



## I. Introduction

This report provides a summary of significant 2013 legislation and covers the final rulemaking actions in calendar year 2013, published in the Iowa Administrative Bulletin (IAB) from January through December 2013.

### A. State administrative agencies

The rulemaking process set out in Iowa Code chapter 17A only applies to executive branch state agencies. Accordingly, agencies housed within either the legislative or judicial branches of state government are not considered in this report.

Iowa Code chapter 7E, enacted in 1986, refers to departments, divisions within departments, independent agencies, and separate constitutional offices. However, that structure was not maintained over the decades, and for that reason there is no consistent organization to Iowa state government. As a practical matter, it is best to define an “agency” as a policy-making body and ignore statutory designations. Using this broad definition, there are 129 executive branch administrative agencies: 21 umbrella departments, 43 semiautonomous divisions, bureaus, and entities within those departments, 31 professional and occupational licensing boards, 30 independent agencies, and four separate constitutional offices (the Agriculture Department is also an umbrella agency). The Governor, as an individual, is excluded from this list because the state’s chief executive is exempt from the rulemaking process; however, any agency housed within that office is subject to the rulemaking process.

### B. 2013 legislation

**Introduction.** 2013 Iowa Acts, chapter 114 (HF 586), contains a variety of revisions to the rulemaking process; it modifies the delegation of authority to administrative agencies and significantly expands the role of the Administrative Rules Review Committee (ARRC).

**Committee approval of emergency rulemaking.** The “emergency” rulemaking process consists of two procedures that allow agencies to place rules into immediate effect prior to notice, public comment, or final publication in the Iowa Administrative Code. HF 586 eliminates agency discretion to file emergency rules without first publishing a Notice of Intended Action and vests approval authority with the ARRC. The standard for filing an emergency rule remains the same: “notice and public participation would be unnecessary, impracticable, or contrary to the public interest.” (Iowa Code §17A.4(3)). Approval requires six votes from ARRC members.

This approval requirement applies only to those rules which are “Adopted and Filed Without Notice,” pursuant to Iowa Code §17A.4(3). Rules which have completed the notice portion of the rulemaking process and are “Adopted and Filed Emergency After Notice” pursuant to Iowa Code §17A.5(2)(b) do not require ARRC approval.

**Suspension and sunset of emergency rule.** The ARRC previously had the power to sunset an emergency filed rule by filing an objection to the use of the emergency process; that sunset is effective 180 days after the objection is filed. If such an objection is filed, HF 586 now empowers the ARRC to also suspend the current implementation of the emergency rule by a two-thirds vote of the 10-member ARRC (seven votes). One hundred eighty days after that action, the sunset takes place and the suspended rule becomes void.

**Suspension of emergency rule.** HF 586 also empowers the ARRC to suspend the effect of an emergency rule for 70 days or until the adjournment of the next regular session of the General Assembly. The ARRC must take this action within 35 days of the effective date of the rule. Both actions require a two-thirds vote. If a session delay is imposed on an emergency rule, the rule is forwarded to the Speaker of the House and the President of the Senate, who will forward the rule to the appropriate standing committee for further action.

**Delayed adoption of notice.** HF 586 empowers the ARRC to postpone the adoption of a Notice of Intended Action by an agency for 70 days.

**Narrow construction of statutes.** HF 586 adds a new provision to Iowa Code chapter 17A requiring that a delegation of rulemaking authority to a state agency is to be construed narrowly, unless the delegating statute specifically provides otherwise.

## II. Overview of 2013 Rulemaking

The ARRC generally reviews rules published the month previous to the ARRC's monthly meeting. Accordingly, the publication period in this overview covers the ARRC's February 2013 meeting through its January 2014 meeting.

In 2013, 56 agencies adopted 322 filings. The 2013 filings are detailed by agency and by month in Appendix A. The Department of Human Services leads the list with 91 filings (over twice the number of filings in 2012). Nineteen of these 56 agencies adopted only one or two filings.

Rulemaking filings generally contain more than a single rule change. The 322 filings actually represent about 1,200 individual rule additions, amendments, or rescissions. Rulemaking activity for the last 10 years is as follows:

YEAR	AGENCIES	FILINGS	YEAR	AGENCIES	FILINGS
2013	56	322	2008	52	468
2012	56	264	2007	51	446
2011	56	310	2006	58	440
2010	52	427	2005	54	396
2009	56	473	2004	56	420

In 2013, 12 agencies adopted 42 filings using the "emergency" rulemaking provisions of the rulemaking process (Iowa Code §§17A.4 and 17A.5). Virtually all of the emergency filings were "double barreled," i.e., published as a Notice of Intended Action at the same time the Adopted and Filed Emergency rule making is published. In 2013, emergency rulemakings accounted for roughly 13 percent of the total filings. The 10-year history for emergency rulemaking is as follows:

YEAR	EMERGENCY	FILINGS	YEAR	EMERGENCY	FILINGS
2013	42 (13 percent)	321	2008	52 (21 percent)	468
2012	21 (8 percent)	264	2007	93 (21 percent)	446
2011	60 (18 percent)	310	2006	65 (14 percent)	440
2010	113 (26 percent)	427	2005	72 (18 percent)	394
2009	100 (21 percent)	473	2004	59 (14 percent)	420

To calculate the volume of rulemaking, only *filed* documents are counted, either through the normal process or through emergency rulemaking. Individual rule changes contained within each document are not counted. If Notices of Intended Action were included, the volume of rulemaking would virtually double. Each filing put into effect contains one or more individual rule changes; on the average each filing contains approximately four individual changes. The 2013 rulemaking filings are broken down by month on the top line of the following chart, which tracks previous years:

