



Fiscal Services Division

ADMINISTRATIVE RULES – FISCAL IMPACT SUMMARIES

June 10, 2014

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 http://staffweb.legis.state.ia.us/lfb/docs/Admin_Rules/artfiscal_notes.htm.

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*Agencies highlighted in yellow have one or more rules with a fiscal impact of \$100,000 per year or more.

Environmental Protection Commission

ARC 1458C

Rule Summary Establishes Best Management Practices (BMPs) for grain vacuuming at small grain elevators. The BMPs include practical activities used at elevators to minimize dust and possible air quality impacts resulting from vacuuming grain out of storage structures. The BMPs were developed through a stakeholder workgroup jointly organized by the Department of Natural Resources and Agribusiness Association of Iowa, and included grain elevator operators and grain vacuum vendors.

Adopts changes by reference to federal air toxics standards for chemical manufacturing plants and for prepared feeds manufacturing also known as National Emission Standards for Hazardous Air Pollutants or NESHAP.

Agency Stated Authority: Iowa Code section 455B.103A.

Fiscal Impact **Agency Response:** No fiscal impact. The Department will use existing staff to implement the rule.

LSA Response: No fiscal impact.

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Professional Licensure Division

ARC 1453C

Rule Summary Clarifies processes and treatments that are considered respiratory therapy.

Agency Stated Authority: Iowa Code section 152B.6.

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

LSA Response: No fiscal impact.

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Natural Resource Commission

ARC 1475C

Rule Summary Amends rules for resident deer hunting including: season dates, bag limits, possession limits, shooting hours, areas open to hunting, licensing procedures, means and methods of take, and transportation and reporting requirements.

The rule terminates the January antlerless-deer season, reduces the antlerless deer quota by 10,000 deer in 72 counties, and specifies hunters in 27 counties can take only antlered deer during the early muzzleloader and first shotgun seasons.

Agency Stated Authority: Iowa Code section 483A.

Fiscal Impact **Agency Response:** This rule is estimated to decrease revenue to the Fish and Game Protection Fund by \$139,000. It is estimated that 75% of the 10,000 licenses would have been sold for the January season for \$10.00 each (\$75,000) and 25% would have been antlerless licenses at \$25.50 (\$63,750).

LSA Response: LSA concurs with the estimated fiscal impact.

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Department of Homeland Security and Emergency Management

ARC 1463C

Rule Summary Implements changes enacted in HF 644 (E911 Surcharge Equalization) and HF 307 (Establishing The Department Of Homeland Security And Emergency Management) that included imposing a \$1.00 surcharge for both the wireline and wireless E911 programs and reinstating the wireless carrier cost recovery for Phase 1 services. The Acts also clarified the payment distribution process and required improved data collection and reporting processes to the General Assembly. The changes took effect July 1, 2013, and the first report is due to the General Assembly July 1, 2014.

Agency Stated Authority: Iowa Code chapter 34A.

Fiscal Impact **Agency Response:** The \$1.00 monthly surcharge per access line for wireline will generate an estimated \$12.0 million based on 1.3 million wireline subscribers, that is an additional \$3.5 million annually for the 14 counties that were charging less than \$1.00 prior to the enactment of the legislation. The increase for the wireless surcharge from \$0.65 to \$1.00 per month per wireless communication device number will generate an estimated total of \$6.4 million per calendar quarter in wireless surcharge revenue based on 2.3 million wireless subscribers. That is an increase per calendar quarter of \$2.0 million. The increased wireless surcharge revenue is being used to provide additional funds for local public safety answering points (PSAPs).

LSA Response: The LSA concurs. The LSA is required to provide quarterly reports to the Government Oversight Committee on the revenue generated from the wireless surcharge and how the money is distributed.

