



Fiscal Services Division

ADMINISTRATIVE RULES – FISCAL and JOBS IMPACT SUMMARIES August 16 and 17, 2011

Section 17A.4(4) Iowa Code 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 http://staffweb.legis.state.ia.us/lfb/docs/Admin_Rules/arfiscal_notes.htm

Natural Resource Commission

Filed Emergency ARC 9674B

Rule Summary Adds a mourning dove hunting season and sets the season dates, bag and possession limits, shooting hours, and areas open for hunting. The Natural Resource Commission added the requirement for nontoxic shot (unable to use lead ammunition) at the July 2011 meeting.

Fiscal Impact The fiscal impact in terms of generating new revenue to the Fish and Game Protection Fund will be minimal as most mourning dove hunters currently purchase a Migratory Bird License and pay the Habitat Fee.

Jobs Impact The Department of Natural Resources (DNR) estimates there will be 15,000 to 20,000 hunters based on the number of hunters in surrounding states. The average number of days for mourning dove hunting is 3.3 days and the National Hunting and Fishing Survey in 2006 stated that Iowa hunters spend an average of \$104 per day hunting. If there are 15,000 hunters that hunt for 3.3 days and spend \$104 per day, the economic impact is \$5.4 million. If there are 20,000 hunters the economic impact will be \$6.9 million, equating to \$345 per hunter.

STAFF CONTACT Debra Kozel (Ext. 16767)

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Board of Pharmacy

ARC 9526B 70-day Delay

Rule Summary Changes include the following:

- Adds pharmacy technicians, pharmacy support persons, and pharmacist-interns to those regulated individuals subject to unethical conduct activities.
- Prohibits any purchasing pharmacy or pharmacist from engaging in a transaction for the sale or transfer of prescription records that would prevent or prohibit prior patient notification of a pending transfer of the patient's records.
- Permits a closing pharmacy to transfer prescription and patient records to a pharmacy that agrees to act as the custodian of the transferred records and is subject to the same confidentiality standards as the originating pharmacy.
- Clarifies requirements when a change in ownership of a pharmacy takes place.
- Provides for the responsibilities of the pharmacies when a pharmacy closes.

Changes to Noticed Rule ARC 9295B include the following:

- Revises the time period from 60 days to 21 days prior to the closure that an owner is required to notify the pharmacist in charge that the pharmacy is closing.
- Revises the time period from four weeks to 14 days prior that the Board of Pharmacy and the federal Drug Enforcement Agency must be notified of the pharmacy's pending closure.
- Eliminates the requirement that a copy of sale or purchase agreement be provided to the Board of Pharmacy. Instead the documentation must be available on request of the Board.
- Requires that clients with a restrictive-use pharmacy be notified that the pharmacy is closing so that the client can notify the program.

Fiscal Impact No fiscal impact. The Board of Pharmacy retains fees charged to licensees to fund their operations.

STAFF CONTACT Deborah Thompson (Ext. 16764)

City Development Board

ARC 9546B 70-day Delay

Rule Summary Requires voluntary annexation applications to the City Development Board to include an indication whether the city has applied smart planning principles to the area and methods for implementation of the principles.

Fiscal Impact No fiscal impact to the Department of Economic Development that staffs the City Development Board. A city that undertakes smart planning principles could have staffing and development costs dependent on the size of the city and geographic components of the proposed annexed area if the principles are utilized after the annexation is approved.

STAFF CONTACT: Kenneth Ohms (Ext. 17794)

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Historical Division – Department of Cultural Affairs

ARC 9607B and 9608B

Rule Summary Clarifies “qualified rehabilitation costs” and “rehabilitation period” relating to historic preservation and cultural and entertainment district tax credits.

Fiscal Impact No fiscal impact.

STAFF CONTACT: Ron Robinson (Ext. 16256)

Department of Human Services

ARC 9625B

Rule Summary Increases the monthly maintenance payments from \$573.90 to \$750 and the initial allowance amount from \$400 to \$600 for Supervised Apartment Living (SAL) Program placements. Makes technical changes to update the legislative references for foster family payments.

