charter schools established pursuant to Iowa Code chapter 256F and 281—Chapter 68 prior to July 1, 2021, shall continue to operate pursuant to those chapters and shall not be subject to the requirements of this chapter and of Iowa Code chapter 256E.

These rules are intended to implement Iowa Code chapter 256E as enacted by 2021 Iowa Acts, House File 813, as amended by 2021 Iowa Acts, House File 847.

ITEM 2. Adopt the following new rule 281—68.8(256F):

**281—68.8(256F) Transition—operation of existing charter schools.** The state board shall not approve a new charter school under this chapter and Iowa Code chapter 256F on or after July 1, 2021. Charter schools established pursuant to this chapter and Iowa Code chapter 256F prior to July 1, 2021, shall continue to operate pursuant to those chapters and shall not be subject to the requirements of Iowa Code chapter 256E or 281—Chapter 19.

ITEM 3. Amend **281—Chapter 68**, implementation sentence, as follows:

These rules are intended to implement Iowa Code chapter 256F as amended by ~~2010 Iowa Acts, Senate File 2033~~ 2021 Iowa Acts, House File 813.

[Filed 11/17/21, effective 1/19/22]

[Published 12/15/21]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 12/15/21.

**ARC 6080C**

**EDUCATION DEPARTMENT[281]**

**Adopted and Filed**

**Rule making related to operational function sharing and supplementary weighting**

The State Board of Education hereby amends Chapter 97, "Supplementary Weighting," and Chapter 98, "Financial Management of Categorical Funding," Iowa Administrative Code.

EDUCATION DEPARTMENT[281](cont'd)

*Legal Authority for Rule Making*

This rule making is adopted under the authority provided in Iowa Code section 256.7(5).

*State or Federal Law Implemented*

This rule making implements, in whole or in part, 2021 Iowa Acts, House Files 847 and 868.

*Purpose and Summary*

2021 Iowa Acts, House Files 847 and 868, make changes to supplementary weighting due to additional functions or positions eligible for operational sharing, add the teacher leadership supplement as an eligible source from which transfers to the flexibility account may be made, and establish a flexible student support program. These amendments implement those provisions.

*Public Comment and Changes to Rule Making*

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on August 25, 2021, as **ARC 5877C**. No public comments were received. No changes from the Notice have been made.

*Adoption of Rule Making*

This rule making was adopted by the State Board on November 17, 2021.

*Fiscal Impact*

According to the Fiscal Note accompanying House File 847, the reductions in weightings starting in fiscal year 2023 will decrease State aid from the General Fund by approximately \$2.5 million and decrease statewide property taxes by \$300,000. There is no fiscal impact for the flexible student and school support program.

*Jobs Impact*

After analysis and review of this rule making, no impact on jobs has been found.

*Waivers*

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the State Board for a waiver of the discretionary provisions, if any, pursuant to 281—Chapter 4.

*Review by Administrative Rules Review Committee*

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

*Effective Date*

This rule making will become effective on January 19, 2022.

The following rule-making actions are adopted:

ITEM 1. Amend subrule 97.7(2), introductory paragraph, as follows:

**97.7(2) Operational function area eligibility.** “Operational function sharing” means sharing of managerial personnel in the discrete operational function areas of superintendent management, business



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

management, human resources management, student transportation management, facility operation or maintenance management, curriculum director, master social worker, independent social worker, ~~or~~ school counselor, special education director, work-based learning coordinator, or mental health professional if the mental health professional holds a statement of recognition issued by the board of educational examiners. “Operational function sharing” does not mean sharing of clerical personnel or school principals. The operational function sharing arrangement does not need to be a newly implemented sharing arrangement in order to be eligible for supplementary weighting.

ITEM 2. Adopt the following new paragraphs **97.7(2)**“i” to “k”:

*i. Special education director.*

(1) Shared personnel must perform the services of a special education director. An individual performing the function of a special education director must be properly licensed for that position.

(2) Teachers, superintendents, principals, curriculum directors, or other support services personnel in the improvement of instruction services function area shall not be considered a shared special education director under this subrule.

(3) Shared special education director services shall not include contracting for services from a private provider even if another political subdivision is contracting for services from the same private provider.

*j. Work-based learning coordinator.*

(1) Shared personnel must perform the services of a work-based learning coordinator. An individual performing the function of a work-based learning coordinator must be properly trained for that position.

(2) Superintendents, principals, curriculum directors, deans of students, school counselors, or other support services personnel in the guidance services function area shall not be considered a shared work-based learning coordinator under this subrule.

(3) Shared work-based learning coordinator services shall not include contracting for services from a private provider even if another political subdivision is contracting for services from the same private provider.

*k. Mental health professional.*

(1) Shared personnel must perform the services of a mental health professional. An individual performing the function of a mental health professional must hold a statement of professional recognition issued by the board of educational examiners.

(2) Deans of students, school counselors, or other support services personnel in the guidance services function area shall not be considered a shared mental health professional under this subrule.

(3) Shared mental health professional services shall not include contracting for services from a private provider even if another political subdivision is contracting for services from the same private provider.

ITEM 3. Rescind subrule 97.7(10) and adopt the following new subrule in lieu thereof:

**97.7(10) Weighting.** A school district that shares an eligible operational function listed in subrule 97.7(2) shall be assigned a supplementary weighting as stipulated in Iowa Code section 257.11(5)“a.” The supplementary weighting shall be assigned to each discrete operational function shared. The department shall reserve the authority to determine if an operational sharing arrangement constitutes a discrete arrangement or qualifying operational sharing arrangement if the circumstances have not been clearly described in the Iowa Code or the Iowa Administrative Code.

*a.* A school district that shares an operational function in the area of superintendent management shall be assigned a supplementary weighting of eight pupils for the function.

*b.* A school district that shares an operational function in the area of business management, human resources management, transportation management, or operation and maintenance management shall be assigned a supplementary weighting of five pupils for the function. For the school budget years beginning July 1, 2022; July 1, 2023; and July 1, 2024, the weighting shall be four pupils.

*c.* A school district that shares the operational functions of a curriculum director, master social worker, independent social worker, school counselor, work-based learning coordinator, or mental health

EDUCATION DEPARTMENT[281](cont'd)

professional shall be assigned a supplementary weighting of three pupils for the function. For the school budget years beginning July 1, 2022; July 1, 2023; and July 1, 2024, the weighting shall be two pupils.

ITEM 4. Adopt the following **new** subrule 98.25(3):

**98.25(3) Flexibility account.** All or a portion of the amount remaining unexpended and unobligated at the end of a budget year beginning on or after July 1, 2020, may be transferred for deposit into the flexibility account established under Iowa Code section 298A.2, provided all statutory requirements of the teacher leadership program have been met.

ITEM 5. Amend rule 281—98.27(257,298A), introductory paragraph, as follows:

**281—98.27(257,298A) Flexibility account.** Beginning with the budget year beginning July 1, 2017, in accordance with Iowa Code section 298A.2, a flexibility account shall be established in the general fund of each school corporation if the school corporation has authorized a transfer of all or a portion of its unexpended and unobligated funds from any of the following sources: the statewide voluntary preschool program, the professional development supplement, the teacher leadership supplement, and the home school assistance program. Additionally, moneys from any other school district fund or general fund account can be transferred to the flexibility account if the program, purpose, or requirements for expenditure of such moneys have been repealed or are no longer in effect.

ITEM 6. Adopt the following **new** paragraph **98.27(3)“i”**:

*i.* Support of an approved flexible student and school support program under Iowa Code section 256.11.

[Filed 11/17/21, effective 1/19/22]

[Published 12/15/21]

EDITOR’S NOTE: For replacement pages for IAC, see IAC Supplement 12/15/21.

**ARC 6084C**

## **ETHICS AND CAMPAIGN DISCLOSURE BOARD, IOWA[351]**

**Adopted and Filed**

### **Rule making related to sales or leases by regulatory agency officials or employees**

The Ethics and Campaign Disclosure Board hereby amends Chapter 1, “Iowa Ethics and Campaign Disclosure Board,” and Chapter 6, “Executive Branch Ethics,” Iowa Administrative Code.

#### *Legal Authority for Rule Making*

This rule making is adopted under the authority provided in Iowa Code section 68B.32A.

#### *State or Federal Law Implemented*

This rule making implements, in whole or in part, Iowa Code section 68B.4 as amended by 2021 Iowa Acts, House File 491.

#### *Purpose and Summary*

These amendments implement 2021 Iowa Acts, House File 491, prohibiting state regulatory agency officials and employees from selling or leasing real estate to persons subject to the agency’s regulatory authority unless certain conditions are met.