The First Calendar Quarter 2014 (January through March, see link below) report showed revenue total of \$6.9 million. Of this amount, the funds were distributed as follows:

- \$62,500 for administrative costs.
- \$43,700 for wireless service provider Phase 1 cost recovery.
- \$597,000 for wireline transport costs.
- \$3.2 million for the 115 Public Safety Answering Points (PSAPs).
- \$3.0 million into the Wireless Surcharge Carryover Fund that is used for network capacity increases and PSAP improvement projects.

For additional information, the following links provide the most recent Government Oversight Committee report and to the fiscal note for HF 644.

<https://www.legis.iowa.gov/docs/publications/SD/2014/25912/25912.pdf>

https://www.legis.iowa.gov/docs/FiscalNotes/85_1422HZv0_FN.pdf

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Department of Inspections and Appeals

ARC 1472C

Rule Summary Extends the time to verify the conviction or entry of a record of founded abuse of current employees from 48 hours to seven calendar days. Modifies or removes some of the requirements for admission and retention of participants in an Adult Day Services Program.

Agency Stated Authority: Iowa Code sections [231B.2\(1\)](#), [231C.3\(1\)](#) and [231D.2\(2\)](#), and [HF 2365](#) (Health Facilities Technical Changes) and [SF 347](#) (Nursing Home Conditional Employment).

Fiscal Impact **Agency Response:** No fiscal impact to the State. The rules are technical in nature and extend the period of time that employers may verify the conviction or entry of a record of founded abuse of current employees.

LSA Response: The LSA concurs.

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Insurance Division

ARC 1466C

Rule Summary Sets forth and clarifies duties of insurers and pharmacy benefits managers. The changes deal with:

- Technical changes, clarifications, and edits.
- Errors in reimbursements and corrections of errors.
- Independent audits at the request of the pharmacy benefits manager or the pharmacy and payment for the audit by the losing party.
- Termination and suspension of contracts with option of review by an independent third party.
- Price changes.
- Handling of complaints and reporting quarterly to the Insurance Division by the pharmacy benefits manager.
- Notification by the pharmacy benefits manager to the Insurance Commissioner about occurrences of fraud.
- Examination of pharmacy benefits managers' records by the Insurance Division and penalties.

These amendments are identical to those published on April 2, 2014, as [ARC 1412C](#). After review of the comments from the public hearing, the Division determined that no changes to the language needed to be made.

Agency Stated Authority: Iowa Code sections 507B.12 and 510B.3 and Chapters 17A, 505, 507, 510, 510B and 514L.

Fiscal Impact **Agency Response:** No fiscal impact to the State. Any changes in Division responsibilities can be absorbed by current staff.

LSA Response: The LSA concurs that there will be no fiscal impact to the State from these rules.

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Iowa Finance Authority

ARC 1459C

Rule Summary Amends rules on the Shelter Assistance Fund (SAF) to do the following:

- Clarifies the activities eligible for SAF. This includes removing homelessness prevention as an eligible operating expense, adding hotel or motel vouchers, and meals and food for shelter residents. Also, adds definitions for eligible services and evaluation of services for the homeless using the Homeless Management Information System (HMIS) pursuant to 2011 Iowa Acts, chapter 130 (FY 2012 Economic Development Appropriations Act).
- Aligns SAF rules with the federal Emergency Solutions Grant (ESG) Program.
- Strikes the possibility of requiring matching funds for SAF funds. Permits the Iowa Finance Authority (IFA) to designate an uncapped portion of SAF funds to be used as matching funds for the ESG Program.
- Adds provisions to requirements placed on recipients.
- Makes technical changes.

Agency Stated Authority: Iowa Code section 16.41.

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

LSA Response: No fiscal impact. Using SAF as a match at the grant (State) level will reduce the ESG matching requirement that subgrantees (recipients) have to provide. The overall effect of this change will depend on how much IFA permitted to be used as match for the ESG Program.