Fiscal Impact For FY 2010, the Department of Human Services (DHS) paid initial allowances for 133 youth entering the SAL Program. The DHS estimates that this number will be similar in FY 2012 and the increase of \$200 will increase annual costs to the Program by \$26,000. Between July 2010 and March 2011, the daily population of youth in the Program averaged 46 per month. The increase in monthly payments of \$176.10 will increase annual costs to the Program by \$8,100. The proposed rules are a total increase of \$34,100 for FY 2012. The funding for the increased rates was provided in HF 649 (Health and Human Services Appropriations Act).

ARC 9636B

Rule Summary Amends the definition of foster home for the Foster Home Insurance Fund. Limits payments from the Fund to licensed foster care parents associated with the Department’s Family Foster Care Program.

Fiscal Impact No fiscal impact. It is not common for nonlicensed foster care parents to seek benefits from the Fund.

Multiple Special Medicaid Reviews

The fiscal impacts for the 13 Special Medicaid Reviews included on the agenda are delineated on the following page in this document.

STAFF CONTACTS Deborah Thompson (Ext. 16764) Jess Benson (Ext. 14611)

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Environmental Protection Commission

ARC 9602B

Rule Summary Updates the rules for animal feeding operations to conform to the 2008 federal regulations pertaining to National Pollutant Discharge Elimination System (NPDES) permits.

On March 15, 2011, the U.S. Court of Appeals for the 5th Circuit vacated portions of the 2008 federal regulations. Specifically, the Court vacated those provisions that required confined animal feeding operations that propose to discharge to apply for an NPDES permit and created liability for failing to apply for an NPDES permit.

Future amendments to the 2008 federal regulations to conform to the 5th Circuit decision did not occur by July 10, 2011, when the Commission's 180-day time limit for completion of rulemaking expired. The Commission will propose new rules when there is final resolution at the federal level of the currently vacated portions of the 2008 federal regulations.

Fiscal Impact No fiscal impact to the State.

ARC 9371B Special Review

Rule Summary Establishes criteria to determine if recreational uses, such as swimming, water skiing, and boating, should be allowed in Iowa lakes with a mean depth of three meters or deeper. For more information, refer to the following website:
<http://www.iowadnr.gov/water/standards/nutrients.html>.

Fiscal Impact This change will require the Department of Natural Resources (DNR) to calculate additional Total Maximum Daily Loads (TMDL) for each pollutant causing impairment in a lake. The TMDL quantifies the source(s) of the pollutant(s) and the local reduction necessary to meet the state's water quality standards. The federal Environmental Protection Agency (EPA) must approve TMDL calculations. The DNR estimates the cost to develop a TMDL varies greatly with the size of the water body and the number of parameters that must be sampled to determine the cause of the impairment. The estimated total cost for a large and complicated TMDL should not exceed \$100,000. The TMDL calculations are funded with federal 319 Grant money (federal Clean Water Act). If the DNR does not have adequate funding for the additional TMDLs, the federal EPA will complete them.

STAFF CONTACT: Debra Kozel (Ext. 16767)

Department of Economic Development

ARC 9617B

Rule Summary Permits the Director of the Department of Economic Development to approve contract amendments for the Targeted Industries Internship Program instead of approval by the Economic Development Board. Permits the Board to approve or deny any amendment. Deletes a reference to the HOME Program that transferred to the Iowa Finance Authority.

Fiscal Impact No fiscal impact.

STAFF CONTACT: Kenneth Ohms (Ext. 52200)

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Insurance Division – Department of Commerce

ARC 9639B and 9637B

Rule Summary Provides duties and procedures for external review of adverse determinations of certain health insurance claims. Provides a uniform process for health insurance consumers to request an external review of adverse determinations and final adverse determinations of health carriers.

Fiscal Impact No fiscal impact. The Iowa Insurance Division can implement this rule without increased cost to the State.

STAFF CONTACT: Sue Lerdal (Ext. 17794)

Iowa Finance Authority

ARC 9644B

Rule Summary Provides for general updates to the HOME Partnership Program, including revised definitions, revisions to eligible activities, forms of assistance, application requirements, fund allocation, and award administration. Permits up to 5.0% of Iowa's annual HOME allocation from the U.S. Department of Housing and Urban Development (HUD) to be used by community housing development organizations for operating expenses. Increases the limit for awards to single-family home buyers by \$100,000 to \$600,000. Increases the limit for awards for multi-family rental activities by \$100,000 to \$1.0 million.

