



Fiscal Services Division

ADMINISTRATIVE RULES — FISCAL IMPACT SUMMARIES

November 9, 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 Administrative Services

ARC 5982C (NOIA)

Rule Summary Implements 2021 Iowa Acts, House File 861 (Justice System Appropriations Act), which provides for continuing health insurance coverage by the governing body of the State for the surviving spouse and children of eligible employees of the Department of Corrections (DOC). The governing body of the State is not required to pay for the cost of the health insurance but may pay the full cost or a portion of the cost of the health insurance.

State or Federal Law Implemented: Iowa Code section 8A.402(1) and 2021 Iowa Acts, HF 861 (Justice System Appropriations Act).

Fiscal Impact **Agency Response:** 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.

LSA Response: The LSA concurs in part. 2021 Iowa Acts, HF 861, established the DOC Survivor Benefits Fund. Each fiscal year, Lottery revenues of \$100,000 must be transferred to the Fund prior to deposit of the Lottery revenues in the General Fund. The DOC must distribute the moneys in the Fund in the form of grants to nonprofit organizations that provide resources to assist surviving families of eligible DOC employees killed in the line of duty in paying costs associated with accident or health care coverage.

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Secretary of State

Rule Summary **ARC 5958C (NOIA)**
Implements Senate File 413 (Elections Act), which makes various changes to election policies and procedures, including additional penalties related to election misconduct and requires the Attorney General and county to investigate allegations of election misconduct.

State or Federal Law Implemented: 2021 Iowa Acts, SF 413 (Elections Act).

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

LSA Response: The LSA concurs in part. As indicated in the Fiscal Note for SF 413 at the time of analysis, the Attorney General's Office anticipated cases of election misconduct may be referred to its office instead of county attorneys. The Attorney General's office may hire 1.0 full-time equivalent (FTE) investigator experienced in election misconduct and have 1.0 Assistant Attorney General (AAG) FTE position entirely devoted to election issues. Hiring an investigator at the Investigator 4 position is estimated to cost approximately \$94,000 annually. Additionally, there would be approximately \$59,000 in additional annual expenses for an AAG 3 position fully dedicated to elections. These costs include salary and benefits.

For convictions related to election misconduct, the cost to the justice system cannot be estimated. Below are the estimates for the average State cost per offense class type for one additional conviction.

Offense Class	Total Minimum Cost	Total Maximum Cost
Serious Misdemeanor	\$410	\$7,500
Aggravated Misdemeanor	\$3,700	\$7,800
Class D Felony	\$7,700	\$13,500

Rule Summary **ARC 5996C (NOIA)**
Implements 2021 Iowa Acts, House File 844, which creates preclearance and expedited filing services under the Secretary of State's (SOS) Office to filers of documents.

State or Federal Law Implemented: 2021 Iowa Acts, HF 844 (Model Business Corporations Act).

Fiscal Impact **Agency Response:** At this time, it is still uncertain whether there will be a fiscal impact that exceeds \$100,000. The Fiscal Note for HF 844 estimated an annual revenue increase of between approximately \$25,000 and \$75,000 as a result of the added preclearance and expedited filing services. However, based on the average across the first quarter of FY 2022 for the new services, fee revenue to the General Fund is currently estimated to increase by approximately \$100,000 annually. This estimate is based on the average for the first three months of the filing services being available and may change dependent on the volume of usage throughout the remainder of the year and in subsequent years. As more complicated filings are brought into Fast Track Filing, the usage of preclearance and expedited filing services may also decrease as a result of Fast Track's quicker processing times.

LSA Response: The LSA concurs. The LSA Fiscal Services Division worked with the SOS Office to update the fiscal impact estimate to the current statement.