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Labor Services Division

ARC 1461C

Rule Summary Adopts by reference changes to the federal Occupational Safety and Health Administration (OSHA) Standards for electrical protective equipment and electrical power generation, transmission, and distribution. Provisions include:

- Shares information when more than one employer is on site.
- Improves fall protection for employees working from heights.
- Adds new requirements to protect workers from electric arcs.
- Keeps unprotected workers at a safe distance from energized lines.
- Adopts new standards for equipment designed to protect workers from electricity.

The effective date for some of the provisions concerning fall protection, approach distances, and arc flash is April 1, 2015. The U.S. Department of Labor estimates that nationally the rule will prevent about 20 fatalities and 118 serious injuries per year.

Agency Stated Authority: Iowa Code section 88.5.

Fiscal Impact

Agency Response: The U.S. Department of Labor, OSHA, included an economic analysis in the final rule published in the April 11, 2014, Federal Register, Vol. 79, No. 70. The economic analysis sets forth assumptions and estimated the national annualized cost of compliance for employers with the final rule to be between about \$47.1 million and \$49.5 million.

LSA Response: No fiscal impact to the State. The nationally estimated costs of compliance for employers represents about 0.007% of revenues and 0.06% of profits, on average, across all entities affected, per OSHA.

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Iowa Lottery Authority

ARC 1462C

Rule Summary

Provides discretion to the Lottery as to whether to suspend a retailer for the sale of a lottery ticket to an individual under the age of 21. The language is changed from “shall” to “may” suspend.

The amendment is identical to that published on the January 8, 2014: as ARC 1283C.

Agency Stated Authority: Iowa Code section 99G.9.

Fiscal Impact

Agency Response: Any added revenue from nonsuspension of the retailer will be minimal, and no other fiscal impact is anticipated. The rule will no longer automatically require the Lottery to suspend a retailer. The Lottery has indicated a need for discretion as to whether to suspend lottery ticket sales to encourage retailers to self-report incidents. The Lottery does not want to be forced to penalize the retailer when they cooperate in these instances.

LSA Response: The Lottery may suspend or revoke a license for a number of reasons. This change extends the Lottery’s discretion concerning suspension of a license for the sale of a ticket to a minor. It is not clear what criteria will be used to decide whether to suspend or not.

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Department of Public Health

ARC 1471C

Rule Summary

Adds a newborn hearing screening program called the Iowa Early Hearing Detection and Intervention to the purview of the Center for Congenital and Inherited Disorders. Also allows the Department authority to collect, test, and store newborn screening specimens and conduct follow up and quality assurance activities.

Agency Stated Authority: Iowa Code section 136A.8.

Fiscal Impact

Agency Response: No fiscal impact.

LSA Response: The LSA concurs.

ARC 1470C

Rule Summary

Updates the Code to comply with federal Nuclear Regulatory Commission regulations and corrects technical errors.

Agency Stated Authority: Iowa Code section 136C.3.

Fiscal Impact Agency Response: No fiscal impact.

LSA Response: The LSA concurs.

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Department of Revenue

ARC 1469C

Rule Summary Eliminates references to inheritance and estate taxes that have been repealed and makes modifications coupled with federal tax changes including:

- Amends various rules and subrules to eliminate references to the repealed Iowa estate tax and generation skipping transfer tax.
- Revises the date to January 1, 2014, for the Iowa credit that is coupled with federal changes for credit for increasing research activities for Iowa individual income tax and for Iowa corporation income tax.
- States that the Iowa estate tax only applies for deaths occurring prior to January 1, 2005.
- States that the generation skipping transfer tax only applies for deaths occurring prior to January 1, 2005.

Agency Stated Authority: Iowa Code sections 421.14 and 422.68 and HF 2435 (Internal Revenue Code Update).

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

LSA Response: The LSA concurs. Congress has not enacted any tax changes since January 1, 2013, so the date changes in the Act have no impact on Iowa taxes. The Iowa estate tax and the Iowa generation-skipping tax are both estate taxes that have been made inoperative by federal estate tax changes. The two Iowa taxes no longer apply and do not generate revenue, so their repeal has no impact. Iowa's existing inheritance tax will still be in place.