Fiscal Impact The new allocation will allow up to \$76,000 to be used by community housing development organizations for administrative costs based on the previous fiscal year allocations from HUD.

ARC 9643B and ARC 9642B

Rule Summary Updates homeless group home shelter and domestic violence shelter program rules for consistency with the federal Emergency Shelter Grant Program. Allows domestic violence shelters to use a data collection and reporting system other than the Homeless Management Information System (HMIS) if the system collects client-level data over time and generates unduplicated aggregate reports based on that data.

Fiscal Impact No fiscal impact.

ARC 9635B and ARC 9633B

Rule Summary Permits the Iowa Finance Authority (IFA) to award grants for implementation of the HMIS not to exceed 10.0% of the Emergency Shelter Grant Program allocation from the HUD. Concurs with federal guidance regarding domestic violence shelters and the HMIS. Allows domestic violence shelters to use a data collection and reporting system other than the HMIS as long as the system collects client-level data over time and generates unduplicated aggregate reports based on that data.

Fiscal Impact The cost associated with the HMIS for the past three fiscal years has been \$128,585. This cost was previously paid by the Department of Economic Development Community Development Block Grant (CDBG) funds before the Program was moved to the IFA. The IFA used housing assistance funds in FY 2010. The allocations from the HUD for the past three fiscal years have been approximately \$1.52 million, and 10.0% of this allocation is approximately \$152,000. There is no fiscal impact for the portion of the rule regarding domestic violence shelter reporting.

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Special Review – Required by HF 649

Rule Summary Implements the Community Housing and Services for Persons with Disabilities Revolving Loan Program for Medicaid waiver-eligible individuals with behaviors that provide barriers to accessing traditional rental and supportive service opportunities.

Fiscal Impact The Loan Program was funded in HF 649 (Health and Human Services Appropriations Act) from one-time FY 2010 remaining funds from decategorization projects. The estimated amount of funds available is between \$2.8 and \$3.0 million.

STAFF CONTACT: Kenneth Ohms (Ext. 52200)

Board of Medicine

ARC 9601B

Rule Summary Clarifies existing continuing education requirements for physicians and surgeons and osteopathic physicians and surgeons. Adds continuing education requirements for chronic pain management and end-of-life care every five years.

Fiscal Impact No fiscal impact to the State. Additional costs are not expected to be incurred by physicians and surgeons since the additional mandates can be included in the current 40 hours of continuing education requirements.

ARC 9599B

Rule Summary Requires physicians and surgeons and osteopathic physicians and surgeons to use patient-physician agreements when a patient's chronic pain is treated with controlled substances or opiates. Encourages physicians to use the Iowa Prescription Monitoring Program database and to consider conducting drug-testing on patients when treating chronic pain with controlled substances or opiates. Changes made to Noticed Rule ARC 9414 include the following clarifications due to public comment:

- Pain management agreements and drug-testing are to be used for patients that are prescribed controlled substances for more than 90 days, and then only if the physician has reason to suspect that a patient is at risk of drug abuse or diversion.
- If a pain management agreement is not used for patients that are prescribed controlled substances for more than 90 days, the physician must document the justification in the patient's medical record.
- Pain management agreements are not required for hospice or nursing home patients.

Fiscal Impact No fiscal impact.

ARC 9598B

Rule Summary Establishes discipline grounds for physicians that fail to report their human immunodeficiency virus (HIV) or hepatitis B virus (HBV) status to an expert review panel at a hospital and an expert review panel at the Iowa Department of Public Health.

Fiscal Impact No fiscal impact.

