



## Fiscal Services Division

### ADMINISTRATIVE RULES — FISCAL IMPACT SUMMARIES

July 13, 2021

Iowa Code section 17A.4(4) requires the Legislative Services Agency (LSA) to analyze the fiscal impact of all administrative rules with an impact of \$100,000 or more and provide a summary of the impact to the Administrative Rules Review Committee (ARRC). Fiscal Impact Statements filed by State agencies can be found on our website at <https://www.legis.iowa.gov/publications/fiscal/adminRulesFiscalImpact>.

With each rule summary, the rulemaking type is indicated in parentheses following the ARC number. The acronyms have the following meanings: Notice of Intended Action (NOIA), Amended Notice of Intended Action (ANOIA), Notice of Termination (NOT), Adopted and Filed Emergency (AFE), Filed Emergency After Notice (FEAN), and Adopted and Filed (AF).

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#### Department of Human Services

##### **ARC 5680C (AF)**

**Rule Summary** Lowers the qualifying age for subsidized guardianship payments from 14 to 10 years of age and extends guardianship subsidies until 21 years of age for a child who is diagnosed with an intellectual, mental, or medical disability or who has not graduated from high school. Also eliminates the minimum age requirement for younger children to qualify for subsidized guardianship payments when those children reside in the same home as older siblings who meet eligibility requirements. Also outlines circumstances in which the Department may suspend subsidized guardianship payments.

**State or Federal Law Implemented:** [45 CFR 1356.21](#), [42 U.S.C. 672](#), [42 U.S.C. 673](#).

**Fiscal Impact** **Agency Response:** It is anticipated that the fiscal impact to the State by lowering the age requirements from 14 to 10 years of age for the guardianship program will be offset by the additional federal funding provided through Title IV-E, as well as the transfer of children from the foster care system to guardianships.

There will also be a fiscal impact caused by extending the eligibility to receive the subsidized guardianship payment until the child completes high school or reaches the age of 21. State dollars in the amount of approximately \$151,000 will be used to cover the cost to serve 24 children per month based on current averages. However, as these costs would have been realized by the State's adoption or foster care programs, the net fiscal impact of these costs on the State will be minimal.

**LSA Response:** The LSA concurs.

##### **ARC 5706C (NOIA)**

**Rule Summary** Makes the following changes to the Home and Community-Based Services (HCBS) Habilitation Program:

- Implements two new assessment tools including the Level of Care Utilization System (LOCUS) for adults age 19 and older and Child and Adolescent Level of Care Utilization System (CALOCUS) for youth age 16 to 18 for the purposes of the needs-based eligibility determination for the person-centered service planning and HCBS tier authorization.
- Adds Intensive Residential Habilitation.

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- Adopts training criteria for direct service staff providing HCBS services.
- Clarifies the scope of services included in Home-Based Habilitation.

**State or Federal Law Implemented:** Iowa Code chapter 249A.

**Fiscal Impact** **Agency Response:** The changes are estimated to cost the Medicaid Program \$1.9 million in FY 2022 and \$2.0 million in FY 2023. Use of the new assessment tool is expected to shift utilization across the six current Habilitation reimbursement tiers. The FY 2022 state share estimate assumes the COVID-19 increased Federal Medical Assistance Percentage (FMAP) will remain in effect through December 2021, but does not include the potential 10.0% FMAP increase for HCBS waiver services authorized through the federal American Rescue Plan Act since decisions on this FMAP increase are still pending. No additional State funding was provided for this rule change and the increases will come from the Medicaid ending balance.

**LSA Response:** The LSA concurs. The increased costs above do not include the rate increases and additional funding passed by the General Assembly in HF 891 (FY 2022 Health and Human Services Appropriations Bill) for Habilitation Services. The Bill provided \$9.9 million for Habilitation Services to increase rates by 5.25% and to provide an additional reimbursement tier for high-need individuals.

### **ARC 5707C (NOIA)**

**Rule Summary** Allows funds in the Foster Home Insurance Fund to cover damages resulting from the actions of a child residing in a foster child home, and allows the Department to establish limitations of liability for individual claims as deemed reasonable by the Department.

**State or Federal Law Implemented:** Iowa Code section 237.13.

**Fiscal Impact** **Agency Response:** While the annual amount budgeted for the Foster Home Insurance Fund is \$675,000, changes to annual limits and deductibles could reduce costs, causing the full amount not to be expended.

**LSA Response:** The LSA concurs.

### **ARC 5732C (NOIA)**

**Rule Summary** Revises the child care assistance provider reimbursement rate ceiling tables to comply with federal regulations that require states to use the most recent market rate survey in establishing child care reimbursement rates. Iowa's most recent market rate survey was conducted in December 2020. Effective July 1, 2021, reimbursement rates will be increased to at least the 50th percentile of the 2020 market rate for child care providers.

**State or Federal Law Implemented:** Iowa Code section 234.6.

**Fiscal Impact** **Agency Response:** Increasing the maximum provider rates is estimated to increase expenses by \$13,355,730 per year. This increase is expected to be funded by federal Child Care Development Funds (CCDF) carried forward until SFY 2025, when it is anticipated that the balance of CCDF funds will be fully expended.

**LSA Response:** The LSA concurs.

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## Iowa Finance Authority

### **ARC 5717C (FEAN)**

**Rule Summary** Amends the 2020-21 First Amended 9% Qualified Action Plan for the Low-Income Housing Tax Credit (LIHTC) program to allow developers to apply for Derecho Disaster Set-Aside credits as part of the 2021 tax credit round. The federal Consolidated Appropriations Act of 2021 allocated disaster tax credits, under the LIHTC program, for

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12 Iowa counties impacted by the August 2020 derecho. The Iowa Finance Authority (IFA) is designated as the housing credit agency for the allowance of the LIHTC program under the state housing credit ceiling.