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Secretary of State

ARC 1473C

Rule Summary Conforms the rules for the 2014 enactment of HF 2366 (Election Administration and City Elections).

Agency Stated Authority: Iowa Code sections 47.1, 17A.3, 50.20, and chapter 53.

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

LSA Response: The rules will have no impact on the State General Fund. However, the rules will result in estimated statewide savings for county funds as follows:

- \$126,000 from not requiring a third envelope for absentee ballots for gubernatorial elections beginning with FY 2015 and every four years after FY 2015.
- \$11,000 from not requiring a third envelope for absentee ballots for primary elections beginning with FY 2014 and every two years after FY 2014.

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- \$241,000 from not requiring a third envelope for absentee ballots for presidential elections beginning with FY 2017 and every four years after FY 2017.

The savings for cities and schools cannot be determined since the number of absentee ballots mailed for those elections is not available. The savings will be for city and county funds, since they reimburse the counties for election administration.

ARC 1474C

Rule Summary Establishes uniformity in the treatment of digital ballot images captured by the various voting systems certified for use in the State by the Iowa Board of Examiners for Voting Systems. These amendments also adopt standards for use of the Unisyn Open Elect Central Scan (OVCS) central count tabulator.

Agency Stated Authority: Iowa Code sections 47.1, 17A.3, 50.12, and 52.5.

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

LSA Response: The LSA concurs.

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Treasurer of State

ARC 1464C

Rule Summary Updates rules to comply with Iowa law and reflects changes in the market related to public funds for custodial agreements.

Agency Stated Authority: Iowa Code section 12B.10C.

Fiscal Impact **Agency Response:** No fiscal impact to the State. Updates required provisions for inclusion in public funds for custodial agreements.

LSA Response: The LSA concurs.

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Utilities Division

ARC 1460C

Rule Summary Amends filing requirements for Competitive Natural Gas Providers (CNGPs) and the procedure for contracting the Iowa Utilities Board to report utility incidents and outages:

- Removes specific filing requirements for CNGPs so the Board has flexibility to streamline the process for compressed gas vehicle providers.
- Removes specific requirements for CNGP annual reports.
- Makes application forms for CNGPs available through the Board's website.
- Alters the contact information for contacting the Duty Officer about incidents and outages to encourage email contact with telephone contact as the second option.

Agency Stated Authority: Iowa Code sections 17A.4, 476.86, and 476.87.

Fiscal Impact **Agency Response:** No fiscal impact to the State. Should not change costs since persons must file to get a certificate under statute.

LSA Response: The LSA concurs.

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Department of Agriculture and Land Stewardship

ARC 1468C

Rule Summary Updates a reference to the federal regulations for the Federal Wholesome Meat Act that was revised March 7, 2013.

Agency Stated Authority: Iowa Code section 189A.

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

LSA Response: The LSA concurs.

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Workers' Compensation Division

Emergency Filing

Rule Summary Updates references to payroll tax withholdings for purposes of determining weekly Workers' Compensation payments.

Agency Stated Authority: Iowa Code section 86.8.

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

LSA Response: The LSA concurs.

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Department of Human Services

ARC 1445C

Rule Summary The rule makes the following changes:

- Requires Brain Injury (BI) Waiver providers and employees providing direct care to complete the Department's online brain injury training.
- Removes the cost of case management, home and vehicle modifications, specialized medical equipment and environmental modifications, adaptive devices, and therapeutic resources from the total monthly cost of services.
- Removes the age limit of 65 years old from for the Brain Injury Waiver enabling members to continue services through the Waiver beyond age 65.

Agency Stated Authority: Iowa Code section 249A.4.

Fiscal Impact **Agency Response:** Minimal fiscal impact for item one. There will be additional work required to maintain the training site and track training completion, but this is not expected to increase costs.