STAFF CONTACT: Deborah Thompson (Ext. 16764)

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Department of Public Health

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| | ARC 9610B and 9603B |
| Rule Summary | Plumbing and Mechanical Systems Board: Reduces the current fees for journey, master, and contractor licenses by 50.0%. Waives the fee for all renewals between January 1, 2011, and December 31, 2012. Establishes a 30-day grace period for a lapsed license and additional reinstatement requirements for licenses that have lapsed more than 30 days. Provides for an annual review of the fee schedule and specifies the conditions for adjusting the fee schedule. |
| Fiscal Impact | There is no impact to the General Fund. The Board retains fees charged to licensees to fund its operations. This will significantly decrease revenue to the Board for FY 2011, FY 2012, and FY 2013. However, the Board currently has a large carryforward balance (\$3.7 million) and it is estimated that approximately \$780,000 will still be available by the time the next round of renewals occur in March of 2014. |
| | ARC 9612B and 9604B |
| Rule Summary | Plumbing and Mechanical Systems Board: Redefines refrigeration; heating, ventilation, and air conditioning (HVAC); and hydronics. Clarifies the applicable licenses that individuals will need to apply for. Extends the licensing period from two to three years for all new licenses that are issued retroactively to January 1, 2011. Permits a candidate that passes the Board's exam to wait up to two years to apply for the applicable license. Provides for guidelines for lapsed licenses and identifies a 30-day grace period before penalties are incurred. Provides for a waiver from examination for individuals in military service. |
| Fiscal Impact | No fiscal impact to the General Fund. The Board retains fees charged to licensees to fund its operations. The proposed rules relating to the extension of the licensing period will decrease revenue to the Board; however, this will be offset by \$3.7 million of carryforward from FY 2010. This will be the main source of revenue for Board operations from January 1, 2011, to March of 2014. |
| | ARC 9613B and 9605B |
| Rule Summary | Plumbing and Mechanical Systems Board: Revises the criteria for continuing education activities for all licensees, the standards for instructors, and the requirements for specialty licenses. Provides for the grounds for exempting continuing education requirements. |
| Fiscal Impact | No fiscal impact. Licensees will incur savings due to the increase in the licensing period from two to three years without an increase in the required number of hours of continuing education. |
| | ARC 9631B |
| Rule Summary | Changes the name of the Advisory Council on Head Injuries to the Advisory Council on Brain Injuries. Adds a mission statement and a definitions Section. Clarifies the duties of the Council. |
| Fiscal Impact | No fiscal impact. |

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ARC 9632B

Rule Summary Clarifies the role and responsibilities of local boards of health. Provides an option for counties to form district boards of health. Delineates the requirements for local boards of health to follow for approval of district formation.

Fiscal Impact No fiscal impact.

ARC 9634B

Rule Summary Changes the name of the Office of Multicultural Health to the Office of Minority and Multicultural Health. Adds a statement of purpose for the Office and additional responsibilities for the Office including the following:

- Promotion of community strategic planning.
- Serving as the liaison for the Department of Public Health (DPH) for minority and multicultural health matters and as an advocate for specified populations.

Fiscal Impact No fiscal impact.

ARC 9638B

Rule Summary Requires licensed substance abuse and problem gambling treatment programs to notify the DPH in writing that a certified or licensed staff member has been sanctioned or disciplined by a certifying or licensing body. The notification is required within 10 working days of the disciplinary action.

Fiscal Impact No fiscal impact.

STAFF CONTACT: Deborah Thompson (Ext. 16764)

Department of Public Safety

ARC 9628B

Rule Summary Adopts the requirements for safety in electrical installations by the State Fire Marshal based on the 2011 edition of the National Electrical Code (NEC), rather than the 2008 edition.

Fiscal Impact No fiscal impact.

ARC 9620B

Rule Summary Updates the requirements for E-85 fuel dispensers to be consistent with an order recently issued by the State Fire Marshal, required by Iowa Code Section 455G.31.

Fiscal Impact No fiscal impact.

ARC 9629B

Rule Summary Adopts the requirements for safety in electrical installations by the Building Code Commissioner based on the 2011 edition of the NEC, rather than the 2008 edition.

Fiscal Impact No fiscal impact.

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ARC 9627B
Rule Summary Rescinds a State Building Code requirement that established the minimum number of plumbing fixtures for places of public assembly, restaurants, pubs, and lounges.

Fiscal Impact No fiscal impact.