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Department of Transportation

ARC 6020C (AF)

Rule Summary Removes exceptions to the regulation of street signs that are based upon the content of the sign. Removes other rules that pertain to sign regulations based upon the content of the sign. These exceptions were provided for in Iowa Code chapters 306B and 306C, which were amended by Senate File 548 (Outdoor Advertising). Adds new processes and requirements to regulate advertising devices based on whether on remuneration paid or earned in exchange for erection, display, or existence of the device. State or Federal Law Implemented: Iowa Code chapter 306B, 306C, 2021 Iowa Acts, Senate File 548, 23 CFR Section 750.705, 23 U.S.C. Section 131.

State or Federal Law Implemented: Iowa Code chapter 306B, 306C, 2021 Iowa Acts, Senate File 548, 23 CFR Section 750.705, 23 U.S.C. Section 131.

Fiscal Impact **Agency Response:** This rule making has no fiscal impact to the State of Iowa. The Fiscal Note for 2021 Iowa Acts, Senate File 548, explains the potential for a loss of \$53.2 million in federal highway funding because of inaction. The amendments implement the legislative changes to ensure that the Department is not put in a position of risk regarding federal highway funds.

LSA Response: The LSA concurs.

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Labor Services Division

ARC 5944C (AF) & ARC 5847C (AFE)

Rule Summary Adopts by reference the federal Occupational Safety and Health Administration's (OSHA) new emergency temporary standard (ETS) related to the COVID-19 pandemic. The ETS applies only to certain locations where health care services are provided and is set to expire after six months. The ETS focuses on workplaces where employees care for persons with the COVID-19 virus and persons with an unknown viral status.

State or Federal Law Implemented: Iowa Code chapter 88.

Fiscal Impact **Agency Response:** In the Federal Register, the U.S. Department of Labor published a large amount of data as part of its economic analysis. The analysis concluded the ETS is economically feasible and the benefits far outweigh the costs. However, data specific to Iowa is not available.

LSA Response: The LSA concurs in part. Requiring health care facilities and workplaces to develop a COVID-19 plan, screen and manage patients, provide personal protective equipment, install physical barriers, provide respiratory protection, train employees, and employ physical distancing will increase costs by an estimated \$4.000 billion nationally, according to OSHA. Based on national and State population estimates, costs to Iowa health care providers are estimated to increase by \$38.2 million in FY 2022, partially reimbursed by the federal government. There are secondary benefits through infections and deaths prevented that would be expected to exceed costs, according to OSHA.

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Economic Development Authority

ARC 5971C (FEAN)

Rule Summary Codifies the new Butchery Innovation and Revitalization Program, which will provide grants to eligible businesses to expand, refurbish, or establish new meat processing

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businesses or to rent buildings, refrigeration facilities, freezer facilities, or equipment necessary to expand meat processing capacity. Creates a \$50,000 maximum amount of assistance that may be awarded to an eligible applicant. The Iowa Economic Development Authority (IEDA) Board may increase the maximum amount of financial assistance per eligible business if funds are made available for the program in addition to the \$750,000 appropriated by 2021 Iowa Acts, House File 871 (Economic Development Appropriation Act).

State or Federal Law Implemented: 2021 Iowa Acts, HF 857 (Butchery Innovation and Revitalization Act).

Fiscal Impact **Agency Response:** No fiscal impact to the State beyond the appropriation made in HF 871.

LSA Response: The LSA concurs in part. Creating rules for the new Butchery Innovation and Revitalization Program will allow the \$750,000 appropriation from HF 871 or other moneys identified internally by the IEDA to be expended on economic assistance for the Program.

Rule Summary

ARC 5984C (NOIA)
Establishes the Downtown Loan Guarantee Program, created in 2021 Iowa Acts, Senate File 619 (Taxation and Other Provisions Act), to encourage Iowa downtown businesses and banks to reinvest and reopen following the COVID-19 pandemic. The loan guarantee is available to businesses that are eligible for a Downtown Resource Center Community Catalyst Building Remediation Grant or Main Street Iowa Challenge Grant. The project must include a housing component and meet Downtown Resource Center and Main Street Iowa design review.