#### *Public Comment and Changes to Rule Making*

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on September 8, 2021, as **ARC 5888C**. A public hearing was held on September 29, 2021, at 2 p.m. via

## ETHICS AND CAMPAIGN DISCLOSURE BOARD, IOWA[351](cont'd)

Zoom. One person attended the public hearing but did not provide a comment. No public comments were received. No changes from the Notice have been made.

*Adoption of Rule Making*

This rule making was adopted by the Board on November 18, 2021.

*Fiscal Impact*

This rule making has no fiscal impact to the State of Iowa.

*Jobs Impact*

After analysis and review of this rule making, no impact on jobs has been found.

*Waivers*

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Board for a waiver of the discretionary provisions, if any, pursuant to 351—Chapter 15.

*Review by Administrative Rules Review Committee*

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

*Effective Date*

This rule making will become effective on February 1, 2022.

The following rule-making actions are adopted:

ITEM 1. Amend subrule 1.4(9) as follows:

**1.4(9)** As the board is defined as a “regulatory agency” under Iowa Code section 68B.2(23), members and staff of the board shall comply with the requirements of Iowa Code section 68B.4 and rule 351—6.11(68B) prior to selling or leasing goods, real estate, or services to individuals, associations, or corporations subject to the board’s regulatory authority.

ITEM 2. Amend **351—Chapter 6**, Division III heading, as follows:

SALES OR LEASES OF GOODS, REAL ESTATE, OR SERVICES

ITEM 3. Amend rule 351—6.11(68B), introductory paragraph, as follows:

**351—6.11(68B) Sales or leases by regulatory agency officials or employees.** An official or employee of a regulatory agency shall not directly or indirectly sell or lease any goods, real estate, or services to individuals, associations, or corporations subject to the regulatory authority of the official’s or employee’s agency except as provided by Iowa Code section 68B.4 and this rule. This prohibition does not apply to sales or leases that are part of the official’s or employee’s state duties.

ITEM 4. Rescind subrule **6.11(1)**.

ITEM 5. Renumber subrules **6.11(2)** to **6.11(8)** as **6.11(1)** to **6.11(7)**.

ITEM 6. Amend renumbered subrule 6.11(2) as follows:

**6.11(2) Request for consent.** An official’s or employee’s request for an agency’s consent to the sale or lease of goods, real estate, or services shall comply with all of the following:

## ETHICS AND CAMPAIGN DISCLOSURE BOARD, IOWA[351](cont'd)

- a. The request shall be in writing and shall be filed with the official's or employee's agency at least 20 calendar days in advance of the proposed sale or lease of any goods, real estate, or services.
- b. The request shall include all of the following:
  - (1) The name of the individual, association, or corporation to which the goods, real estate, or services are to be sold or leased;
  - (2) The relationship of the individual, association, or corporation to the agency;
  - (3) A description of the goods, real estate, or services;
  - (4) The date or dates that the goods, real estate, or services will be delivered; and
  - (5) A statement by the official or employee explaining how the proposed sale or lease of the goods, real estate, or services will not violate the provisions of Iowa Code section 68B.4 or create a conflict of interest under Iowa Code section 68B.2A.

ITEM 7. Amend renumbered subrule 6.11(3) as follows:

**6.11(3) Agency guidelines.** Iowa Code section 68B.4 and the guidelines in this subrule shall be the sole legal authorities to be used by an agency in considering the granting of consent. In determining whether to grant consent, the agency shall take the following guidelines into consideration:

- a. No change.
  - b. The duties and functions performed by the official or employee seeking consent are not related to the regulatory authority of the agency over the individual, association, or corporation to which the goods, real estate, or services will be sold or leased.
  - c. The selling or leasing of the goods, real estate, or services does not affect the official's or employee's duties or functions at the agency.
  - d. The selling or leasing of the goods, real estate, or services will not cause the official or employee to advocate on behalf of the individual, association, or corporation to the agency.
  - e. The selling or leasing of the goods, real estate, or services does not cause the official or employee to sell or lease goods, real estate, or services to the agency on behalf of the individual, association, or corporation.
  - f. The selling or leasing of the goods, real estate, or services will not result in a conflict of interest as provided in Iowa Code section 68B.2A.
  - g. The request complies with the procedural requirements of subrule ~~6.11(3)~~ 6.11(2).
  - h. A regulatory agency may grant blanket consent for sales or leases to classes of individuals, associations, or persons when such blanket consent is consistent with subrule ~~6.11(4)~~ 6.11(3) and the granting of single consents is impractical or impossible to determine.
- These guidelines shall be publicized and made known to all personnel throughout the agency.

[Filed 11/18/21, effective 2/1/22]

[Published 12/15/21]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 12/15/21.

**ARC 6076C**

**PHARMACY BOARD[657]**

**Adopted and Filed**

**Rule making related to practice of pharmacy**

The Board of Pharmacy hereby amends Chapter 3, "Pharmacy Technicians," Chapter 8, "Universal Practice Standards," Chapter 20, "Compounding Practices," and Chapter 39, "Expanded Practice Standards," Iowa Administrative Code.

*Legal Authority for Rule Making*

This rule making is adopted under the authority provided in Iowa Code sections 155A.6A, 155A.45 and 155A.46 and 2021 Iowa Acts, House File 514.

## PHARMACY BOARD[657](cont'd)

*State or Federal Law Implemented*

This rule making implements, in whole or in part, Iowa Code sections 155A.4, 155A.6A, 155A.45 and 155A.46; 2021 Iowa Acts, House File 514; and 2021 Iowa Acts, Senate File 296.

*Purpose and Summary*

These amendments implement legislation enacted during the 2021 Legislative Session (House File 514 and Senate File 296). Specifically, these amendments:

- Provide for the renewal or reactivation of registration of a technician trainee registrant who was, due to exceptional circumstances, unable to attain national pharmacy technician registration and who seeks an additional year of training or study;
- Require pharmacies that have dispensed compounded human drug products interstate to annually report compounding data to the National Association of Boards of Pharmacy information sharing network to comply with a memorandum of understanding between the Board and the United States Food and Drug Administration;
- Update the rules relating to statewide protocols to move the training and education requirements out of administrative rule and into the statewide protocols directly;
- Move and clarify language relating to vaccine and medication administration via patient-specific prescriptions and reporting requirements in the case of serious complications; and
- Update language relating to pilot demonstration research projects.

*Public Comment and Changes to Rule Making*

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on August 11, 2021, as **ARC 5833C**.

The Board received written comments from one pharmacist and the Iowa Pharmacy Association, which were both supportive of the amendments. The pharmacist's comment additionally suggested extending the initial technician trainee registration to 18 to 24 months and to explicitly state in the rules that a pharmacist must provide patient counseling prior to vaccine administration. The Board declined these suggestions, citing that the vast majority of technicians have demonstrated the ability to achieve national technician certification within one year and that the Board's rules already require a pharmacist to provide patient counseling for all new prescriptions, which would inherently include vaccinations.

No changes from the Notice have been made.

*Adoption of Rule Making*

This rule making was adopted by the Board on November 10, 2021.

*Fiscal Impact*

This rule making is not anticipated to have a fiscal impact to the State of Iowa. While it is anticipated that some technician trainees, who have encountered exceptional circumstances that have prevented them from attaining national pharmacy technician certification, will seek renewal or reactivation for the trainee registration, it is expected that it will result, at best, in negligible increases in revenue. It is anticipated that approximately 25 technician trainees will seek renewal or reactivation of the trainee registration annually, which would be estimated to result in a net increase in Board revenue of less than \$200.

*Jobs Impact*

After analysis and review of this rule making, no impact on jobs could be determined. It is anticipated that approximately 25 technician trainees would continue in (or return to) the practice of pharmacy when they otherwise would have had to either leave the practice or register as a pharmacy support person to complete nontechnical duties.

## PHARMACY BOARD[657](cont'd)

*Waivers*

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Board for a waiver of the discretionary provisions, if any, pursuant to 657—Chapter 34.

*Review by Administrative Rules Review Committee*

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

*Effective Date*

This rule making will become effective on January 19, 2022.

The following rule-making actions are adopted:

ITEM 1. Amend subrules 3.5(1) and 3.5(2) as follows:

**3.5(1) Pharmacy technician trainee.** A person who is in the process of acquiring national certification as a pharmacy technician shall register with the board as a pharmacy technician trainee pursuant to rule 657—3.9(155A). ~~The registration shall be issued for a period of one year and shall not be renewed.~~

**3.5(2) Certified pharmacy technician.** All applicants for a new pharmacy technician registration except as provided by subrule 3.5(1), and all applicants for renewal of a pharmacy technician registration pursuant to rule 657—3.10(155A), shall provide proof of current national pharmacy technician certification and shall complete the application for certified pharmacy technician registration.