	Jan	Feb	Mar	Apr	May	June	July	Aug	Sept	Oct	Nov	Dec	TOTAL
2013	11	26	16	11	39	17	40	21	9	79	19	34	322
2012	18	24	13	21	14	6	22	20	15	50	27	34	264
2011	16	26	15	26	26	28	21	25	27	25	47	28	310
2010	30	35	34	42	40	44	23	35	39	22	41	42	427
2009	32	32	27	31	33	36	85	28	46	36	38	49	473
2008	51	20	10	30	17	26	98	31	34	40	49	62	468
2007	36	33	14	26	25	30	38	80	26	62	32	44	446
2006	26	54	41	27	39	32	51	39	11	59	35	26	440
2005	23	39	15	9	23	33	80	32	24	19	54	45	396
2004	28	32	39	28	27	34	41	20	67	33	43	28	420
2003	20	41	39	23	31	25	38	44	35	48	38	53	435
2002	39	52	43	45	56	33	32	52	57	49	35	30	523
2001	34	44	23	31	43	19	36	23	34	60	21	51	419
2000	19	29	22	28	22	34	23	38	34	56	45	17	367
1999	14	51	29	26	111	45	35	29	44	33	28	61	506

### III. 2013 Formal ARRC Actions

The number of formal actions taken by the ARRC has remained at a steady level. No objections were imposed in 2013, a level similar to the previous five years. Three session delays were imposed and four 70-day delays were imposed. The committee also approved one general referral.

#### FEBRUARY 2013

**No formal action.**

#### MARCH 2013

**No formal action.**

#### APRIL 2013

**EDUCATIONAL EXAMINERS BOARD** — ARC 0678C, prohibited relationships between licensees and former students.  
**INFORMAL LETTER REQUESTING REVISIONS**

**MAY 2013**

**No formal action.**

**JUNE 2013**

**RACING AND GAMING COMMISSION** — ARC 0734C, appeal of steward's disqualification decision.

SESSION DELAY

**JULY 2013**

**PHARMACY BOARD** — three synthetic cannabinoids (emergency filing approved). No ARC number, reviewed in document form.

GENERAL REFERRAL

**AUGUST 2013**

**IOWA FINANCE AUTHORITY** — ARC 0827C, home ownership assistance program-financing for veterans.

SESSION DELAY

**SEPTEMBER 2013**

**HEALTH DEPARTMENT** — ARC 0901C, flashing lights requirements. 70-DAY DELAY. This delay was later determined to be invalid.

**OCTOBER 2013**

**HEALTH DEPARTMENT** — ARC 1074C, vital records fee increase.

70-DAY DELAY

**NOVEMBER 2013**

**EDUCATION DEPARTMENT** — ARC 1119C, supplementary weighting plan.

SESSION DELAY

**VETERANS AFFAIRS DEPARTMENT** — ARC 1157C, Iowa Veterans Home, general updates.

70-DAY DELAY

**DECEMBER 2013**

**EDUCATIONAL EXAMINERS BOARD** — ARC 1170C, prohibited conduct between licensees and former students.

SESSION DELAY

**JANUARY 2014**

**No formal action.**

## IV. Major Items Before the ARRC

### **EDUCATION DEPARTMENT, *Supplementary Weighting Plan for Operational Services*, ARC 1119C, 10/16/13 IAB, ADOPTED.**

**Background.** This rulemaking is intended to comply with recent legislative changes that reauthorized and modified the current statute providing for supplementary weighting used for school district funding. Additional classifications of employees were allowed to be shared between districts. In addition, districts no longer need to be adjoining to participate in this program.

At the committee's September 2013 meeting, significant public comment was heard relating to a dispute over whether the underlying legislation, 2013 Iowa Acts, HF 472, allows school districts to add new staff for these shared positions. The department contends that it does not and that a contrary interpretation would significantly increase the cost of the legislation beyond what was projected during the 2013 Legislative Session. Public commenters, including several school superintendents, contended the framework proposed by the department is unworkable for school districts, as it requires them to make staffing decisions presently in order to possibly receive the additional funding for the following school year, for which they will not be eligible if they hire additional staff.

**Commentary.** A department representative reviewed the dispute over its interpretation of the intent of the underlying legislation. The department had discussions with stakeholders and was not able to resolve the matter. The department remained concerned about significant cost increases that would result if school districts are allowed to add new staff for these shared positions. The department was uncertain regarding legislative intent on this point. The department suggested that the committee impose a session delay on this rulemaking in order to allow the General Assembly to resolve the matter in its upcoming session. Public comment was heard from a stakeholder who supported imposing such a delay. The committee voted to impose a session delay.

**Action.** The committee imposed a session delay. This issue was addressed in 2014 Iowa Acts, House File 2271.

### **BOARD OF EDUCATIONAL EXAMINERS, *Prohibited Conduct Between Licensees and Former Students*, 11/27/13 IAB, ARC 1170C, ADOPTED.**

**Background.** This filing prohibits romantic or sexual relationships between licensees and former students for 90 days following the student's last date of enrollment, if the licensee and the student previously had a direct and supervisory relationship. The proposed amendment adds an additional ethics violation specifically for students no longer enrolled in a school district. In response to feedback from the committee on a prior proposal on this subject, published April 3, 2013, the board reduced the number of days in the proposed amendment from 180 to 90.

**Commentary.** Committee members noted that the board has significantly reduced the prohibition's time period from the initial proposal, from 180 to 90 days. However, members remained concerned that the rule restricted the conduct of adults who no longer had a direct connection to the educational system. A board representative noted that the conduct in question occurring within 30 days following a

student's last date of enrollment is already a criminal offense set out in Iowa Code §709.15(3)(b). Committee members also noted that the 90-day limitation exceeds those criminal provisions.

**Action.** Session delay and referral to the General Assembly. This issue was addressed in 2014 Iowa Acts, House File 2389.