ARC 9626B
Rule Summary Includes the following relating to electricians:

- Adds a definition of a registered apprenticeship program.
- Corrects references to dates related to Class B master electrician licenses and Class B journeyman electrician licenses to be consistent with the related statutory language in Iowa Code Chapter 103.
- Clarifies that an unclassified person license is not required to work as an electrician's helper for persons that already hold any other license issued by the Electrical Examining Board, except for those that hold certain special electrician licenses.
- Includes Board procedures and standards for postsecondary electrician education programs.
- Adopts a definition for the electrical inspection program of residential electrical work consistent with the definition previously adopted for the electrician and electrical contractor licensing program.

Fiscal Impact No fiscal impact.

ARC 9630B
Rule Summary Adopts the requirements for safety in electrical installations by the Electrical Examining Board based on the 2011 edition of the NEC, rather than the 2008 edition.

Fiscal Impact No fiscal impact.

STAFF CONTACT: Jennifer Acton (Ext. 17846)

Professional Licensure Division – Department of Public Health

ARC 9606B
Rule Summary Board of Dietetics: The proposed changes include the following:

- Adds definitions for consultation and supervision of non-licensees.
- Clarifies the requirements for submitting documents to verify that licensure requirements are met.
- Establishes new requirements for degree evaluation of foreign-trained dietitians.
- Clarifies acceptance of supervised practice experience for licensure.
- Provides for alternate forms of verification of passing the national examination of license applicants that hold licensure in other states.
- Rescinds the requirement for mailing a renewal notice.
- Adds a definition of webinar, as it relates to continuing education.
- Provides clarification for obtaining hours of continuing education.
- Removes the audit language for continuing education programs and activities submitted in accordance with professional development portfolios for American Dietetic Association/Commission on Dietetic Registration (ADA/CDR) Certification.
- Adopts the ADA/CDR Code of Ethics for the Profession of Dietetics and Process for Consideration of Ethics Issues, as revised January 1, 2010.

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Fiscal Impact Minimal fiscal impact. The Board may realize minimal savings by not having to send out renewal notices via mail; however, the savings will be retained by the Board for operations.

ARC 9641B

Rule Summary Board of Optometry: The changes are as follows:

- Removes the requirement for mailing renewal notices to licensees.
- Increases the required number of continuing education hours in a two-year period for diagnostically-certified optometrists to be consistent with requirements for therapeutically-certified optometrists.
- Clarifies that conviction of a crime includes when the judgment of conviction or sentence was deferred.

Fiscal Impact Minimal fiscal impact. Some administrative savings may occur due to a reduction of staff time, postage, printing, and paper for the renewal notices. The Board retains fees charged to licensees to fund its operations. Diagnostically-certified optometrists may see an increase in cost for continuing education; however, the cost is undeterminable since requirements can be met using different sources.

ARC 9595B

Rule Summary Board of Respiratory Care: Removes the requirement that the Board send renewal reminders by mail. Clarifies that conviction of a crime includes when the judgment of conviction or sentence was deferred.

Fiscal Impact Minimal fiscal impact. The Board may realize minimal savings by not having to send out renewal notices via mail; however, the savings will be retained by the Board for operations.

ARC 9594B

Rule Summary Board of Respiratory Care Practitioners: Technical changes to remove duplicative language pertaining to continuing education audits.

Fiscal Impact No fiscal impact.

ARC 9596B

Rule Summary Board of Social Work: Clarifies that conviction of a crime includes when the judgment of conviction or sentence was deferred.

Fiscal Impact No fiscal impact.

STAFF CONTACT: Deborah Thompson (Ext. 16764)

Board of Nursing

ARC 9621B

Rule Summary Changes the title of Board of Nursing Secretary to Vice Chairperson. Specifies that chairpersons will be selected rather than elected for standing committees established by the Board. Removes the use of Robert's Rules of Order for Board meetings.

Fiscal Impact No fiscal impact.

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ARC 9622B

Rule Summary Clarifies that deferred judgments are included in the review of criminal convictions in an application for licensure. Authorizes electronic versions of documents to be included in the definition of a certified copy.

Fiscal Impact No fiscal impact.

STAFF CONTACT: Deborah Thompson (Ext. 16764)

Utilities Division – Department of Commerce

ARC 9609B

Rule Summary Includes the allowance of renewable energy tax credits produced for on-site consumption with a minimum facility capacity size. Extends the Program's (renewable energy tax credits in Iowa Code Chapter 476C) overall facility in-service deadline by three years. Allows applicants to apply for successive twelve month in-service time limit extensions.