ITEM 2. Amend rule 657—3.9(155A) as follows:

**657—3.9(155A) Registration fee and term—technician trainee.**

**3.9(1)** No change.

**3.9(2) Term.** A pharmacy technician trainee registration shall expire ~~on the last day of the registration month~~ 12 months following the date of registration. A pharmacy technician trainee registration ~~shall not~~ may be renewed only as provided in subrules 3.9(3) and 3.9(4).

*a.* No change.

*b. Expiration of registration.* ~~The~~ Except as provided in subrules 3.9(3) and 3.9(4), the registration of a pharmacy technician trainee who fails to complete national certification prior to the expiration of the registration shall expire and the technician shall cease practice as a pharmacy technician.

**3.9(3) Renewal.** A technician trainee who is unable to complete national certification prior to the expiration of the registration may seek renewal of the registration in exceptional circumstances. To the extent practicable, the trainee should submit an application and nonrefundable fee of \$20 for technician trainee renewal, on forms provided by the board, at least 30 days prior to the expiration of the registration.

**3.9(4) Reactivation.** A technician trainee who was previously registered and left the practice of pharmacy prior to obtaining national certification may seek reactivation of the registration. The individual shall submit an application and nonrefundable fee of \$20 for technician trainee reactivation on forms provided by the board. Pursuant to rule 657—3.3(155A), a technician shall obtain registration prior to commencing employment as a technician trainee in an Iowa pharmacy.

ITEM 3. Rescind and reserve rule ~~657—8.23(124,155A)~~.

ITEM 4. Adopt the following new definition of “NABP information sharing network” in rule ~~657—20.2(124,126,155A)~~:

“NABP information sharing network” means the information sharing network developed by the National Association of Boards of Pharmacy that collects, assesses, and allows review and sharing of

## PHARMACY BOARD[657](cont'd)

pharmacy compounding information as described in the Memorandum of Understanding Addressing Certain Distributions of Compounded Human Drug Products between the board and the United States Food and Drug Administration.

ITEM 5. Adopt the following **new** rule 657—20.24(155A):

**657—20.24(155A) Annual reporting of interstate distribution of compounded preparations.**

**20.24(1)** No later than April 1, 2022, and annually thereafter, each licensed pharmacy located in Iowa that distributed compounded preparations for human use interstate in the previous calendar year shall report compounding data to the NABP information sharing network.

**20.24(2)** Compounding data may include, but not be limited to:

- a. Whether the pharmacy engaged in the following activities during the identified calendar year:
  - (1) Sterile human drug compounding;
  - (2) Nonsterile human drug compounding;
  - (3) Patient-specific compounding; and
  - (4) Non-patient-specific compounding.
- b. The number of prescription orders for compounded human drugs sent out from the pharmacy.
- c. The number of prescription orders for compounded human drugs dispensed at the pharmacy.
- d. The total number of prescription orders for compounded human drugs distributed interstate.
- e. The number of prescription orders for sterile compounded human drugs distributed interstate.
- f. The names of states into which the pharmacy distributed compounded human drugs during the identified calendar year.
- g. Whether compounded human drugs are distributed without patient-specific prescriptions.

ITEM 6. Amend rule 657—39.6(155A) as follows:

**657—39.6(155A) Statewide protocols.** A To the extent authorized in Iowa Code section 155A.46, a pharmacist may, pursuant to statewide protocols developed by the board in consultation with the department of public health and available on the board's website at [pharmacy.iowa.gov](http://pharmacy.iowa.gov), order and dispense medications pursuant to rules 657—39.8(155A), 657—39.9(155A), and 657—39.11(155A) the requirements identified in the statewide protocols. For the purpose of this rule, the order shall constitute a prescription.

ITEM 7. Rescind rule 657—39.8(155A) and adopt the following **new** rule in lieu thereof:

**657—39.8(155A) Medications administered via prescription.**

**39.8(1) Vaccine administration.** A pharmacist who is authorized to administer vaccines pursuant to the statewide protocol may administer, including via delegation to authorized pharmacy personnel, any vaccine pursuant to a prescription or medication order for an individual patient. In case of a serious complication, the pharmacist shall notify the prescriber who authorized the prescription within 24 hours and shall submit a report to the Vaccine Adverse Event Reporting System (VAERS).

**39.8(2) Medication administration.** A pharmacist may administer, including via delegation to authorized pharmacy personnel if so delegated or authorized by the prescriber, any medication pursuant to a prescription or medication order for an individual patient. In case of a serious complication, the pharmacist shall notify the prescriber who issued the prescription within 24 hours and shall submit a report to the United States Food and Drug Administration Adverse Event Reporting System (FAERS).

ITEM 8. Rescind and reserve rules **657—39.9(155A)** to **657—39.11(155A)**.

ITEM 9. Amend rule 657—39.16(155A) as follows:

**657—39.16(155A) Pharmacy pilot or demonstration research projects.** The purpose of this rule is to specify the procedures to be followed in applying for approval of a pilot or demonstration research project for innovative applications in the practice of pharmacy ~~as authorized by 2011 Iowa Acts, chapter 63, section 36, as amended by 2012 Iowa Acts, chapter 1113, section 31, and by 2013 Iowa Acts, chapter 138, section 128.~~ In reviewing projects, the board will consider only projects that expand pharmaceutical care

PHARMACY BOARD[657](cont'd)

services that contribute to positive patient outcomes. The board will not consider any project intended only to provide a competitive advantage to a single applicant or group of applicants.

**39.16(1)** No change.

**39.16(2)** *Scope of project.* A project may not expand the definition of the practice of pharmacy. A project may include therapeutic substitution or substitution of medical devices used in patient care if such substitution is included under a collaborative ~~drug therapy management protocol established~~ pharmacy practice agreement pursuant to rule 657—39.13(155A).

**39.16(3)** to **39.16(6)** No change.

[Filed 11/17/21, effective 1/19/22]

[Published 12/15/21]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 12/15/21.

**ARC 6071C**

## **PHARMACY BOARD[657]**

**Adopted and Filed**

### **Rule making related to pharmacy technician administration of vaccines**

The Board of Pharmacy hereby amends Chapter 3, "Pharmacy Technicians," Iowa Administrative Code.

#### *Legal Authority for Rule Making*

This rule making is adopted under the authority provided in Iowa Code sections 147.76 and 155A.6A.

#### *State or Federal Law Implemented*

This rule making implements, in whole or in part, Iowa Code section 155A.6A.

#### *Purpose and Summary*

This rule making provides the minimum training requirements for pharmacy technicians to engage in the administration of vaccinations. Currently, under the national public health emergency declaration and Public Readiness and Emergency Preparedness (PREP) Act in response to the global coronavirus pandemic, pharmacy technicians are authorized, pursuant to training and continuing education requirements, to administer pediatric vaccinations to any patient aged 3 to 18 years old and COVID-19 vaccinations to patients of any age for which the vaccination is authorized or approved. This rule making identifies properly trained pharmacy technicians so that the technicians may engage in pharmacist-delegated vaccine administration for immunizations and not be limited to pediatric or COVID-19 vaccinations.

#### *Public Comment and Changes to Rule Making*

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on August 11, 2021, as **ARC 5831C**. This rule making was also adopted and filed emergency and published in the Iowa Administrative Bulletin as **ARC 5820C** on the same date.

A public hearing was held on September 2, 2021, at 10:30 a.m. in the Health Professions Board Room, 400 S.W. 8th Street, Suite H, Des Moines, Iowa, as well as by Zoom.

Nine individuals attended the public hearing with one individual providing oral comments on behalf of the Iowa Pharmacy Association in support of the rule making and stating that its membership has provided overwhelmingly positive feedback. The Board received two written comments, which were both supportive of the rule making.

No changes from the Notice have been made.



PHARMACY BOARD[657](cont'd)

*Adoption of Rule Making*

This rule making was adopted by the Board on November 10, 2021.

*Fiscal Impact*

This rule making has no fiscal impact to the State of Iowa.

*Jobs Impact*

After analysis and review of this rule making, no impact on jobs can be determined.

*Waivers*

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Board for a waiver of the discretionary provisions, if any, pursuant to 657—Chapter 34.

*Review by Administrative Rules Review Committee*

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

*Effective Date*

This rule making will become effective on January 19, 2022, at which time the Adopted and Filed Emergency rule making is hereby rescinded.

The following rule-making action is adopted:

Amend rule 657—3.17(155A) as follows:

**657—3.17(155A) Training and utilization of pharmacy technicians.**

**3.17(1) *Policies and procedures.*** All licensed pharmacies located in Iowa that utilize pharmacy technicians shall develop, implement, and periodically review written policies and procedures for the training and utilization of pharmacy technicians appropriate to the practice of pharmacy. Pharmacy policies shall specify the frequency of review.