**INSPECTIONS AND APPEALS DEPARTMENT, *Informal Process: Citation Appeals*, ARC 1047C, 10/02/13 IAB, ADOPTED.**

**Background.** Iowa Code §135C.42 provides a process for an informal conference on a contested citation issued to a care facility or assisted living program. 2013 Iowa Acts, chapter 26 (SF 394), revises this process to require that an independent reviewer hold the informal conference rather than a representative of the department. The reviewer must be an Iowa-licensed attorney who has not been employed by the department or appeared in front of the department on behalf of a health care facility in the last eight years. At the completion of the informal conference, the independent reviewer may affirm, modify, or dismiss the regulatory insufficiency.

**Commentary.** At issue is the finality of the decision of the independent reviewer. Iowa Code §135C.42(1), as amended by SF 394, in part provides that the care facility may appeal an adverse decision by the independent reviewer, but is silent on whether the department has a similar right. The adopted rule does not provide for an appeal by the department.

A stakeholder opposed both the rules and the legislation, contending that the required qualifications for the independent reviewer would make it difficult to find a skilled reviewer. The stakeholder also contended that the department is precluded from appealing an adverse decision. Proponents contended that the legislation corrected a procedural problem where the administrative law judge was employed by the same agency that inspected the facility and pursued the complaint.

In response to questioning, department representatives noted these state hearings are held in conjunction with a federal Centers for Medicare and Medicaid Services (CMS) action, which could be appealed through the federal system.

**Action.** No action taken.

**INSURANCE DIVISION, *Regulation of Navigators*, ARC 0981C, 08/21/13 IAB, ADOPTED.**

**Background.** The federal Patient Protection and Affordable Care Act (ACA) requires state health insurance marketplaces to establish a “navigator” program that will help individuals who are eligible to purchase coverage through a health insurance marketplace to learn about their new coverage options and enroll. This rulemaking provides the licensing, training, application, and other minimum practice standards for entities and individuals acting as navigators.

No person may act as a navigator until issued a three-year Iowa navigator license by the division. Applicants must:

- Be at least 18 years of age.
- Comply with the initial training and certification requirements. Individual navigators must complete a minimum of 32 credits of initial training in courses approved by the commissioner. Initial training must include a minimum of two

credits of Iowa-specific training on Medicaid and Healthy and Well Kids in Iowa (hawk-i) program training, as well as a minimum of one credit in the subject of ethics.

- Have not committed any act that is grounds for license denial, suspension, or revocation.
- Submit a completed uniform application.
- Pass an examination with a score of 70 percent or higher.
- Pay the nonrefundable navigator license fee of \$20.
- Pass a background check or security screening.

Licensees must demonstrate financial responsibility and maintain evidence of financial responsibility in the form of a surety bond or other alternative financial responsibility instrument that protects individuals and entities against wrongful acts, misrepresentations, errors, omissions, or negligence of the navigator, or other violation of insurance law. The minimum coverage for financial responsibility is \$50,000.

Prior to license renewal, individual navigators must complete a minimum of 36 continuing education credits for each continuing education term in courses approved by the commissioner on subjects relevant to navigators.

**Commentary.** A division representative explained the rulemaking, noting that the removed language on nonnavigators was not needed because Iowa will not have nonnavigators, and that previous uncertainty regarding access to federal training for navigators that led to the inclusion of a waiver process had been resolved. Committee members asked about another position available under the ACA, a certified application counselor. The division representative explained that a certified application counselor is a new position created through federal regulations that was not included in state legislation. Certified application counselors will have many of the same duties as navigators but will not receive federal funding and will be subject to fewer federal requirements. The application process to become a certified application counselor will be controlled on the federal level.

**Action.** No action taken.

#### **IOWA PUBLIC INFORMATION BOARD, *Organization and operation, 05/15/13 IAB, ARC 0741C, ADOPTED.***

**Background.** A new agency in 2013, the Iowa Public Information Board began operations by drafting “boilerplate” rules of organization and operation, a standard set of rules largely common to all agencies. The board was created under 2012 Iowa Acts, chapter 115 (SF 430), to provide an alternative means to “secure compliance with and enforcement of the requirements of chapters 21 and 22” — the laws governing open meetings and public records.

**Commentary.** The board is empowered to issue advisory opinions concerning specific issues with the open meetings law and public records law. The board may issue declaratory orders with the force of law pursuant to Iowa Code §17A.9. Such opinions are binding on all parties to the issue at hand. Advice contained in a board opinion constitutes defense to a subsequent complaint that is based on the same facts and circumstances.

The board’s most significant power is to hear complaints concerning violations of the open meetings law and public records law, seek resolution through informal

assistance or through mediation and settlement, investigate complaints, and determine whether there is probable cause to believe a violation has occurred. If probable cause has been found, the board may conduct a contested case proceeding. A board member who participates in discussions to attempt to reach an informal resolution cannot participate in subsequent contested case proceedings or any appeal from a proposed decision to the full board. If the board determines that a violation has occurred, the board may:

- Require the respondent to pay damages as provided for in Iowa Code §21.6 or 22.10.
- Void any action taken in violation of Iowa Code chapter 21 if a court would be authorized to do so.
- Require the respondent to take any remedial action deemed appropriate by the board.

**Action.** No action taken.

**MEDICINE BOARD, *Standards of Practice — Abortion-inducing Drugs*, ARC 1034C, 10/02/13 IAB, ADOPTED.**

**Background.** This adopted amendment establishes the standards of practice for physicians who prescribe or administer abortion-inducing drugs. The amendment provides that a physician cannot induce an abortion by providing an abortion-inducing drug unless the physician has first performed a physical examination of the woman to determine, and document in the woman's medical record, the gestational age and intrauterine location of the pregnancy. A physician is now required to be physically present with a woman when providing an abortion-inducing drug to the woman. A physician who provides an abortion-inducing drug to a woman is now required to schedule a follow-up appointment with the woman at the same facility where the abortion-inducing drug was provided.