State or Federal Law Implemented: 2021 Iowa Acts, Senate File 619.

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

LSA Response: The LSA concurs in part. The rules for the Program contain an annual fee paid by the lender not to exceed 2.0% of the loan amount for the duration of the loan guarantee. The total annual fee amount cannot be estimated.

Rule Summary

ARC 5994C (FEAN)
Implements rules for the Energy Infrastructure Revolving Loan Program (EIRLP), established in 2021 Iowa Acts, SF 619 (Taxation and Other Provisions Act) under the Iowa Energy Center. The purpose of the Program is to provide financial assistance for electricity or gas generation, transmission, storage, distribution, and electric grid modernization projects; energy-sector workforce development; emergency preparedness for rural and underserved areas; the expansion of biomass, biogas, and renewable natural gas; innovative technologies; and the development of infrastructure for alternative fuel vehicles. Funding for the Program comes through a transfer from the Alternate Energy Revolving Loan Fund that, per SF 619, cannot initiate any new loans as of July 1, 2021.

State or Federal Law Implemented: SF 619 (Taxation and Other Provisions Act).

Fiscal Impact **Agency Response:** No fiscal impact to the State.

LSA Response: The LSA concurs in part. The proposed rules may increase interest income to the EIRLP, that may be waived depending on terms of the loan. Because of statutory limitations, the Alternate Energy Revolving Loan Program was unable to include interest charges for loan agreements. The proposed rules also allow loan forgiveness for EIRLP loans which was not included in rules for the Alternate Energy Revolving Loan Program.

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Iowa Finance Authority

ARC 5933C (FEAN)

Rule Summary Amends the Housing Trust Fund allocation plan for the Local Housing Trust Fund. Reduces the local match requirement in fiscal year (FY) 2022 to as low as 10.0% for 40.0% of the grant award and gradually increases it to 25.0% by FY 2025.

Updates the Authority's website address and strikes an outdated requirement to deposit program applications and related documents with the Administrative Rules Coordinator and at the State Law Library.

State or Federal Law Implemented: Iowa Code section 16.181 and 2021 Iowa Acts, SF 619.

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

LSA Response: The LSA concurs in part. Reducing the effective local match rate for Local Housing Trust Funds through FY 2024 will reduce the amount of capital necessary for local organizations to access the enhanced funding that will be transferred into the State Housing Trust Fund from the real estate transfer tax. This will increase the likelihood that Local Housing Trust Funds in rural areas can access these funds and that the entire \$7.0 million transferred to the State Housing Trust Fund from the Real Estate Transfer Tax is expended each fiscal year.

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Department of Revenue

ARC 5978C (AF)

Rule Summary Implements statutory changes to the tax credit rate and the total school tuition organization tax credits that may be authorized each calendar year. 2021 Iowa Acts, HF 847 (Education Programs, Tax Credits, and Information Act), increases the tax credit rate from 65.0% to 75.0% for tax years beginning on or after January 1, 2021, and increases the maximum aggregate tax credit amount available to taxpayers in 2022 and subsequent years.

Implements provisions of 2020 Iowa Acts, chapter 1118, which eliminated the cap on the percentage of total tax credits that could be approved each year for corporate taxpayers. In existing rules, not more than 25.0% of the total annual tax credits may be allocated to corporate taxpayers.

Updates existing rules to reflect 2018 and 2019 legislative changes to the tax credit caps, as well as updates administrative terms including the definition of "eligible student."

Clarifies that the taxpayer must take the credit in the tax year in which the contribution is made.

State or Federal Law Implemented: 2018 Iowa Acts, chapter 1161, 2019 Iowa Acts, chapter 152, 2020 Iowa Acts, chapter 1118, and 2021 Iowa Acts, HF 847.