**3.17(2) *Documented training.*** Pharmacy technician training shall be documented and maintained by the pharmacy for the duration of employment. ~~Policies and procedures and documentation of pharmacy technician training shall be available for inspection and copying by the board or an agent of the board.~~

**3.17(3) *Vaccine administration training and continuing education.*** A pharmacy technician who administers a vaccine or immunization under the supervision of a pharmacist shall document successful completion of the requirements in paragraph 3.17(3)“a” or “b” and shall maintain competency by completing and maintaining documentation of the continuing education requirements in paragraph 3.17(3)“c.”

a. *Initial qualification.* Except as provided in paragraph 3.17(3)“b,” a technician shall have successfully completed an Accreditation Council for Pharmacy Education (ACPE)-accredited program on vaccine administration that is an evidence-based program that includes study material and hands-on training and techniques for administering vaccines, requires testing with a passing score, complies with current Centers for Disease Control and Prevention (CDC) guidelines, and provides instruction and experiential training in the following content areas:

- (1) Standards for immunization practices;
- (2) Basic immunology and vaccine protection;
- (3) Vaccine-preventable diseases;

## PHARMACY BOARD[657](cont'd)

- (4) Recommended immunization schedules;
- (5) Vaccine storage and management;
- (6) Informed consent;
- (7) Physiology and techniques for vaccine administration;
- (8) Immunization record management; and
- (9) Identification of adverse events.

b. Previous qualification. A technician who is currently licensed as a registered nurse shall be deemed to have met the training requirement.

c. Continuing education. During any technician registration renewal period, a technician who engages in the administration of vaccines shall complete and document at least one hour of ACPE-approved continuing education with the ACPE topic designator "06" followed by the letter "T" or "P."

d. Certification maintained. During any period within which a technician may engage in the administration of vaccines, the technician shall maintain current certification in basic cardiac life support through a training program designated for health care providers that includes hands-on training.

[Filed 11/15/21, effective 1/19/22]

[Published 12/15/21]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 12/15/21.

**ARC 6073C**

**PHARMACY BOARD[657]**

**Adopted and Filed**

**Rule making related to interim pharmacists**

The Board of Pharmacy hereby amends Chapter 8, "Universal Practice Standards," Iowa Administrative Code.

*Legal Authority for Rule Making*

This rule making is adopted under the authority provided in Iowa Code section 155A.13.

*State or Federal Law Implemented*

This rule making implements, in whole or in part, Iowa Code section 155A.13.

*Purpose and Summary*

This amendment provides for the identification of an interim pharmacist in charge (PIC) in situations when the permanent PIC is not vacating the position but is out of the pharmacy on an extended leave of absence (e.g., medical or parental leave). The pharmacy would be able to notify the Board, on forms provided by the Board, of the interim PIC. However, neither a pharmacy license application nor a permanent change of the pharmacy license would be required.

*Public Comment and Changes to Rule Making*

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on August 11, 2021, as **ARC 5835C**.

The Board received two written comments, which were both supportive of the rule making. Both recommended extending the number of days which an interim PIC could serve in the role to at least 120 days, citing extended maternity leave programs.

The Board agreed with the suggestions and revised subparagraph 8.35(6)"d"(4) to extend the interim PIC period to 120 days.

PHARMACY BOARD[657](cont'd)

*Adoption of Rule Making*

This rule making was adopted by the Board on November 10, 2021.

*Fiscal Impact*

This rule making has no fiscal impact to the State of Iowa.

*Jobs Impact*

After analysis and review of this rule making, no impact on jobs has been found.

*Waivers*

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Board for a waiver of the discretionary provisions, if any, pursuant to 657—Chapter 34.

*Review by Administrative Rules Review Committee*

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

*Effective Date*

This rule making will become effective on January 19, 2022.

The following rule-making action is adopted:

Adopt the following **new** subparagraph **8.35(6)“d”(4)**:

(4) If a permanent pharmacist in charge is out of the pharmacy for an extended leave of absence of no more than 120 days, the pharmacy may identify an interim pharmacist in charge and provide notice of such to the board on forms provided by the board. Identification of an interim pharmacist in charge shall not require submission of a new pharmacy license application and shall not result in a permanent change in pharmacist in charge on the pharmacy license. If a permanent pharmacist in charge is out of the pharmacy for an extended leave of absence greater than 120 days, the pharmacy shall initiate a change of pharmacist in charge in accordance with this rule.

[Filed 11/15/21, effective 1/19/22]

[Published 12/15/21]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 12/15/21.

**ARC 6074C**

**PHARMACY BOARD[657]**

**Adopted and Filed**

**Rule making related to controlled substances and precursor substances**

The Board of Pharmacy hereby amends Chapter 10, “Controlled Substances,” and Chapter 12, “Precursor Substances,” Iowa Administrative Code.

PHARMACY BOARD[657](cont'd)

*Legal Authority for Rule Making*

This rule making is adopted under the authority provided in Iowa Code sections 124.201 and 124B.2(2).

*State or Federal Law Implemented*

This rule making implements, in whole or in part, Iowa Code sections 124.201 and 124B.2(2).

*Purpose and Summary*

These amendments temporarily identify three List I chemicals (used in the illicit manufacture of MDMA/“ecstasy”-type substances and amphetamine/methamphetamine) as precursor substances and add the following four substances into the Iowa Controlled Substances Act, both actions in response to similar scheduling action by the federal Drug Enforcement Administration:

- Two hallucinogenic substances into Schedule I,
- One FDA-approved ADHD medication into Schedule IV, and
- One FDA-approved migraine medication into Schedule V.

*Public Comment and Changes to Rule Making*

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on August 11, 2021, as **ARC 5837C**.

The Board received one written comment in opposition to the placement of the substances in Schedule I. The Board declined action on the comment, because the scheduling action is in response to the same placement at the federal level.

A change from the Notice has been made to update the subrule numbers in order to account for a change in rule 567—10.39(124), which was rescinded and replaced with a new rule in **ARC 5914C**, IAB 9/22/21.

*Adoption of Rule Making*

This rule making was adopted by the Board on November 10, 2021.

*Fiscal Impact*

This rule making has no fiscal impact to the State of Iowa.

*Jobs Impact*

After analysis and review of this rule making, no impact on jobs has been found.

*Waivers*

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Board for a waiver of the discretionary provisions, if any, pursuant to 657—Chapter 34.

*Review by Administrative Rules Review Committee*

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

## PHARMACY BOARD[657](cont'd)

*Effective Date*

This rule making will become effective on January 19, 2022.

The following rule-making actions are adopted:

ITEM 1. Adopt the following **new** subrule 10.39(4):

**10.39(4)** Amend Iowa Code section 124.210(6) by adding the following new paragraph:

*n.* Serdexmethylphenidate.

ITEM 2. Adopt the following **new** subrule 10.39(5):

**10.39(5)** Amend Iowa Code section 124.212(5) by adding the following new paragraph:

*f.* Lasmiditan [2,4,6-trifluoro-N-(6-(1-methylpiperidine-4-carbonyl)pyridine-2-yl-benzamide].

ITEM 3. Adopt the following **new** subrule 10.39(6):

**10.39(6)** Amend Iowa Code section 124.204(4) by adding the following new paragraphs:

*av.* methyl 2-(1-(4-fluorobutyl)-1H-indazole-3-carboxamido)-3,3-dimethylbutanoate. Other names: 4F-MDMB-BINACA, 4F-MDMB-BUTINACA.

*aw.* 1-(4-methoxyphenyl)-N-methylpropan-2-amine. Other names: para-methoxymethamphetamine, PMMA.

ITEM 4. Rescind subrule 12.1(1) and adopt the following **new** subrule in lieu thereof:

**12.1(1)** Amend Iowa Code section 124B.2(1) by adding the following new paragraphs:

*ae.* 3,4-MDP-2-P methyl glycidate (PMK glycidate) and its optical and geometric isomers.

*af.* 3,4-MDP-2-P methyl glicidic acid (PMK glycidic acid) and its salts, optical and geometric isomers, and salts of isomers.

*ag.* Alpha-phylylacetamide (APAA) and its optical isomers.

[Filed 11/15/21, effective 1/19/22]

[Published 12/15/21]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 12/15/21.

**ARC 6077C**

**PHARMACY BOARD[657]**

**Adopted and Filed**

**Rule making related to five-year review of rules**

The Board of Pharmacy hereby amends Chapter 21, "Electronic Data and Automated Systems in Pharmacy Practice," Iowa Administrative Code.

*Legal Authority for Rule Making*

This rule making is adopted under the authority provided in Iowa Code sections 124.308 and 155A.27.