**State or Federal Law Implemented:** Iowa Code section 16.35 and Internal Revenue Code section 42, Pub. L. No. 116-260.

**Fiscal Impact** **Agency Response:** The Authority has been allocated an additional \$4.2 million in disaster tax credits under the LIHTC program for the 12 Iowa counties impacted by the August 2020 derecho.

**LSA Response:** The LSA concurs. The IFA receives an \$8.8 million annual allocation of LIHTC authority. In addition to the annual allocation, the IFA has received additional authority for \$4.2 million in disaster tax credits under the LIHTC program for the 12 Iowa counties impacted by the August 2020 derecho.

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## Department of Education

### **ARC 5739C (AF)**

**Rule Summary** Provides guidance on therapeutic classrooms and telehealth services on school premises.

**State or Federal Law Implemented:** 2020 Iowa Acts, Senate File 2360 (Classroom Environment and Therapeutic Classrooms Act), 2020 Iowa Acts, Senate File 2261 (Telehealth in Schools Act).

**Fiscal Impact** **Agency Response:** This rulemaking has a fiscal impact due to a related appropriation to implement Senate File 2360.

**LSA Response:** The LSA concurs. The rulemaking itself does not have a fiscal impact, but funding was appropriated in House File 868 (FY 2022 Education Appropriations Act) and is allocated as follows:

- \$500,000 for the Department of Education (DE) to develop, establish, and distribute standards, guidelines, and expectations relating to behavior in the classroom, restraint of a student, professional development relating to educating individuals in the least restrictive environment, and research-based intervention strategies.
- \$1.6 million to the DE for the Therapeutic Classroom Fund.
- \$500,000 to the DE for reimbursement funding to school districts for the transportation of students to therapeutic classrooms.

### **ARC 5745C (NOIA)**

**Rule Summary** Eliminates the ability of school districts to offer voluntary diversity plans, makes substantive changes to open enrollment, provides additional requirements for Medicaid billing for students with disabilities who participate in open enrollment, and makes other nonsubstantive changes in language.

**State or Federal Law Implemented:** 2021 Iowa Acts, HF 228 (Open Enrollment, School District Diversity Plans); 2021 Iowa Acts HF 847 (Education Programs, Tax Credits, and Information); and 2021 Iowa Acts SF 260 (Medicaid Reimbursement, Special Education).

**Fiscal Impact** **Agency Response:** No fiscal impact.

**LSA Response:** The LSA concurs in part. The proposed rulemaking does not have a fiscal impact, several provisions of the legislation prompting the rulemaking may have a fiscal impact at the school district level.

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Five school districts that have previously denied open enrollment requests based on the districts' voluntary diversity programs may experience a decrease in State and property tax funding totaling an estimated \$4.0 million in FY 2022 and an estimated \$2.6 million in FY 2023. For more information, see the [Fiscal Note for HF 228](#).

The additional changes to open enrollment are expected to increase the number of open enrollment applications and transportation reimbursements; however, the extent to which school districts may experience a net fiscal impact cannot be determined. For more information, see the [Fiscal Note for HF 847](#).

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## Department of Revenue

### **ARC 5710C (NOIA)**

**Rule Summary** Amends Chapter 68 to reflect the enactment of 2020 Iowa Acts, [Senate File 2403](#) (Biofuels Excise Tax). The Bill changed tax rates for gasoline and biodiesel-blended fuel rated B11 or higher and created new classifications of ethanol-blended gasolines. Senate File 2403 also requires the Department to calculate motor fuel distribution percentages with the annual fuel retailers' report. Items 2 through 15 reflect clean up of outdated citations or terms throughout the rule chapter. Item 16 strikes language relating to how taxpayers should round for purposes of reporting tax due for liquefied petroleum gas, liquefied natural gas, and compressed natural gas on returns being designed as a part of the Department's modernization initiative. The current rule requires rounding to the nearest whole dollar. This proposed amendment will require taxpayers to enter cents rather than round.

**State or Federal Law Implemented:** Iowa Code chapter [452A](#), 2020 Iowa Acts, Senate File [2403](#).

**Fiscal Impact** **Agency Response:** The fuel tax rates modified by 2020 Iowa Acts, [Senate File 2403](#), are estimated to increase revenue to the Road Use Tax Fund by \$1.18 million in FY 2022.

**LSA Response:** The LSA concurs.

### **ARC 5733C (AF)**

**Rule Summary** Implements 2020 statutory adjustments to income for Iowa individual and corporate income and franchise taxes for interest expense deductions which are limited for federal income tax purposes, but permitted in full for Iowa purposes for tax years beginning on or after January 1, 2020. Also covers adjustments that may be needed due to Iowa's changing conformity with these federal limitations for tax years 2018 and 2019.

**State or Federal Law Implemented:** 2020 Iowa Acts, chapter [1118](#); Iowa Code sections [422.7](#), [422.35](#), and [422.61](#).

**Fiscal Impact** **Agency Response:** No fiscal impact beyond the legislation the rulemaking is intended to implement. The final fiscal estimate for [HF 2641](#) estimated reduced revenue of \$6.2 million for FY 2021, \$4.1 million for FY 2022, \$8.8 million for FY 2023, \$14.4 million for FY 2024, and \$16.7 million for FY 2025.

**LSA Response:** The LSA concurs.

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