**Commentary.** Board representatives stated this rulemaking ensured the welfare of the patient by requiring the physician's presence at the administration of the drug and for follow-up visits. Public comments in opposition to the rulemaking cited a lack of stakeholder involvement in the rulemaking process and potential negative impacts on patients and the practice of telemedicine in general.

A motion to delay the effective date of the rulemaking until the adjournment of the next session of the General Assembly failed.

**Action.** No action taken.

**PUBLIC HEALTH DEPARTMENT, *Vital Records Fee Increases*, 10/02/13 IAB, ARC 1074C, 70-DAY DELAY (from January 1, 2014).**

**Background.** The department adopted a fee increase for specific vital records. At the committee's October 2013 meeting, members expressed concern over the refund policy set out in the fee structure. The policy provides that any overpayment of less than \$20 received for the copying of or search for vital records, or for the preparation or amending of a certificate, will not be refunded. Committee members felt this policy is excessive and unfair.



**Commentary.** Department representatives offered the following language as a compromise:

95.6(2) Overpayments. Any overpayment of less than \$5 received by the state registrar for the copying of or search for vital records or for the preparation or amending of a certificate, shall not be refunded and shall be retained by the department.

Note: When this new subrule was adopted and filed in 2014 (**ARC 1402C**, IAB 4/2/14), this phrase read “of \$5 or less.”

**Action.** No action taken.

**RACING AND GAMING COMMISSION, *Licensing Appeals*, 05/15/13 IAB, ARC 0734C, ADOPTED.**

**Background.** The commission revises its appeal procedure for administrative rulings by track officials to deny or suspend a license. Under the unique licensing provisions of the commission, track stewards have the authority to discipline, for violation of the rules, any person subject to their control and to impose fines or suspensions or both for infractions.

**Commentary.** In part, this filing relates to the standard of review used in an appeal involving a steward’s disqualification decision; the standard is limited to “abuse of discretion.” The committee members felt this standard is too narrow to provide a fair opportunity for appeal. Commission officials noted this standard applied only to disqualification decisions made during a race, where decisions have to be made and enforced immediately. They noted these decisions do not affect the validity of a license or impact employment.

**Action.** Session delay. No legislative action.

**REVENUE DEPARTMENT, *Agricultural Land Valuation*, 05/29/13 IAB, ARC 0770C, ADOPTED.**

**Background.** The corn suitability rating (CSR) is an important factor in the property tax evaluation of agricultural parcels. The CSR system was developed by Iowa State University; it measures potential soil productivity based on soil profile, slope characteristics, and weather conditions.

**Commentary.** This rulemaking utilized the negotiated rulemaking proceedings established in Executive Order No. 80. The department formed a stakeholder group to review this proposal. The group was made up of impacted stakeholders. The rule provides for a standardized adjustment method for noncropland that has a high CSR so that noncropland is not taxed the same as cropland. This amendment requires that the local assessor adjust noncropland in distributing agricultural valuation to each parcel. The rule allows a taxpayer to apply to the county assessor for an interim adjustment to noncropland beginning with the 2014 assessment and continuing until the county’s full implementation of the rule.

County assessors expressed concern over the use of interim adjustments, contending that until a county can implement the adjustment in its entirety, granting of interim adjustments to some but not all taxpayers is unfair. Assessors stated that during the interim process, some assessors do not have the technical ability to adjust noncropland and at the same time maintain uniformity throughout the county.

Assessors also expressed concern about the potentially significant cost of acquiring the technology and data necessary to implement the interim process. Supporters of the change stated that the current system, in which only about half of the counties make adjustments for noncropland, is unfair and that the rule will give all taxpayers access to a fair system.

**Action.** No action taken.

**SECRETARY OF STATE, *Ineligible voters*, 02/20/13 IAB, ARC 0616C, ADOPTED.**

**Background.** These provisions were initially published on an emergency basis in August 2012; they were placed under notice at the same time. That filing set out a new program allowing lists of foreign nationals who are residing in Iowa to be matched against the voter registration records, using a federal immigration database to verify citizenship status. The program also contained a procedure for persons wishing to file a complaint concerning an alleged voting violation.

**Commentary.** The filing generated a large amount of public comment and was the subject of a judicial challenge by the American Civil Liberties Union. The filing eliminates the complaint process, noting that a formalized complaint procedure is set out in Iowa Code §§48A.14-48A.16. The rule revises the process for the identification of noncitizen voters. The secretary will determine whether an individual has obtained citizenship after the date of the material initially reviewed. Only at that point will the individual be contacted. If the individual informs the secretary that more time is needed to provide the needed information, the secretary will take no further action for 60 days. If the individual does not respond within 30 days, the secretary will send a second notice. After 30 additional days, the secretary will notify the local registrar.