*State or Federal Law Implemented*

This rule making implements, in whole or in part, Iowa Code sections 124.308 and 155A.27.

*Purpose and Summary*

These amendments are the result of an overall five-year review of Chapter 21 as required by Iowa Code section 17A.7(2). These amendments update processes relating to the submission and review of petitions for an exemption to the electronic prescription transmission mandate, as well as provide conforming language with other Board administrative rules.

PHARMACY BOARD[657](cont'd)

*Public Comment and Changes to Rule Making*

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on August 11, 2021, as **ARC 5836C**. A public hearing was held on September 2, 2021, at 2:30 p.m. in the Health Professions Board Room, 400 S.W. 8th Street, Suite H, Des Moines, Iowa, as well as via Zoom. Three individuals attended the public hearing with no public comment provided.

The Board received one written comment, which recommended the rules include that a pharmacist is not required to verify the exemption status of a practitioner or prescription. The Board also identified two clarifying edits that were needed.

The Board agreed with the commenter's suggestion and updated subrule 21.8(2) to reflect the suggestion. The Board also updated paragraph 21.9(2)"d" to clarify that an exemption for college or university student health centers would apply to noncontrolled substances only and paragraph 21.9(2)"e" to include an exemption for dental mouthwashes.

*Adoption of Rule Making*

This rule making was adopted by the Board on November 10, 2021.

*Fiscal Impact*

This rule making has no fiscal impact to the State of Iowa.

*Jobs Impact*

After analysis and review of this rule making, no impact on jobs has been found.

*Waivers*

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Board for a waiver of the discretionary provisions, if any, pursuant to 657—Chapter 34.

*Review by Administrative Rules Review Committee*

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

*Effective Date*

This rule making will become effective on January 19, 2022.

The following rule-making actions are adopted:

ITEM 1. Amend rule 657—21.6(124,155A) as follows:

**657—21.6(124,155A) Electronic prescription applications.** ~~Beginning January 1, 2020, each~~ Each prescription ~~for a controlled substance~~ shall be transmitted electronically to a pharmacy except as provided in rule 657—21.8(124,155A). ~~Prior to January 1, 2020, a prescriber may, but shall not be required to, initiate and authorize a prescription drug order utilizing an electronic prescription application that has been determined to maintain security and confidentiality of patient information and records and, if prescribing controlled substances via an electronic prescribing system, certified compliant with DEA regulations for electronic prescribing of controlled substances.~~ The prescription drug order shall contain all information required by Iowa Code sections section 155A.27 and 147.107(5). The receiving pharmacist shall be responsible for verifying the authenticity of an electronically prescribed

## PHARMACY BOARD[657](cont'd)

prescription pursuant to rule 657—8.19(124,126,155A). A prescription that is ~~electronically generated prior to January 1, 2020, or~~ subject to exemption as provided in rule 657—21.8(124,155A), may be transmitted to a pharmacy via electronic or facsimile transmission or printed in hard-copy format for delivery to the pharmacy. A prescription that is transmitted by a prescriber's agent via electronic or facsimile transmission shall include the first and last names and title of the agent responsible for the transmission.

**21.6(1) *Electronic transmission.*** ~~Beginning January 1, 2020, a~~ A prescription prepared pursuant to this rule shall be transmitted electronically to a pharmacy, unless exempt pursuant to rule 657—21.8(124,155A). A pharmacy shall be certified compliant with DEA regulations relating to electronic prescriptions prior to electronically receiving prescriptions for controlled substances. The electronic record shall serve as the original record and shall be maintained for two years from the date of last activity on the prescription. Any annotations shall be made and retained on the electronic record.

*a. to e.* No change.

**21.6(2) *Printed (hard-copy) prescriptions.*** A prescription ~~electronically generated prior to January 1, 2020, or a prescription~~ that is exempt from the electronic prescription mandate as provided in rule 657—21.8(124,155A), may be printed in hard-copy format for facsimile transmission or delivery to the pharmacy.

*a. to c.* No change.

ITEM 2. Amend rule 657—21.7(124,155A) as follows:

**657—21.7(124,155A) *Facsimile transmission of a prescription.*** A pharmacist may dispense noncontrolled and controlled drugs, including Schedule II controlled substances only as provided in this rule, pursuant to a prescription faxed to the pharmacy by the prescribing practitioner or the practitioner's agent. The means of transmission via facsimile shall ensure that prescription information is not obscured or rendered illegible due to security features of the paper utilized by the prescriber to prepare a written prescription. The faxed prescription shall serve as the original record, except as provided in subrule 21.7(1), shall be maintained for a minimum of two years from the date of the last activity on the prescription, and shall contain all information required by Iowa Code ~~sections~~ section 155A.27 and 147.107(5), including the prescriber's signature. If the prescription is transmitted by an agent of the prescriber, the facsimile transmission shall include the first and last names and title of the agent responsible for the transmission. The pharmacist shall be responsible for verifying the authenticity of the prescription as to the source of the facsimile transmission.

**21.7(1) and 21.7(2)** No change.

**21.7(3) *Schedule II controlled substances—~~long-term care facility patients.~~*** A prescription for any Schedule II controlled substance for a resident of a ~~long-term care facility~~, as "~~long-term care facility~~" is defined in rule 657—23.2(155A), may be transmitted by the prescriber or the prescriber's agent to a pharmacy via facsimile. The prescription shall identify that the patient is a resident of a ~~long-term care facility~~.

**21.7(4)** No change.

ITEM 3. Amend rule 657—21.8(124,155A) as follows:

**657—21.8(124,155A) *Electronic prescription mandate and exemptions.*** ~~Beginning January 1, 2020,~~ All prescriptions shall be transmitted electronically to a pharmacy except as provided in this rule.

**21.8(1)** No change.

**21.8(2) *Prescriber, medical group, institution, or pharmacy exemption.*** A prescriber, medical group, institution, or pharmacy ~~which~~ that has been granted an exemption to the electronic prescription mandate pursuant to rule 657—21.9(124,155A) shall be exempt from the electronic prescription mandate only for the duration of the approved exemption, and the exemption shall not apply retroactively to prescriptions issued prior to approval. Upon expiration of an approved exemption, the prescriber, medical group, institution, or pharmacy shall either comply with the electronic prescription mandate or timely petition the board for renewal of the exemption pursuant to rule 657—21.9(124,155A). A prescriber, medical

## PHARMACY BOARD[657](cont'd)

group, institution or pharmacy that has been granted an exemption to the electronic prescription mandate pursuant to rule 657—21.9(124,155A) shall identify the exemption on each prescription issued and transmitted by any nonelectronic means. A pharmacist shall not be required to verify that the prescription or prescriber is subject to an exemption.

ITEM 4. Amend rule 657—21.9(124,155A) as follows:

**657—21.9(124,155A) Exemption from electronic prescription mandate—petition.** A prescriber, medical group, institution, or pharmacy that is unable to comply with the electronic prescription mandate in rule 657—21.8(124,155A) ~~prior to January 1, 2020,~~ may petition the board, on forms provided by the board, for an exemption from the requirements based upon economic hardship; technical limitations that the prescriber, medical group, institution, or pharmacy cannot control; or other exceptional circumstances. ~~A prescriber, medical group, institution, or pharmacy seeking an exemption beginning January 1, 2020, shall submit a completed petition no later than October 1, 2019.~~ A timely petition for renewal of a previously approved exemption shall be submitted at least 60 days in advance of the expiration of the previously approved exemption.

**21.9(1) Petition information.** A petition for exemption from the electronic prescription mandate shall include, but not be limited to, all of the following:

*a.* The name and address of the prescriber, medical group, institution, or pharmacy seeking the exemption. For medical groups and institutions, a list of the names, professional license numbers, and CSA registration numbers of all prescribers who would be covered by the exemption shall be maintained by the petitioner for the duration of any approved exemption and shall not be required to be submitted with the petition.

*b. and c.* No change.

*d.* The reason, such as economic hardship, technological limitations, or other exceptional circumstances, the petitioner is seeking exemption, including any supporting documentation to justify the reason.

~~*e.* Supporting documentation to justify the reason for the exemption, including the following mandatory documentation:~~

~~(1) For economic hardship petitions, a copy of the petitioner's most recent tax return showing annual income and at least two quotes documenting the cost of implementing electronic prescribing.~~

~~(2) For technological limitation petitions, documentation showing the available Internet service providers, the speed and bandwidth available from each provider, and any data caps imposed by the Internet service provider, and documentation showing the minimum technological requirements from at least two electronic prescribing platform vendors.~~

~~*f. e.* Anticipated date of compliance with the electronic prescription mandate.~~

~~*g. f.* If the petition seeks renewal of a previously approved exemption, information relating to the petitioner's actions during the previous exemption period to work toward compliance with the electronic prescription mandate or an explanation as to why no progress has been made.~~

**21.9(2) Criteria for board consideration of a petition.** The board shall consider all information provided in a petition seeking exemption to the electronic prescription mandate and shall approve or deny a petition for exemption based on the following criteria: whether there is a compelling reason to justify the exemption and the nature and volume of prescriptions impacted. Except for petitions citing the exceptional circumstances listed below, which will be administratively reviewed for approval, each petition will be reviewed on a case-by-case basis.