Fiscal Impact No fiscal impact.

ARC 9614B

Rule Summary Increases the anticipated number of hours of loss of service to customers from two to six hours before electric utilities are required to notify the Iowa Utilities Board regarding loss of service.

Fiscal Impact No fiscal impact.

STAFF CONTACT: Sue Lerdal (Ext. 17794)

Department of Inspections and Appeals

ARC 9616B

Rule Summary Clarifies the methods that an agency subpoena may be requested from an administrative law judge. Increases the time period from three days to seven calendar days for a subpoena to be received by the Division of Administrative Hearings prior to a scheduled hearing.

Fiscal Impact No fiscal impact.

STAFF CONTACT: Sue Lerdal (Ext. 17794)

Labor Services Division – Department of Workforce Development

ARC 9640B

Rule Summary Complies with federal standards by adopting by reference Phase III of the federal Occupational Safety and Health Administration (OSHA) Standards Improvement Project.

Fiscal Impact No fiscal impact to the State. The OSHA indicates this is expected to reduce paperwork and result in a cost savings for Iowa employers.

STAFF CONTACT: Ron Robinson (Ext. 16256)

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Lottery Authority

ARC 9618B and ARC 9611B

Rule Summary Establishes a framework for the Lottery Authority's non-lotto drawings and contests. Implements the Lottery Authority's new enhanced Very Important Person (VIP) Club. The enhanced VIP Club provides additional value to players and is being implemented by the Iowa Lottery as part of its conversion process to a new online ticket system.

Fiscal Impact No fiscal impact.

STAFF CONTACT: Sue Lerdal (Ext. 17794)

Comprehensive Petroleum Underground Storage Tank Fund Board

ARC 9623B

Rule Summary Removes copayment requirements for contaminated Underground Storage Tank (UST) sites eligible for State cleanup reimbursement through the UST Marketability Fund (see Iowa Code Section 455G.21).

Fiscal Impact The statutory change that this rule implements will potentially increase the State-funded share of cleanup costs at impacted sites. However, those cleanup costs may already be eligible under other provisions of Iowa Code Chapter 455G, so the fiscal impact will depend on the individual ownership characteristics of the sites. This rule implements the statutory change made in the 2010 Legislative Session (HF 2581 – FY 2011 Standings Appropriations Act).

ARC 9624B

Rule Summary Changes the responsible party payment requirements relating to the Underground Storage Tank (UST) Fund reimbursement.

Fiscal Impact The change allows the UST Board to reimburse tank removal expenses paid on sites that would previously have been ineligible. The reimbursement from the UST Fund is limited to \$15,000 per site.

The UST Administrator projects that more than seven sites may receive this new benefit each year so the impact on the UST Fund is potentially greater than \$100,000 per year. The UST Fund balance, combined with the ongoing revenue stream of the UST Program, is sufficient to absorb the new UST Program costs.

STAFF CONTACT: Jeff Robinson (Ext. 14614)

Real Estate Commission

ARC 9619B

Rule Summary Specifies that failure to notify the Real Estate Commission within 15 days of an adverse action taken by another state or jurisdiction is cause for disciplinary action.

Fiscal Impact No fiscal impact.

STAFF CONTACT: Sue Lerdal (Ext. 17794)

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Board of Regents

ARC 9597B

Rule Summary Modifies reduction-in-force procedures to comply with the Department of Administrative Services (DAS) administrative rules and the Iowa Code. Modifies language for use of sick leave for family care and funerals to comply with the DAS administrative rules and to be consistent with the State's collective bargaining agreement with the American Federation of State, County, and Municipal Employees (AFSCME). Makes technical corrections

Fiscal Impact No fiscal impact.

STAFF CONTACT: Dwayne Ferguson (Ext. 16561)

Telecommunications and Technology Commission

ARC 9600B

Rule Summary Removes reference to Advisory Committees of the Iowa Telecommunications and Technology Commission that no longer exist. Aligns rules with the current organization of the Iowa Communications Network (ICN).

Fiscal Impact No fiscal impact.

STAFF CONTACT: Sue Lerdal (Ext. 17794)