**Action.** No action taken.

## APPENDIX A — SUMMARY OF RULEMAKING IN 2013

Agency name	Jan	Feb	Mar	Apr	May	June	July	Aug	Sept	Oct	Nov	Dec	Total
HUMAN SERVICES DEPARTMENT[441]	5	8	3	2	14	0	21	0	0	31	1	6	91
Educational Examiners Board[282]	3	5	0	0	1	0	10	0	0	3	5	0	27
PUBLIC HEALTH DEPARTMENT[641]	0	3	0	1	3	0	0	1	0	7	1	9	25
INSPECTIONS and APPEALS DEPARTMENT[481]	0	0	0	1	5	0	0	4	0	4	2	2	18
Labor Services Division[875]	0	1	0	1	2	0	0	2	1	3	1	2	13
REVENUE and FINANCE DEPARTMENT[701]	1	1	0	0	1	0	0	1	0	6	1	1	12
Aging, Department On[17]	0	0	6	0	3	0	0	0	0	0	1	0	10
EDUCATION DEPARTMENT[281]	0	0	0	2	1	2	0	0	0	4	0	1	10
SECRETARY OF STATE[721]	0	0	0	0	1	6	0	0	0	0	0	1	08
TRANSPORTATION DEPARTMENT[761]	0	1	0	2	0	1	0	1	0	1	0	2	08
ECONOMIC DEVELOPMENT DEPARTMENT [261]	0	3	0	0	0	0	0	1	0	1	1	1	07
Environmental Protection Commission[567]	1	1	0	0	0	1	0	0	2	1	0	1	07
Iowa Finance Authority[265]	0	0	0	0	0	0	1	0	0	4	0	2	07
Insurance Division[191]	0	0	0	0	0	0	0	1	0	4	1	0	06
Pharmacy Examiners Board[657]	0	1	0	0	1	0	0	1	3	0	0	0	06
Professional Licensure Division[645]	0	0	0	0	0	2	0	2	1	0	0	1	06
Medicine Board[653]	0	0	0	0	0	0	2	0	0	1	2	0	05
Natural Resource Commission[571]	0	0	0	0	0	0	4	0	0	0	0	1	05
Dental Examiners Board[650]	0	0	3	0	0	0	0	0	0	0	1	0	04
Nursing Board[655]	0	0	0	0	0	1	0	0	0	2	1	0	04
Soil Conservation Division[27]	0	0	0	0	1	1	0	0	0	2	0	0	04
Agricultural Development Authority[25]	0	1	0	0	0	0	0	2	0	0	0	0	03
AGRICULTURE AND LAND STEWARDSHIP DEPARTMENT[21]	0	0	1	0	2	0	0	0	1	0	0	0	04
Engineering & Land Surveying Bd[193C]	0	0	0	1	0	1	0	0	0	1	0	0	03
Homeland Security & Emergency Management Division[605]	0	1	0	0	0	0	0	0	0	1	0	1	03
Real Estate Appraisers Board [193F]	0	0	1	0	0	0	1	0	0	0	1	0	03
ADMINISTRATIVE SERVICES DEPARTMENT [11]	0	0	1	0	0	0	0	1	0	0	0	0	02
College Student Aid Commission[283]	0	0	0	0	0	0	0	1	0	0	0	1	02
Iowa Public Information Board[497]	0	0	0	0	1	0	0	0	0	1	0	0	02
Regents[681]	0	0	1	0	0	0	0	0	0	1	0	0	02
Accountancy Examining Board[193]	1	0	0	0	0	0	0	0	0	0	0	0	01
Architectural Examining Board[193B]	0	0	0	0	0	0	0	0	0	0	0	1	01

ATTORNEY GENERAL [61]	0	0	0	0	1	0	0	0	0	0	0	0	01
AUDITOR OF STATE[81]	0	0	0	0	0	0	0	0	1	0	0	0	01
Credit Union Division[189]	0	0	0	0	0	0	0	1	0	0	0	0	01
Historical Division[223]	0	0	0	0	0	0	0	1	0	0	0	0	01
IPERS[495]	0	0	0	1	0	0	0	0	0	0	0	0	01
Law Enforcement Academy[501]	0	0	0	0	0	0	0	1	0	0	0	0	01
Racing and Gaming Commission[491]	0	0	0	0	1	0	0	0	0	0	0	0	01
Real Estate Commission[193E]	0	0	0	0	1	0	0	0	0	0	0	0	01
TREASURER[781]	0	0	0	0	0	0	0	0	0	0	0	1	01
Utilities Division[199]	0	0	0	0	0	1	0	0	0	0	0	0	01
VETERANS AFFAIRS, DEPARTMENT OF[801]	0	0	0	0	0	0	0	0	0	1	0	0	01
Voter Registration Commission[821]	0	0	0	0	0	1	0	0	0	0	0	0	01
Workers' Compensation Division[876]	0	0	0	0	0	0	1	0	0	0	0	0	01
TOTAL	11	26	16	11	39	17	40	21	9	79	19	34	322

45 agencies

## APPENDIX B — EMERGENCY RULEMAKING IN 2013

Agency name	Jan	Feb	Mar	Apr	May	June	July	Aug	Sept	Oct	Nov	Dec	Total
ENVIRONMENTAL PROTECTION COMMISSION[567]	1	0	0	0	0	0	0	0	0	0	0	0	01
Historical Division[223]	0	0	0	0	0	0	0	1	0	0	0	0	01
HUMAN SERVICES DEPARTMENT[441]	1	2	0	0	0	0	25	0	0	0	0	2	30
INSPECTIONS AND APPEALS DEPARTMENT[481]	0	0	0	1	0	0	0	1	0	0	0	0	02
Iowa Finance Authority[265]	0	0	0	0	0	0	0	0	0	1	0	0	01
Iowa Public Information Board[497]	0	0	0	0	0	0	0	0	0	1	0	0	01
PUBLIC HEALTH DEPARTMENT[641]	0	1	0	0	0	0	0	0	0	0	0	0	01
Pharmacy Board[657]	0	0	0	0	0	0	0	1	0	0	0	0	01
REVENUE DEPARTMENT[701]	0	0	0	0	0	0	0	1	0	0	0	0	01
TRANSPORTATION DEPARTMENT[761]	0	0	0	0	0	0	0	1	0	0	0	0	01
VOTER REGISTRATION COMMISSION[821]	0	0	0	0	0	1	0	0	0	0	0	0	01
Workers' Compensation Division[876]	0	0	0	0	0	0	1	0	0	0	0	0	01
<b>TOTAL</b>	<b>2</b>	<b>3</b>	<b>0</b>	<b>1</b>	<b>0</b>	<b>1</b>	<b>26</b>	<b>5</b>	<b>0</b>	<b>2</b>	<b>0</b>	<b>2</b>	<b>42</b>