~~*a.* If the reason for exemption is economic hardship, whether the cost of compliance with the electronic prescription mandate would exceed 5 percent of the petitioner's annual income as reported on the petitioner's most recent tax return.~~

~~*b.* If the reason for exemption is technological limitations, whether the Internet service providers available have the technological capabilities required by the electronic prescribing platform.~~

~~*e.* If the reason for exemption is other exceptional circumstances, examples of exceptional circumstances include, but are not limited to, whether the petitioner is a free or low-income clinic, whether the petitioner had a bankruptcy in the previous year, whether the petitioner intends to~~



PHARMACY BOARD[657](cont'd)

~~discontinue practice in Iowa prior to December 31, 2020, and whether the petitioner has a disability that limits the ability to utilize an electronic prescribing platform. All other exceptional circumstances will be evaluated on a case-by-case basis.~~

~~d. If the petition seeks renewal of a previous exemption to the electronic prescription mandate, the number of exemptions previously granted and updated information as it relates to the petitioner working toward compliance with the electronic prescription mandate or the explanation as to why no progress has been made.~~

~~a. A free or low-income clinic where health care is provided at no cost or at a reduced cost to the patient without reimbursement from a third-party payer that requests an exemption for noncontrolled substances only.~~

~~b. A licensed prescriber who issues no more than 50 noncontrolled substance prescriptions per year who requests an exemption for noncontrolled substances only.~~

~~c. The department of veterans affairs for prescriptions that are not filled at a veterans affairs pharmacy.~~

~~d. A prescriber at a student health center based at a college or university for noncontrolled substances only.~~

~~e. A dentist seeking an exemption for prescriptions limited to toothpastes and mouthwashes.~~

~~f. A compounding pharmacy that dispenses no more than 50 prescriptions for commercially available prescription medications per year that requests an exemption for noncontrolled substances only.~~

**21.9(3)** No change.

[Filed 11/17/21, effective 1/19/22]

[Published 12/15/21]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 12/15/21.

**ARC 6068C**

## **PUBLIC HEALTH DEPARTMENT[641]**

**Adopted and Filed**

### **Rule making related to Iowa get screened (IGS): colorectal cancer program**

The Public Health Department hereby amends Chapter 10, "Iowa Get Screened: Colorectal Cancer Program," Iowa Administrative Code.

#### *Legal Authority for Rule Making*

This rule making is adopted under the authority provided in Iowa Code section 135.11.

#### *State or Federal Law Implemented*

This rule making implements, in whole or in part, Iowa Code section 135.11.

#### *Purpose and Summary*

These amendments update screening eligibility requirements for the program to align with federal recommendations from the United States Preventive Services Task Force (USPSTF). These amendments will encourage access to services and align with a Centers for Disease Control and Prevention (CDC) cooperative agreement that is in year two of a five-year program. Additionally, language is removed in order to allow for diagnostic services for eligible Iowans who had an initial positive screening test performed outside the program.

PUBLIC HEALTH DEPARTMENT[641](cont'd)

*Public Comment and Changes to Rule Making*

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on September 22, 2021, as **ARC 5925C**. The Department received one letter of general comments. However, the comments were not specific to the amendments proposed. No changes from the Notice have been made.

*Adoption of Rule Making*

This rule making was adopted by the State Board of Health on November 10, 2021.

*Fiscal Impact*

This rule making has no fiscal impact to the State of Iowa.

*Jobs Impact*

After analysis and review of this rule making, no impact on jobs has been found.

*Waivers*

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any, pursuant to the Department's waiver provisions contained in 641—Chapter 178.

*Review by Administrative Rules Review Committee*

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

*Effective Date*

This rule making will become effective on January 19, 2022.

The following rule-making actions are adopted:

ITEM 1. Amend rule 641—10.1(135) as follows:

**641—10.1(135) Purpose.** The Iowa get screened (IGS): colorectal cancer program is administered by the department. The goal of the IGS program is to reduce the incidence, mortality and prevalence of colorectal cancer in Iowa by increasing the number of men and women who receive colorectal cancer screenings. Through the program, colorectal cancer screenings, including but not limited to fecal immunochemical tests (FITs) and colonoscopies, are provided to eligible Iowans. Along with providing screenings, the program also facilitates supportive services and referral for diagnosis and treatment to Iowans with abnormal screening results. Iowans who are eligible to enter the program must be ~~50~~ 45 to 75 years of age, be underinsured or uninsured, have incomes of up to 300 percent of the federal poverty level (FPL) and have an average or increased risk for developing colorectal cancer.

ITEM 2. Adopt the following **new** definition of “Stool DNA (sDNA) test” in rule **641—10.2(135)**:  
“*Stool DNA (sDNA) test*” means a test that uses stool samples to detect abnormal DNA and small amounts of blood shed into the stool from colon cancer or colon polyps.

ITEM 3. Amend paragraphs **10.3(2)“a”** and **“b”** as follows:

a. The IGS program provides reimbursement for the following screening tests, procedures, preparations and tissue analyses when those services are provided by a participating health care

## PUBLIC HEALTH DEPARTMENT[641](cont'd)

provider who has a provider agreement with the IGS program. Payment is based on Medicare Part B participating provider rates (Title XIX).

- (1) Fecal immunochemical tests annually;
- (2) Colonoscopy every ~~10~~ ten years from initial screen or as prescribed by a physician in accordance with USPSTF recommendations;
- (3) Biopsy/polypectomy during a colonoscopy;
- (4) Bowel preparation;
- (5) Moderate sedation for colonoscopy;
- (6) One office visit related to IGS program-covered colorectal cancer tests;
- (7) One office visit related to colorectal cancer follow-up diagnostic test results;
- (8) Total colon examination with either colonoscopy (preferred) or double contrast barium enema if medically prescribed by doctor;
- (9) Pathology services;
- (10) CT colonography (or virtual colonoscopy) as recommended by provider;
- (11) Stool DNA (sDNA) test every three years;
- (12) Care or services for complications that result from screening or diagnostic tests provided by the IGS program at the discretion of the department and based on the availability of funds.

b. The IGS program does not provide reimbursement for the following:

- (1) Screening tests requested at intervals sooner than recommended by the USPSTF;
- ~~(2) CT colonography (or virtual colonoscopy) as a primary screening test;~~
- ~~(3) (2)~~ Computed tomography scans (CT or CAT scans) requested for staging or other purposes;
- ~~(4) (3)~~ Surgery or surgical staging;
- ~~(5) (4)~~ Any treatment related to the diagnosis of colorectal cancer;
- ~~(6) Any care or services for complications that result from screening or diagnostic tests provided by the IGS program;~~
- ~~(7) (5)~~ Medical evaluation of symptoms that make individuals at high risk for CRC;
- ~~(8) Diagnostic services for participants who had an initial positive screening test performed outside of the program;~~
- ~~(9) (6)~~ Management and testing (e.g., surveillance colonoscopies and medical therapy) for medical conditions, including inflammatory bowel disease, ulcerative colitis or Crohn's disease;
- ~~(10) (7)~~ Genetic testing for participants who present with a history suggestive of a hereditary nonpolyposis colorectal cancer (HNPCC) or familial adenomatous polyposis (FAP); and
- ~~(11) Use of propofol as anesthesia during endoscopy, unless specifically required and approved by the IGS program in cases where the participant cannot be sedated with standard moderate sedation; and~~
- ~~(12) (8)~~ Treatment for colorectal cancer.

ITEM 4. Amend paragraph **10.3(3)“c”** as follows:

c. If the enrolled participant has an abnormal colorectal cancer screening test, the health care provider or local coordinator shall provide to the participant a comprehensive referral directing the participant to appropriate additional diagnostic or treatment services. When the results of a ~~FIT screen~~ screening test are positive, the local coordinator shall work with the participant and enrolled health care provider to schedule a colonoscopy.

ITEM 5. Renumber rules ~~641—10.5(135)~~ to ~~641—10.9(135)~~ as ~~641—10.4(135)~~ to **641—10.8(135)**.

ITEM 6. Amend renumbered subrule 10.4(1) as follows:

**10.4(1) Age.** Individuals ~~50~~ 45 through 75 years of age shall be the target population to receive colorectal cancer screening.