Fiscal Impact **Agency Response:** No fiscal impact to the State of Iowa beyond the legislation it is intended to implement. The Fiscal Note for 2021 Iowa Acts, HF 847, Division VIII, estimated that the School Tuition Tax Credit changes enacted in that bill will decrease General Fund revenues for fiscal years 2022 through 2025 by \$3.4 million, \$3.4 million, \$2.2 million, and \$0.6 million, respectively.

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LSA Response: The LSA concurs.

Rule Summary ARC 5986C (NOIA)
Implements 2021 Iowa Acts, 176, which creates a new Hoover Presidential Library Tax Credit for donations made to the Hoover Presidential Foundation for the Hoover Presidential Library and Museum Renovation Project Fund. The credit is equal to 25.0% of the amount of a qualified donation made on or after July 1, 2021, and during tax years beginning on or after January 1, 2021, but before January 1, 2024. The Economic Development Authority authorizes and controls the distribution of tax credits. The aggregate amount of tax credits that the Economic Development Authority may authorize is \$5.0 million. These rules describe requirements for claiming the tax credit, including tax credit certificate issuances, carryforward, and other claim restrictions and requirements.

State or Federal Law Implemented: 2021 Iowa Acts, chapter 176.

Fiscal Impact **Agency Response:** No fiscal impact beyond the legislation the rulemaking is intended to implement.

LSA Response: The LSA concurs. The Fiscal Note for HF 588 projected that tax credit redemptions will total \$2.2 million in FY 2022 and \$1.6 million in FY 2023, with an additional \$0.7 million spread over the following four fiscal years.

Rule Summary ARC 5987C (NOIA)
Implements statutory changes to the Volunteer Fire Fighters, Volunteer Emergency Medical Services Personnel, and Reserve Peace Officer Tax Credit. 2021 Iowa Acts, chapter 177 (Taxation and Other Provisions Act), division XXIII, increased the amount of the credit from \$100 per year to \$250 per year for tax years beginning on or after January 1, 2021.

State or Federal Law Implemented: Iowa Code section 422.12(2)(c), (d) and 2021 Iowa Acts, chapter 177, division XXIII.

Fiscal Impact **Agency Response:** No fiscal impact beyond the legislation it is intended to implement.

LSA Response: The LSA concurs. The Fiscal Note for SF 619 projected that the increase in the tax credit will total \$1.9 million in FY 2022 and succeeding fiscal years.

Rule Summary ARC 5990C (NOIA)
Implements statutory changes to the Tuition and Textbook Tax Credit maximum credit calculation and credit eligibility. 2021 Iowa Acts, chapter 139, increases the maximum tax credit amount from 25.0% of the first \$1,000 of eligible expenses to 25.0% of the first \$2,000 of eligible expenses. The legislation also expands eligibility for the credit to taxpayers whose dependents receive their education through private instruction. The rule making also clarifies that an expense item must be required by an elementary or secondary school in Iowa to qualify for the credit.

State or Federal Law Implemented: Iowa Code section 422.12(2)(b) and 2021 Iowa Acts, chapter 139, sections 7 and 8.

Fiscal Impact **Agency Response:** No fiscal impact beyond that of the legislation it is intended to implement.

LSA Response: The LSA concurs. The Fiscal Note for HF 847 projected that the expansion of the Tuition and Textbook Tax Credit will reduce General Fund annual revenue by \$11.1 million, beginning FY 2022.

ARC 6029C (AF)

Rule Summary Adopts amendments related to the existing Iowa Out-of-State Tax Credit (credit) against Iowa income tax for income tax paid to other jurisdictions on a resident individual's or fiduciary's income that is also subject to Iowa income tax.