The service limit changes addressed in item two will increase the funds members have available for direct services each month. However, the fiscal impact of this change is expected to be very minimal due to the following:

- Policy staff confirmed that direct services are not currently being limited when the cost of the services addressed in this rule change cause a member to exceed their monthly waiver cap. Instead, exceptions to policy are granted to exceed the monthly cap so that direct services can be maintained.
- Services must be authorized through an approved service plan, and while this change may create more room under a member's monthly cap, they can only access those services that are already authorized by their service plan.

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No fiscal impact is expected for item three because age limit exceptions were already being granted via the exception to policy process. In addition, waiver enrollment is capped so this will not affect the number served, even if this change results in individuals remaining on the BI Waiver for a longer period of time.

LSA Response: The LSA concurs.

15-016

Rule Summary Increases the fee schedule rates for Emergency Medical Service (EMS) providers by 10.0% from the rate that was in effect on June 30, 2014.

Agency Stated Authority: Iowa Code section 249A and HF 2463 (FY 2015 Health and Human Services Appropriations Act), section 41 and 45.

Fiscal Impact **Agency Response:** This change is estimated to cost the General Fund \$239,000 in FY 2015 and \$254,000 in FY 2016.

LSA Response: Funding for this change was provided in the FY 2015 Health and Human Services Appropriations Act.

15-014

Rule Summary Allows Community Mental Health Centers (CMHCs) the choice of being reimbursed for the services provided to recipients of medical assistance at 100.0% of the reasonable costs of the services or in accordance with an alternative reimbursement rate methodology established by the Medicaid managed care contractor for mental health services and approved by the Department of Human Services.

Agency Stated Authority: Iowa Code section 249A and HF 2463 (FY 2015 Health and Human Services Appropriations Act), sections 39-40, 45, and 61-62.

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

LSA Response: A new alternative reimbursement methodology was created to expedite payments to providers. It is expected that if providers choose to switch to this new methodology, it will be budget neutral.

15-012

Rule Summary Provides a rate increase for Group Foster Care to begin the process of equalizing Group Foster Care rates between all providers. The rate increase raises the reimbursement floor to bring all providers to the highest paid provider in each of the three service categories.

Agency Stated Authority: Iowa Code section 237.3 and HF 2463 (FY 2015 Health and Human Services Appropriations Act), sections 43 and 45.

Fiscal Impact **Agency Response:** This change is estimated to cost the General Fund \$3.5 million in FY 2015 and FY 2016.

LSA Response: Funding for this change was provided in the FY 2015 Health and Human Services Appropriations Act.

15-014

Rule Summary Expands the Child Care Assistance (CCA) service criteria to allow a parent to work part-time and attend school part-time for at least 28 hours in the aggregate and remain eligible for CCA.

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Agency Stated Authority: Iowa Code section 234.6 and HF 2463 (FY 2015 Health and Human Services Appropriations Act), Division XV, section 96.

Fiscal Impact **Agency Response:** This change is estimated to cost the General Fund \$1.7 million in FY 2015 and FY 2016.

LSA Response: Funding for this change was provided in the HF 2463.

15-018

Rule Summary Allows a legal representative to be a paid provider of service when providing individual Consumer Directed Attendant Care (CDAC) or Consumer Choices Option (CCO) services to a member they legally represent and sets forth specific criteria.

Agency Stated Authority: Iowa Code section 249A.4 and Senate File 2320 (FY 2015 Medicaid Consumer-Directed Attendant Care Provider Act).

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

LSA Response: The LSA concurs.

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Board of Educational Examiners

ARC 1455C

Rule Summary Clarifies language regarding a licensed practitioner's ability to file an ethics complaint before the Board of Educational Examiners. Educational entities and recognized local or state professional organizations were moved to a separate lettered item in the amendment that was not present in the noticed rule.

Agency Stated Authority: Iowa Code section 272.2.

Fiscal Impact **Agency Response:** The amendment will not require any expenditures by the State and will not affect licensure fees received by the agency.

LSA Response: No fiscal impact.