12 agencies

## APPENDIX C — IOWA AGENCIES

The Reorganization Act of 1986 (Iowa Code chapter 7E) established most of Iowa's state agencies in a number of umbrella departments, with divisions, bureaus, sections, and units as subunits of a department. In addition to these departments, a variety of independent agencies are also established. Iowa Code chapter 7E defines a variety of agencies which include:

- An authority which is a body with independent power to issue and sell bonds.
- A board which has policymaking powers and the power to hear contested cases.
- A commission which has rulemaking powers.
- A committee which is appointed to study a specific problem and terminate on the completion of its assignment.
- A council which is an advisory body.
- A licensing board which sets standards of professional competence and conduct for a profession or occupation under its supervision.

The scheme established in 1986 was not maintained over the following decades with the result that many newer agencies are established as independent agencies unaffiliated with any umbrella department.

ADMINISTRATIVE SERVICES DEPARTMENT[11]  
 AGING, DEPARTMENT ON[17]  
 AGRICULTURE AND LAND STEWARDSHIP DEPARTMENT[21]  
     Soil Conservation Division[27]  
 ATTORNEY GENERAL[61]  
 AUDITOR OF STATE[81]  
 BEEF INDUSTRY COUNCIL, IOWA[101]  
 BLIND, DEPARTMENT FOR THE[111]  
 CAPITAL INVESTMENT BOARD, IOWA[123]  
 CITIZENS' AIDE[141]  
 CIVIL RIGHTS COMMISSION[161]  
 COMMERCE DEPARTMENT[181]  
     Alcoholic Beverages Division[185]  
     Banking Division[187]  
     Credit Union Division[189]  
     Insurance Division[191]  
     Professional Licensing and Regulation Bureau[193]  
     Accountancy Examining Board[193A]  
     Architectural Examining Board[193B]  
     Engineering and Land Surveying Examining Board[193C]  
     Landscape Architectural Examining Board[193D]  
     Real Estate Commission[193E]  
     Real Estate Appraiser Examining Board[193F]  
     Interior Design Examining Board[193G]  
     Utilities Division[199]  
 CORRECTIONS DEPARTMENT[201]  
     Parole Board[205]  
 CULTURAL AFFAIRS DEPARTMENT[221]  
     Arts Division[222]  
     Historical Division[223]  
 EARLY CHILDHOOD IOWA STATE BOARD[249]  
 ECONOMIC DEVELOPMENT AUTHORITY[261]  
     City Development Board[263]  
 IOWA FINANCE AUTHORITY[265]  
 EDUCATION DEPARTMENT[281]  
     Educational Examiners Board[282]  
     College Student Aid Commission[283]  
     Higher Education Loan Authority[284]  
     Iowa Advance Funding Authority[285]  
     Libraries and Information Services Division[286]  
     Public Broadcasting Division[288]  
     School Budget Review Committee[289]  
 EGG COUNCIL, IOWA[301]  
 EMPOWERMENT BOARD, IOWA[349]  
 ENERGY INDEPENDENCE, OFFICE OF[350]  
 ETHICS AND CAMPAIGN DISCLOSURE BOARD, IOWA[351]  
 EXECUTIVE COUNCIL[361]  
 FAIR BOARD[371]  
 HUMAN RIGHTS DEPARTMENT[421]  
     Community Action Agencies Division[427]  
     Criminal and Juvenile Justice Planning Division[428]  
     Deaf Services Division[429]  
     Persons With Disabilities Division[431]  
     Latino Affairs Division[433]  
     Status of African-Americans, Division on the[434]  
     Status of Women Division[435]  
     Status of Iowans of Asian and Pacific Islander Heritage[436]  
 HUMAN SERVICES DEPARTMENT[441]  
 INSPECTIONS AND APPEALS DEPARTMENT[481]  
     Employment Appeal Board[486]  
     Child Advocacy Board[489]  
     Racing and Gaming Commission[491]  
     State Public Defender[493]  
 IOWA PUBLIC EMPLOYEES' RETIREMENT SYSTEM[495]  
 IOWA PUBLIC INFORMATION BOARD[497]  
 LAW ENFORCEMENT ACADEMY[501]  
 LIVESTOCK HEALTH ADVISORY COUNCIL[521]  
 LOTTERY AUTHORITY, IOWA[531]  
 MANAGEMENT DEPARTMENT[541]  
     Appeal Board, State[543]  
     City Finance Committee[545]  
     County Finance Committee[547]  
 NATURAL RESOURCES DEPARTMENT[561]  
     Energy and Geological Resources Division[565]  
     Environmental Protection Commission[567]  
     Natural Resource Commission[571]  
     Preserves, State Advisory Board for[575]  
 PETROLEUM UNDERGROUND STORAGE TANK FUND BOARD, IOWA COMPREHENSIVE[591]  
 PREVENTION OF DISABILITIES POLICY COUNCIL[597]  
 PROPANE EDUCATION AND RESEARCH COUNCIL, IOWA[599]  
 PUBLIC DEFENSE DEPARTMENT[601]  
     Military Division[611]  
 HOMELAND SECURITY AND EMERGENCY MANAGEMENT DEPARTMENT[605]  
 PUBLIC EMPLOYMENT RELATIONS BOARD[621]  
 PUBLIC HEALTH DEPARTMENT[641]  
     Professional Licensure Division[645]  
     Dental Board[650]  
     Medicine Board[653]  
     Nursing Board[655]  
     Pharmacy Board[657]  
 PUBLIC SAFETY DEPARTMENT[661]  
 RECORDS COMMISSION[671]  
 REGENTS BOARD[681]  
     Archaeologist[685]  
 REVENUE DEPARTMENT[701]  
 SECRETARY OF STATE[721]  
 SHEEP AND WOOL PROMOTION BOARD, IOWA[741]  
 TELECOMMUNICATIONS AND TECHNOLOGY COMMISSION, IOWA[751]  
 TRANSPORTATION DEPARTMENT[761]  
 TREASURER OF STATE[781]  
 TURKEY MARKETING COUNCIL, IOWA[787]  
 UNIFORM STATE LAWS COMMISSION[791]