The primary purpose of the amendments is to implement 2020 Iowa Acts, chapter 1118, division XVII. That division allowed a resident partner, shareholder, or beneficiary to claim certain entity-level income taxes paid by a partnership, S corporation, estate, or trust (i.e., a "pass-through entity") to another jurisdiction in the calculation of the resident's credit. The 2020 legislation also allowed a resident shareholder of a regulated investment company (e.g., mutual fund) to claim certain entity-level foreign income taxes paid by the regulated investment company in the calculation of the resident's credit. The rule amendments allow resident individuals and fiduciaries who are direct or indirect members of a pass-through entity to include in the calculation of the credit their pro rata share of entity-level income tax paid by such pass-through entity in another qualifying jurisdiction. The income tax must otherwise qualify for inclusion in the calculation of the credit, have been imposed on and paid by the resident, and if the pass-through entity provides specified tax-related documentation to the taxpayer, and to other intermediate pass-through entities in the case of indirect ownership. The amendments also provide rules for regulated investment companies and their resident shareholders.

The amendments also significantly update, rewrite, or expand other parts of the Out-of-State Tax Credit rule not directly impacted by the 2020 legislation in order to provide more guidance to taxpayers on the application of the credit.

These amendments provide relevant definitions and describe the general application of the credit, the calculation of the credit including the maximum credit calculation, other limitations and considerations for the credit, and supporting documentation required for the taxpayer to prove eligibility for the credit and credit amount.

Finally, the rule amendments modify the Iowa income percentage used to calculate the maximum credit so that the credit is computed to the nearest ten-thousandth of a percent (i.e., four digits to the right of the decimal point) for tax years beginning on or after January 1, 2022. Under current rules, the Iowa income percentage is computed to the nearest tenth of a percent (i.e., one digit to the right of the decimal point). This change is intended to result in more precise credit calculations and create more uniformity under the Iowa income tax. Corporations and other business entities apportion their income using a business activity ratio that is calculated to the nearest ten-thousandth of a percent.

State or Federal Law Implemented: 2020 Iowa Acts, chapter 1118.

Fiscal Impact

Agency Response: Modifying the maximum credit calculation to compute to the nearest ten-thousandth of a percent instead of the nearest tenth of a percent is expected to result in a minimal increase or decrease to General Fund revenues. The total impact is expected to be less than \$100,000 each year. Apart from that change, this rule filing has no fiscal impact to the State of Iowa beyond the legislation it is intended to implement. The Fiscal Note for 2020 Iowa Acts, chapter 1118, estimated that the changes to the Out-of-State Tax Credit would reduce General Fund revenues in fiscal years 2021-2025 by an estimated \$4.2 million per fiscal year, beginning with FY 2021.

LSA Response: A rule change is necessary due to 2020 legislation with a relevant effective date of June 29, 2020, and retroactive applicability to tax years beginning on or after January 1, 2020. The estimated fiscal impact of division XVII of the 2020 legislation remains at an annual revenue reduction of \$4.2 million as no additional information related to the actual fiscal impact of the law change is available at this time.

The portions of the rule amendments that are intended to “update, rewrite, or expand” the rule and to increase the precision of the credit calculation may have additional impacts on tax liability and on General Fund income tax revenue. The LSA does not have sufficient information available at this time to provide an expanded estimate that encompasses the entire proposed rule change.

ARC 6030C (AF)

Rule Summary

Updates Department of Revenue rules dictating the order in which Iowa individual income, corporate income, and bank franchise tax credits must be deducted by Iowa taxpayers. The amendments strike from the deduction list recently repealed tax credits and add tax credits enacted since the rule was last amended (2014), including the Beginning Farmer Tax Credit, the Hoover Presidential Library Tax Credit, and the Renewable Chemical Production Tax Credit. The High Quality Jobs Tax Credit and the Angel Investor Tax Credit are also newly added to the credit sequence list.

Updates are also proposed to certain tax credits that have experienced a change in name, claim period, or claim procedure, or that were previously grouped together with other similar tax credits on the list.