ARC 1454C

Rule Summary Provides consistency for out-of-state applicants that provide an expired teaching license. The Board recently adopted an amendment to allow out-of-state applicants to provide an expired teaching license as part of their application. Additional rules were found that also required changes to allow for an expired license.

Agency Stated Authority: Iowa Code section 272.2.

Fiscal Impact **Agency Response:** The amendments will not require any State expenditures or affect licensure fees received by the agency.

LSA Response: No fiscal impact.

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Racing and Gaming Commission

ARC 1456C

Rule Summary Permits the Commission to suspend a license for up to five years. Provides for the following:

- Allows the Commission to suspend an occupational license for up to five years.
- Clarifies when debt arrangements greater than \$3.0 million need to be submitted for Commission approval.
- Clarifies the allowable number of jockeys an agent may represent.
- Clarifies the definition of an administrator as it relates to the Iowa Racing and Gaming Commission.
- Clarifies shipping notification requirements for gambling games or implements of gambling.

Agency Stated Authority: Iowa Code sections 99D.7 and 99F.4.

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

LSA Response: The LSA concurs.

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Real Estate Appraiser Examining Board

ARC 1467C

Rule Summary Updates several administrative items such as address, hours, and eliminates duplication within the Board's rules. Provides guidelines to comply with federal changes. The changes include:

- Confirms that the Iowa Real Estate Appraiser Examining Board is the State appraiser certifying agency in compliance with the federal Title XI of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (FIRREA) so that persons certified by the Board are authorized under federal law to provide appraisal services for federally related transactions.
- Identifies new requirements for appraisers and associate appraisers, including completion of specified coursework and holding a bachelor's degree.
- Sets application deadlines.
- Submits appraisal work products and work files.

These amendments were published as ARC 1410C on April 2, 2014. A public hearing was held on April 23, 2014, and no public comment was received. The Appraiser Qualifications Board (AQB) announced the delay of the implementation of "Section VI background checks" in the AQB criteria effective January 1, 2015. The Board deleted various references to background checks and fingerprinting and delayed implementation of background checks until January 1, 2017. Other technical and minor editorial changes were made.

Agency Stated Authority: Iowa Code section 543D.5.

Fiscal Impact **Agency Response:** No fiscal impact for the State can be identified. The Board will maintain compliance with FIRREA, and the appraisers in Iowa will maintain their national recognition as certified appraisers. There is no direct cost for these rules. An implied cost will be that an appraiser must have a bachelor's degree.

LSA Response: The LSA concurs that there will be no fiscal impact to the State for the rule changes. These rule changes do not affect the fees collected by the Board.

As background, there are 1,092 certified appraisers and 153 associate appraisers, including both active and inactive registrants. For individuals with "active" status, a certified appraiser pays a \$390 biennial fee and an associate appraiser pays a \$250 biennial fee. If inactive, the fee is \$130 for a certified appraiser and \$50 for an associate appraiser. All certified appraisers also are required by federal law to be on

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the National Registry. The fee of \$80 for an active certified appraiser is included in the State fee for each appraiser to be on the national registry. The Board forwards payments to the Appraisal Subcommittee for compliance. In FY 2013, revenue from appraiser licensing fees totaled \$223,901. Of that, \$146,891 was deposited in the State General Fund and \$77,010 was retained by the Board.

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Veterinary Medicine Board

ARC 1465C

Rule Summary Expands the current veterinarian requirements for prescribing, storing, and dispensing drugs and controlled substances. Provides additional veterinary requirements for the use of diagnostic imaging, administering anesthesia, safety and sanitation in veterinary facilities, proper disposal of waste materials, use of sterile surgical equipment, veterinary facility standards, and veterinary practice record keeping requirements.

Agency Stated Authority: Iowa Code section 169.5.

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

LSA Response: The LSA concurs. Public comments were made about recordkeeping requirements and the application of the rules to large animal practices. However, the comments were generally supportive of the change.

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