ITEM 7. Amend renumbered subrule 10.4(6) as follows:

**10.4(6) Ineligible.** The IGS program does not provide coverage for:

- a. Individuals with Medicare Part B coverage.
- b. Individuals ~~49~~ 44 years of age and younger.

PUBLIC HEALTH DEPARTMENT[641](cont'd)

- c. Individuals 76 years of age and older.
- d. Individuals who do not have a primary care provider.
- e. Individuals at high risk for developing colorectal cancer. Individuals at high risk include:
  - (1) A genetic diagnosis of familial adenomatous polyposis (FAP) or hereditary nonpolyposis colorectal cancer (HNPCC),
  - (2) A clinical diagnosis or suspicion of FAP or HNPCC, or
  - (3) A history of inflammatory bowel disease (ulcerative colitis or Crohn's disease).
- ~~f. Individuals experiencing the following gastrointestinal symptoms:
 
  - (1) Rectal bleeding, bloody diarrhea, or very dark blood in the stool within the past six months;
  - (2) Prolonged change in bowel habits;
  - (3) Persistent/ongoing abdominal pain;
  - (4) Recurring symptoms of bowel obstruction; or
  - (5) Significant unintentional weight loss.~~

ITEM 8. Amend renumbered paragraph **10.5(1)“b”** as follows:

b. Upon enrollment, the participant shall be eligible for services for 12 months beginning from the date of enrollment, subject to restrictions in funding and program coverage as provided in subrules ~~10.6(2)~~ 10.5(2), ~~10.6(3)~~ 10.5(3) and ~~10.7(1)~~ 10.6(1).

ITEM 9. Amend relettered paragraph **10.5(3)“b”** as follows:

b. No longer meets the criteria set forth in rule ~~641—10.5(135)~~ 641—10.4(135);

ITEM 10. Amend renumbered subrule 10.6(2) as follows:

**10.6(2)** In the event that the financial demand abates, the program director shall withdraw the financial shortfall certification, at which time the individual shall be eligible for program services in accordance with rule ~~641—10.5(135)~~ 641—10.4(135).

[Filed 11/15/21, effective 1/19/22]

[Published 12/15/21]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 12/15/21.

**ARC 6070C**

## **PUBLIC HEALTH DEPARTMENT[641]**

**Adopted and Filed**

### **Rule making related to emergency medical services training program**

The Public Health Department hereby amends Chapter 139, “Emergency Medical Services—Training Programs—Students—Complaints and Investigations,” Iowa Administrative Code.

#### *Legal Authority for Rule Making*

This rule making is adopted under the authority provided in Iowa Code chapter 147A.

#### *State or Federal Law Implemented*

This rule making implements, in whole or in part, Iowa Code chapter 147A and 2021 Iowa Acts, Senate File 615.

#### *Purpose and Summary*

These amendments implement the provisions of 2021 Iowa Acts, Senate File 615, that allow a medical care ambulance service or nontransport service that has received authorization from the Department to conduct emergency medical care service training.

PUBLIC HEALTH DEPARTMENT[641](cont'd)

*Public Comment and Changes to Rule Making*

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on September 22, 2021, as **ARC 5928C**. No public comments were received. No changes from the Notice have been made.

*Adoption of Rule Making*

This rule making was adopted by the State Board of Health on November 10, 2021.

*Fiscal Impact*

This rule making has no fiscal impact to the State of Iowa.

*Jobs Impact*

After analysis and review of this rule making, no impact on jobs has been found.

*Waivers*

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any, pursuant to the Department's waiver provisions contained in 641—Chapter 178.

*Review by Administrative Rules Review Committee*

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

*Effective Date*

This rule making will become effective on January 19, 2022.

The following rule-making actions are adopted:

ITEM 1. Amend rule **641—139.2(147A)**, definition of “EMS training program,” as follows:  
“*EMS training program*” or “*training program*” means an Iowa college approved by the Higher Learning Commission, ~~or an Iowa hospital authorized by the department,~~ or a service program that has received authorization from the department to conduct emergency medical care training.

ITEM 2. Amend paragraph **139.4(1)“a”** as follows:  
*a.* Have a sponsoring institution that ~~is accredited by the Higher Learning Commission or its equivalent, that is recognized by the United States Department of Education as an approved Iowa college,~~ or that is an Iowa licensed hospital that is approved by the department has received authorization from the department to conduct emergency medical care services training.

[Filed 11/15/21, effective 1/19/22]

[Published 12/15/21]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 12/15/21.

**ARC 6096C****REVENUE DEPARTMENT[701]****Adopted and Filed****Rule making related to classification of multiresidential property and dual property**

The Revenue Department hereby amends Chapter 71, “Assessment Practices and Equalization,” and Chapter 80, “Property Tax Credits and Exemptions,” Iowa Administrative Code.

*Legal Authority for Rule Making*

This rule making is adopted under the authority provided in Iowa Code sections 421.14, 421.17(2)“c” and 427A.1(10).

*State or Federal Law Implemented*

This rule making implements, in whole or in part, Iowa Code section 441.21 as amended by 2021 Iowa Acts, House File 418.

*Purpose and Summary*

This rule making implements 2021 Iowa Acts, House File 418, which eliminates the multiresidential property classification for property tax assessment purposes for assessment years beginning on or after January 1, 2022. The types of property previously classified as multiresidential will be classified as residential property beginning with valuations established on or after January 1, 2022. Additionally, this rule making addresses dual property classification and additional modifications to the rules related to the implementation of House File 418. Finally, this rule making corrects cross-references to the statute providing for the Department’s state appraisal manual to be used by assessors in assessing and valuing all classes of property in the state.

*Public Comment and Changes to Rule Making*

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on October 20, 2021, as **ARC 5985C**. The Department received one comment. The Iowa State Association of Assessors submitted a question regarding the classification of Section 42 properties that are also housing cooperatives under Iowa Code chapter 499.

Two references to 2021 Iowa Acts, House File 418, have been removed since the amendments in the legislation have been codified in the 2022 Iowa Code. Also, a comma was added to paragraph 71.1(4)“e” to more closely match the language in House File 418. No other changes from the Notice have been made.

*Adoption of Rule Making*

This rule making was adopted by the Department on November 24, 2021.

*Fiscal Impact*

This rule making has no fiscal impact to the State of Iowa.

*Jobs Impact*

After analysis and review of this rule making, no impact on jobs has been found.

REVENUE DEPARTMENT[701](cont'd)

*Waivers*

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any, pursuant to rule 701—7.28(17A).

*Review by Administrative Rules Review Committee*

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

*Effective Date*

This rule making will become effective on January 19, 2022.

The following rule-making actions are adopted:

ITEM 1. Amend subrule 71.1(1) as follows:

**71.1(1) Responsibility of assessors.** All real estate subject to assessment by city and county assessors shall be classified as provided in this rule. It shall be the responsibility of city and county assessors to determine the proper classification of real estate. There can be only one classification per property under this rule, except as provided for in paragraph 71.1(5)“b.” 71.1(4)“d.” An assessor shall not assign one classification to the land and a different classification to the building or separate classifications to the land or separate classifications to the building. A building or structure on leased land is considered a separate property and may be classified differently than the land upon which it is located. The determination shall be based upon the best judgment of the assessor following the guidelines set forth in this rule and the status of the real estate as of January 1 of the year in which the assessment is made. The assessor shall classify property according to its present use and not according to its highest and best use. See subrule 71.1(9) for an exception to the general rule that property is to be classified according to its use. The classification shall be utilized on the abstract of assessment submitted to the department of revenue pursuant to Iowa Code section 441.45. See rule 701—71.8(428,441).

ITEM 2. Amend subrule 71.1(4) as follows:

**71.1(4) Residential real estate.**

*a. Classification of residential real estate—in general.* Residential real estate shall include all lands and buildings which are primarily used or intended for human habitation containing fewer than three dwelling units, ~~as that term is defined in subparagraph 71.1(5)“a”(5),~~ including those buildings located on agricultural land. Buildings used primarily or intended for human habitation shall include the dwelling as well as structures and improvements used primarily as a part of, or in conjunction with, the dwelling. This includes but is not limited to garages, whether attached or detached, tennis courts, swimming pools, guest cottages, and storage sheds for household goods. “Used in conjunction with” means that the structure or improvement is located on the same parcel, on contiguous parcels, or on a parcel directly across a street or alley as the building or structure containing the dwelling and when marketed for sale would be sold as a unit. Residential real estate located on agricultural land shall include only buildings as defined in this subrule. Buildings for human habitation that are used as commercial ventures, including but not limited to hotels, motels, rest homes, and structures containing three or more separate living quarters, shall not be considered residential real estate. However, regardless of the number of separate living quarters, multiple housing cooperatives organized under Iowa Code chapter 499A and land and buildings owned and operated by organizations that have received tax-exempt status under Section 501(c)(3) of the Internal Revenue Code, if the rental income from the property is not taxed as unrelated business income under Iowa Code section 422.33(1A), shall be considered residential real estate.