VETERANS AFFAIRS, IOWA DEPARTMENT  
OF[801]  
VETERINARY MEDICINE BOARD[811]  
VOLUNTEER SERVICE, IOWA COMMISSION  
ON[817]  
VOTER REGISTRATION COMMISSION[821]  
WORKFORCE DEVELOPMENT  
DEPARTMENT[871]  
    Labor Services Division[875]  
    Workers' Compensation Division[876]  
    Workforce Development Board and Workforce  
    Development Center Administration Division[877]

## APPENDIX D — ARRC POWERS — Vote Requirements

Notice of Intended Action	<ol style="list-style-type: none"><li>1. General referral, 6 votes. Iowa Code §17A.8(7).</li><li>2. Regulatory analysis, 6 votes. Iowa Code §17A.4A.</li><li>3. Objection, 6 votes. Iowa Code §17A.4(6).</li><li>4. 70-day suspension of further action, 7 votes. Iowa Code §17A.4(9).*</li></ol>
Adopted	<ol style="list-style-type: none"><li>1. General referral, 6 votes. Iowa Code §17A.8(7).</li><li>2. Informal regulatory analysis, 6 votes. No statutory authority, customary.</li><li>3. Objection, 6 votes. Iowa Code §17A.4(6).</li><li>4. 70-day delay, 7 votes. Iowa Code §17A.4(7).</li><li>5. Session delay, 7 votes. Iowa Code §17A.8(9).</li></ol>
Adopted and Filed without Notice	<ol style="list-style-type: none"><li>1. Mandatory prior approval by ARRC, 6 votes. Iowa Code §17A.4(3).*</li><li>2. General referral, 6 votes. Iowa Code §17A.8(7).</li><li>3. Regulatory analysis, 6 votes. Iowa Code §17A.4A.</li><li>4. Objection, 6 votes. Iowa Code §17A.4(6).</li><li>5. 180-day sunset objection, 7 votes. Iowa Code §17A.4(3).</li><li>6. Suspension of applicability until 180-day sunset, 7 votes. Iowa Code §17A.4(3).*</li></ol>
Adopted and Filed Emergency	<ol style="list-style-type: none"><li>1. Mandatory prior approval by ARRC, 6 votes. Iowa Code §17A.4(3).*</li><li>2. General referral, 6 votes. Iowa Code §17A.8(7).</li><li>3. Regulatory analysis, 6 votes. Iowa Code §17A.4A.</li><li>4. Objection, 6 votes. Iowa Code §17A.4(6).</li><li>5. 180-day sunset objection, 7 votes. Iowa Code §17A.4(3).</li><li>6. Suspension of applicability until 180-day sunset, 7 votes. Iowa Code §17A.4(9).*</li><li>7. 70-day suspension of applicability, 7 votes. Iowa Code §17A.4(7).*</li><li>8. Session suspension of applicability, 7 votes. Iowa Code §17A.4(9).*</li></ol>

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\* Item was enacted by 2013 Iowa Acts, chapter 114 (HF 586).



Adopted and Filed Emergency After Notice	<ol style="list-style-type: none"> <li>1. General referral, 6 votes. Iowa Code §17A.8(7).</li> <li>2. Regulatory analysis, 6 votes. Iowa Code §17A.4A.</li> <li>3. Objection, 6 votes. Iowa Code §17A.4(6).</li> <li>4. 70-day suspension of applicability, 7 votes. Iowa Code §17A.4(7).*</li> <li>5. Session suspension of applicability, 7 votes. Iowa Code §17A.8(9).*</li> </ol>
Notice of Termination	No action.
Rules in effect (by special review)	<ol style="list-style-type: none"> <li>1. General referral, 6 votes. Iowa Code §17A.8(7).</li> <li>2. Informal regulatory analysis, 6 votes. No statutory authority, customary.</li> <li>3. Objection, 6 votes. Iowa Code §17A.4(6).</li> </ol>
Any rules — related matter	ARRC-approved legislation, 6 votes, 3 from each chamber. Joint Rule 19.

**SUSPENSION OF NOTICE — Iowa Code §17A.4(9). Seven votes required.** The committee, following Notice of Intended Action, may suspend further action relating to that notice for 70 days.\*

**REGULATORY ANALYSIS — Iowa Code §17A.4A. Six votes required.** Each regulatory analysis must include quantifications of the data and must take account of both short-term and long-term consequences. An agency must issue a regulatory analysis of a proposed rule if an appropriate request is made within 32 days after the notice is published. When an analysis has been requested, the agency must extend the time for public comment on the proposed rule for 20 days beyond the date a summary of the analysis is published in the IAB.

**INFORMAL REGULATORY ANALYSIS — No statutory authority, customary. Six votes required.** The committee has on occasion informally requested an agency to conduct a regulatory analysis of a rule after the statutory period for requesting a regulatory analysis pursuant to Iowa Code §17A.4A has elapsed. This may include a rule that is already in effect. While a statutory regulatory analysis will typically be extensive and take a significant amount of time to complete, an informal regulatory analysis may be more simple and concise for the purpose of conveying information to the committee in a timely manner. An agency will typically comply with such a request without issue.