The amendments change the order of deduction for the alternative minimum tax credit in tax year 2021 for corporations and financial institutions, and in tax year 2023 for individuals, because that is the final tax year that credit may be claimed for those tax types, so the carryforward period is reduced to zero. This change allows the alternative minimum tax credit to be claimed in 2021 or 2023, as applicable, before other tax credits with a carryforward period. The amendments also provide for the order in which tax credits carried forward from a previous tax year must be deducted.

The amendments also move the individual income tax Out-of-State Tax Credit, currently sequenced number 30 on that list, to number 5.

Finally, the amendments newly adopt tax credit claim sequence deduction rules for tax credits claimed under the Iowa franchise tax.

State or Federal Law Implemented: Iowa Code chapter 422.

Fiscal Impact

Agency Response: No fiscal impact.

LSA Response: The existing rules and the proposed changes establish sequences that taxpayers must follow when claiming income tax credits. The sequences follow this general order:

- Nonrefundable credits with no carryforward period.
- Nonrefundable credits with allowed carryforward periods for unused credits. Credits with the shortest allowed carryforward period are ordered first.
- Refundable tax credits.

The tax credit sequence only matters to taxpayers who pose multiple nonrefundable tax credits that exceed the taxpayer’s tax liability for a particular tax year. If the rules did not exist for sequencing nonrefundable tax credits with carryforward periods, individual taxpayers would be allowed to utilize tax credits in an order that best accomplishes a strategy of overall lower tax liability across tax years. With the rules, a taxpayer may be forced to claim a tax credit with several years of carryforward remaining while a different tax credit they possess that is perhaps in its final year of carryforward expires unused.

New subrule 701—42.44(2) uses as an example a taxpayer with a School Tuition Tax Credit awarded in the current tax year and a Renewable Energy Tax Credit that has carried forward from a previous year. The subrule dictates that the taxpayer must utilize the School Tuition Tax Credit first, setting up a situation where the carried forward Renewable Energy Tax Credit could expire unredeemed. Without the existing or

proposed rule, the taxpayer could claim the remainder of their Renewable Energy Tax Credit in the current year and then begin to claim the School Tuition Tax Credit the next tax year. To the extent that this type of situation occurs, the existing and proposed rules have a fiscal impact by increasing tax liability across tax years and therefore increasing tax revenue.

Beyond the preceding issue, the rule changes have additional potential fiscal impacts. First, the rules move the Out-of-State Tax Credit from number 30 in the individual income tax sequence list to number 5. As number 30 on this current list, the Out-of-State Tax Credit would be sequenced after several refundable credits. As number 5 on the proposed list, the credit would be sequenced before the nonrefundable credits that allow a carryforward. This rule change likely has no fiscal impact since the Out-of-State Tax Credit has its own line on the Iowa 1040 tax form and the line has been out of sequence with the existing rules since tax year 2015.

Second, existing law eliminates the Alternative Minimum Tax and at the same time eliminates the carryforward provisions for the Alternative Minimum Tax Credit. The proposed movement of the Alternative Minimum Tax Credit from number 26 on the existing individual income tax list and number 20 on the corporate income tax list, to respectively numbers 8 and 2 on the proposed sequencing lists, has a potential fiscal impact by ensuring that more of the carryforward Alternative Minimum Tax Credit is utilized before expiring. If the Alternative Minimum Tax Credit is left in its current locations on the sequencing lists, taxpayers holding other nonrefundable tax credits will be required to fully utilize those credits before utilizing the expiring Alternative Minimum Tax Credit.

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Department of Education

ARC 5961C (NOIA)

Rule Summary Creates two pathways for the establishment of charter schools in the State.

State or Federal Law Implemented: 2021 Iowa Acts, [HF 813](#) (Charter School Programs Act), and 2021 Iowa Acts, [HF 847](#) (Education Programs, Tax Credits, and Information Act).

Fiscal Impact **Agency Response:** This rulemaking has an unknown fiscal impact to the State according to the [Fiscal Note](#) for HF 813.

LSA Response: The LSA concurs.

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