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

b. *Horizontal property regimes.* An apartment in a horizontal property regime (condominium) referred to in Iowa Code chapter 499B which is used or intended for use for human habitation shall be classified as residential real estate regardless of who occupies the apartment. Existing structures shall not be converted to a horizontal property regime unless building code requirements have been met.

c. *Classification of residential real estate on or after January 1, 2022.* Beginning with valuations established on or after January 1, 2022, residential real estate shall also include:

(1) Property primarily used or intended for human habitation containing two or fewer dwelling units.

(2) Mobile home parks.

(3) Manufactured home communities.

(4) Land-leased communities.

(5) Assisted living facilities.

(6) A parcel primarily used or intended for human habitation containing three or more separate dwelling units. If a portion of such a parcel is used or intended for a purpose that, if the primary use would be classified as commercial property or industrial property, each such portion, including a proportionate share of the land included in the parcel, if applicable, shall be assigned the appropriate classification pursuant to Iowa Code section 441.21(14)“b” and paragraph 71.1(4)“d” below.

(7) For a parcel that is primarily used or intended for use as commercial property or industrial property, that portion of the parcel that is used or intended for human habitation, regardless of the number of dwelling units contained on the parcel, including a proportionate share of the land included in the parcel, if applicable. The portion of such a parcel used or intended for use as commercial property or industrial property, including a proportionate share of the land included in the parcel, if applicable, shall be assigned the appropriate classification pursuant to Iowa Code section 441.21(14)“b” and paragraph 71.1(4)“d” below.

d. *Dual classification.*

(1) For assessment years beginning January 1, 2022, and after, valuations of parcels for which a portion of the parcel satisfies the requirements for classification as residential property under Iowa Code section 441.21(14)“a”(6) or 441.21(14)“a”(7) and subparagraph 71.1(4)“c”(6) or 71.1(4)“c”(7), the assessor shall assign to that portion of the parcel the classification of residential property and to such other portions of the parcel the property classification for which such other portions qualify.

(2) The only permitted combinations of dual classifications are commercial and residential or industrial and residential. The assessor shall assign the classification of residential to that portion of the parcel that satisfies the requirements for the classification of residential property and to such other portions of the parcel the property classification for which such other portions qualify. The assessor shall maintain the valuation and assessment of property with a dual classification on one parcel record.

e. *Section 42 housing.* Property that is rented or leased to low-income individuals and families as authorized by Section 42 of the Internal Revenue Code, and that has not been withdrawn from Section 42 assessment procedures under Iowa Code section 441.21(2), shall not be classified as residential property.

f. *Short-term leases.* A hotel, motel, inn, or other building where rooms or dwelling units are usually rented for less than one month shall not be classified as residential property.

g. *Definitions.* For purposes of this subrule, the following definitions apply:

“Assisted living facility” means property for providing assisted living as defined in Iowa Code section 231C.2. “Assisted living facility” also includes a health care facility as defined in Iowa Code section 135C.1, an elder group home as defined in Iowa Code section 231B.1, a child foster care facility under Iowa Code chapter 237, or property used for a hospice program as defined in Iowa Code section 135J.1.

“Dwelling unit” means an apartment, group of rooms, or single room which is occupied as separate living quarters or, if vacant, is intended for occupancy as separate living quarters, in which a tenant can live and sleep separately from any other persons in the building.

“Land-leased community” means the same as defined in Iowa Code sections 335.30A and 414.28A.

“Manufactured home community” means the same as a land-leased community.



REVENUE DEPARTMENT[701](cont'd)

“Mobile home park” means the same as defined in Iowa Code section 435.1.

ITEM 3. Rescind and reserve subrule **71.1(5)**.

ITEM 4. Amend rule 701—71.3(421,428,441), introductory paragraph, as follows:

**701—71.3(421,428,441) Valuation of agricultural real estate.** Agricultural real estate shall be assessed at its actual value as defined in Iowa Code section 441.21 by giving exclusive consideration to its productivity and net earning capacity. In determining the actual value of agricultural real estate, city and county assessors shall use the Iowa Real Property Appraisal Manual and any other guidelines issued by the department of revenue pursuant to Iowa Code section ~~421.17(18)~~ 421.17(17).

ITEM 5. Amend rule 701—71.4(421,428,441) as follows:

**701—71.4(421,428,441) Valuation of residential real estate.** Residential real estate shall be assessed at its actual value as defined in Iowa Code section 441.21.

In determining the actual value of residential real estate, city and county assessors shall use the appraisal manual issued by the department of revenue pursuant to Iowa Code section ~~421.17(18)~~ 421.17(17) as well as a locally conducted assessment/sales ratio study, an analysis of sales of comparable properties, and any other relevant data available.

This rule is intended to implement Iowa Code sections 421.17, 428.4 and 441.21.

ITEM 6. Amend rule 701—71.5(421,428,441), introductory paragraph, as follows:

**701—71.5(421,428,441) Valuation of commercial real estate.** Commercial real estate shall be assessed at its actual value as defined in Iowa Code section 441.21. In determining the actual value of commercial real estate, city and county assessors shall use the appraisal manual issued by the department of revenue pursuant to Iowa Code section ~~421.17(18)~~ 421.17(17) as well as a locally conducted assessment/sales ratio study, an analysis of sales of comparable properties, and any other relevant data available. In cases involving the valuation of owner-occupied commercial property, the data relating to the financial performance of the owner or the owner’s business, including but not limited to its sales, revenue, expenses, or profits, shall not be considered relevant in determining the property’s actual value.

ITEM 7. Amend rule 701—71.6(421,428,441) as follows:

**701—71.6(421,428,441) Valuation of industrial land and buildings.** Industrial real estate shall be assessed at its actual value as defined in Iowa Code section 441.21.

In determining the actual value of industrial land and buildings, city and county assessors shall use the appraisal manual issued by the department of revenue pursuant to Iowa Code ~~subsection 421.17(18)~~ section 421.17(17), and any other relevant data available.

This rule is intended to implement Iowa Code sections 421.17, 428.4 and 441.21.

ITEM 8. Rescind and reserve subrule **71.12(3)**.

ITEM 9. Rescind and reserve rule **701—71.23(421,428,441)**.

ITEM 10. Amend rule 701—71.24(421,428,441) as follows:

**701—71.24(421,428,441) Valuation of dual classification property.** Real estate with a dual classification of ~~commercial/multiresidential or industrial/multiresidential~~ commercial/residential or industrial/residential shall be assessed at its actual value as defined in Iowa Code section 441.21.

**71.24(1) Allocation of dual classification values.** The assessor shall value as a whole properties that have portions classified as ~~multiresidential~~ residential and portions classified as commercial or industrial ~~using the methodology found in rule 701—71.23(421,428,441)~~. After the assessor has assigned a value to the property, the value shall be allocated between the two classes of property based on the appropriate appraisal methodology. The assessor shall allocate land value proportionately by class.

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

**71.24(2) Notice of valuation.** The valuation notice issued pursuant to Iowa Code section 441.23 shall include a breakdown of the valuation by class for the current year and the prior year.

**71.24(3) Protest of assessment.** The valuation and assessment of property with a dual classification shall be considered one assessment, and any protest of assessment brought under Iowa Code section 441.37 or subsequent appeal must be made on the entire assessment. Protests of assessments on the valuation of only one class of property are not permitted. The board of review shall review the valuation in total as both classifications are subject to the board's adjustment in any review proceeding. Likewise, any tribunal or court reviewing the board's decision shall base its review on the entire assessment.

This rule is intended to implement Iowa Code sections 421.17, 428.4 and 441.21 as amended by 2013 Iowa Acts, Senate File 295.

ITEM 11. Amend subrule 80.30(8) as follows:

**80.30(8) Property ineligible for credit.** The following are not eligible to receive a business property tax credit or to be part of a property unit that receives the business property tax credit:

*a.* Property that is rented or leased to low-income individuals and families as authorized by Section 42 of the Internal Revenue Code, as amended, and that is subject to assessment procedures relating to Section 42 property under Iowa Code section ~~441.21, subsection 2, 441.21(2)~~ for the applicable assessment year.

*b.* ~~Property classified as multiresidential under 701—subrule 71.1(5).~~ that is a mobile home park, manufactured home community, land-leased community, or assisted living facility, as those terms are defined in Iowa Code section 441.21(13) or that is property primarily used or intended for human habitation containing three or more separate dwelling units.

[Filed 11/29/21, effective 1/19/22]

[Published 12/15/21]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 12/15/21.