**GENERAL REFERRAL — Iowa Code §17A.8. Six votes required.** The committee may refer any rule, whether proposed or in effect, to the General Assembly for further study. This power does not impact the enforceability or legality of the rule; it is simply a mechanism to bring a rulemaking issue to the attention of the Legislature. A

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\* Item was enacted by 2013 Iowa Acts, chapter 114 (HF 586).

letter is prepared summarizing the issue and sent to the Speaker of the House and President of the Senate. Those officers then forward the material to the appropriate standing committees. Any additional action is discretionary with the standing committee members.

**OBJECTION — Iowa Code §17A.4(6). Six votes required.** An objection may be imposed on any rule, whether proposed or in effect. It is a document outlining the committee’s opinion that a rule is “unreasonable, arbitrary, capricious or otherwise beyond the authority delegated to the agency.” If that rule is subsequently challenged in court, the objection strips away the presumption of validity that is normally accorded administrative rules and forces the agency to prove the legality of the rule. If the agency fails, it must pay both the court costs and the attorney fees of the person challenging the rule.

**THE “EMERGENCY” RULE APPROVAL — Iowa Code §17A.4(3). Six votes required.** The committee must approve the filing of a rule that is either adopted and filed emergency or adopted and filed without notice, pursuant to Iowa Code §17A.4(3). To the extent practicable, these approval reviews will be scheduled during the regular monthly meeting. When necessary, the committee will schedule a special telephonic conference.

**THE “EMERGENCY” RULE OBJECTION — Iowa Code §17A.4. Seven votes required.** The committee can object to the “emergency” filing of a rule and sunset the rule after 180 days. At one time all emergency rules were temporary, but the problem was that a large majority of these filings were appropriate and should be left in effect. The solution was to make “emergency” rules permanent; but in those cases where abuse occurs, the committee is empowered to transform them into temporary rules by filing the objection. This procedural objection is not necessarily an attack on the rule itself; it is an attack on the procedure used to implement the rule.

**THE “EMERGENCY” RULE SUSPENSION — Iowa Code §17A.4(3). Seven votes required.** If the committee objects to the “emergency” adoption of a rule, the committee may also suspend the applicability of the rule until the 180-day sunset.

**SESSION DELAY — Iowa Code §17A.8(9). Seven votes required.** A session delay may be imposed only before the effective date of the rule has passed. It postpones the effective date of the rule, or a designated portion of a rule, until the adjournment of the next session of the General Assembly. A letter is prepared summarizing the issue and is sent to the Speaker of the House and President of the Senate. Those officers then forward the material to the appropriate standing committees. Any additional action is discretionary with the committee members. If the General Assembly takes no action, the rule automatically goes into effect upon adjournment.

**EMERGENCY RULE SESSION SUSPENSION — Iowa Code 17A.8(9). Seven votes required.** Within 35 days of its effective date, an emergency rule may be suspended until the adjournment of the next session of the General Assembly. A letter is prepared summarizing the issue and is sent to the Speaker of the House and President of the Senate. Those officers then forward the material to the appropriate standing committees. Any additional action is discretionary with the committee

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members. If the General Assembly takes no action, the rule automatically goes into effect upon adjournment.\*

**SEVENTY-DAY DELAY — Iowa Code §17A.4(5). Seven votes required.** A 70-day delay may be imposed only before the effective date of the rule has passed. It is simply a tool to buy more time to review a proposed rule. It is most frequently used to create a “cooling off” period before the committee takes more drastic action, giving interested persons an opportunity to reach compromises or solutions. At the end of the period, the committee meets again to review the filing and retains all of its original powers. This power is used frequently by the committee.

**EMERGENCY RULE 70-DAY SUSPENSION — Iowa Code §17A.4(7). Seven votes required.** Within 35 days of its effective date, an emergency rule may be suspended for 70 days. An emergency rule 70-day suspension serves a function similar to a regular 70-day delay.\*

**SPECIAL REVIEW — Iowa Code §17A.8(6). By request.** Iowa Code §17A.8(6) provides that “[t]he committee shall meet for the purpose of selectively reviewing rules, whether proposed or in effect.” There is no statutory procedure for how the committee reviews rules that are in effect; typically a committee member who would like the committee to review a rule that is in effect will submit the request to the chair, who will then add the request to the committee’s next agenda. Notice is provided to the appropriate agency that the agency will be expected to have a representative present at the meeting to review the rule. So that the agency will have adequate time to prepare for such a review, it is advisable to submit a request for a special review at least a week before the committee’s monthly meeting. Actions the committee may take on a rule that is already in effect are limited; the committee can make a general referral, impose an objection, or request an informal regulatory analysis.

**ARRC LEGISLATION — Joint Rule 19. Six votes required, majority of each house.** The committee may introduce a bill relating to rules into either house, at any time. The bill must be referred to a standing committee, which must take action on the bill within three weeks of referral, except bills referred to appropriations and ways and means committees. ARRC bills are exempt from the “funnel” in legislative rules that imposes deadline dates for consideration of bills.

**WHY DO SOME COMMITTEE ACTIONS REQUIRE SEVEN VOTES?** The power to delay the effective date of a rule impinges upon the constitutional role of the executive branch. Article III, §1 of the Iowa Constitution states:

The powers of the government of Iowa shall be divided into three separate departments — the legislative, the executive, and the judicial: and no person charged with the exercise of powers properly belonging to one of these departments shall exercise any function appertaining to either of the others, except in cases hereinafter expressly directed or permitted.

The supermajority requirement ensures that the committee will not act precipitously in exercising these powers.

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\* Item was enacted by 2013 Iowa Acts, chapter 114 (HF 586).