



ADMINISTRATIVE RULES – FISCAL IMPACT SUMMARIES

Section 17A.4(3) Iowa Code Supplement 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.

DEPARTMENT OF ADMINISTRATIVE SERVICES

ARC 4572B

Rule Summary The amendments update the description of the Department's organizational structure by providing for the appointment of a State Chief Information Officer within the Department, eliminating the Information Technology Council and replacing it with the Technology Governance Board, and revising the mission of the Department to change the focus from one of implementing the organization to one of providing products and services.

Fiscal Impact No fiscal impact.

ARC 4587B

Rule Summary The rule implements HF 748 (FY 2006 State Employees' Education Savings Plan Trust Act). The Act establishes an optional State employee payroll deduction for qualified tuition program contributions when at least 500 State employees request the deduction from the same eligible qualified tuition program on forms prescribed by the payroll administrator, and the tuition program representative has entered into an agreement with the State delineating each party's rights and responsibilities. Tuition program representatives may meet with employees at the workplace on non-work time to obtain enrollees, provided the program representative's materials have been approved by the payroll administrator and the program representative has received all required permissions from the local facility manager to hold the meeting.

Fiscal Impact No fiscal impact.

ARC 4594B

Rule Summary The rule updates the optional payroll deduction for additional insurance coverage. These amendments clarify IAC 11 rule 46.6, Distribution of Literature, and IAC 11 rule 46.11, Unapproved Solicitation. Also adds a new rule regarding reinstatement after a company has been terminated from the payroll deduction program.

Fiscal Impact No fiscal impact.

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ARC 4589B

Rule Summary The proposal increases compensation for non-contract employees, at the discretion of the Departments, upon obtaining an increase in their credentials.

Fiscal Impact Fiscal impact cannot be determined since the increase is at the discretion of the Departments.

ARC 4590B

Rule Summary This rule assists in the implementation of Executive Order 41, signed by Governor Vilsack on April 22, 2005. The purpose of amendments to Chapter 103 are to ensure that drivers of State vehicles that are capable of using fuel with 85.0 percent ethanol (E-85) will use E-85 where it is available, or just enough of the 10.0 percent ethanol fuel to get them to the nearest E-85 fueling facility. State fueling facilities are to be utilized where available. Amendments to Chapter 105 are to require that specifications for replacement State vehicles are written to procure vehicles with alternative fuel capabilities or hybrid-electric vehicles, providing an equivalent vehicle is available, while also taking into account the current rule regarding life-cycle costing and energy efficiency. In addition, a standard is specified for bulk diesel fuel procurement.

Fiscal Impact Minimal fiscal impact.

STAFF CONTACT: Ron Robinson (Ext. 16256) Jess Benson (Ext. 14613)

DEPARTMENT OF AGRICULTURE AND LAND STEWARDSHIP

ARC 4559B

Rule Summary Establishes one-time registration fees for lowa-foaled horses and lowa-whelped dogs that participate in the State's pari-mutuel betting program. The fees will be used to administer the Native Horse and Dog Program. The registration fee is \$30 for an lowa-foaled horse and the following for lowa-whelped dogs: a dam is \$25, a litter is \$10, and a dog is \$5.

Fiscal Impact The increase in revenue from the lowa-foaled horse registration fees is estimated to be \$30,000 per year, and \$20,000 per year from the lowa-whelped dog registration fees.

STAFF CONTACT: Debra Kozel (Ext. 16767)

ARCHITECTURAL EXAMINING BOARD – PROFESSIONAL LICENSING DIVISION, DEPARTMENT OF COMMERCE

ARC 4558B

Rule Summary The rule permits architects to register with an inactive status.

Fiscal Impact The fiscal impact is unknown since the number of people that will register with the inactive status is unknown. The registration fee is \$200 for an active status, \$100 for an inactive status, and \$50 for retirees. Persons who allow a license to lapse are required to pay the \$200 registration fee, in addition to \$25 per month, up to a maximum of \$750, for each month the license has lapsed. Fees are deposited into the General Fund.

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ARC 4557B

Rule Summary The rule clarifies that an applicant must pass all parts of the exam within five years of passing the first part. This is in accordance with the National Council of Architectural Registration Board's (NCARB) requirements.

Fiscal Impact No fiscal impact.

STAFF CONTACT: Ron Robinson (Ext. 16256) Sam Leto (Ext. 16764)

IOWA CAPITAL INVESTMENT BOARD

ARC 4602B

Rule Summary The rule implements House File 831 (FY 2006 Seed Capital Funds Act) and does the following:

- Updates references to the Department of Revenue.
- Updates criteria for a community-based seed capital fund and a qualifying business.
- Specifies that a community-based seed capital fund cannot invest in the Iowa Fund of funds, but may invest in an Iowa-based seed capital fund in certain circumstances.
- Specifies that tax credits can be issued after June 30, 2005, and that an investor in a community-based seed capital fund cannot receive a tax credit for an investment made by the community-based fund in an Iowa-based seed capital fund.
- Specifies that a community-based seed capital fund has 48 months to invest at least 33.0% of its invested capital in one or more qualifying businesses.
- Updates an implementation clause.

Fiscal Impact The fiscal note for HF 831 specifies the Act will reduce General Fund revenues by an estimated \$1.0 million annually for eight fiscal years beginning in FY 2009.

STAFF CONTACT: Ron Robinson (Ext. 16256)

COLLEGE STUDENT AID COMMISSION

ARC 4597B

Rule Summary Revises current rules regarding the Work Study Program into a new chapter, organizes the requirements in a more logical format, and provides student eligibility information.

Fiscal Impact No fiscal impact.

ARC 4596B

Rule Summary Creates a new chapter to implement the Registered Nurse Recruitment Program. The Program was authorized by statute during the 2004 Legislative Session, but FY 2006 is the first year funding has been provided. The Program is to receive \$50,000 of the funds appropriated for the Tuition Grant Program for FY 2006.

Fiscal Impact No fiscal impact.

STAFF CONTACT: Mary Shipman (Ext. 14617)

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DEPARTMENT OF ECONOMIC DEVELOPMENT

ARC 4583B

Rule Summary Rules to establish a Grant Program for the promotion of Iowa wine and beer products.

Fiscal Impact The Department receives approximately \$40,000 to \$50,000 in receipts each year from the Beer and Wine Tax, of which most is used for promotional expenses. The Department would use approximately \$8,000 for the Grant Program.

STAFF CONTACT: Ron Robinson (Ext. 16256)

EDUCATIONAL EXAMINERS BOARD

ARC 4581B

Rule Summary Permits those who successfully completed a teacher preparation program but, upon completion, did not apply for an Iowa teaching license to obtain a substitute teacher's license. Permits those holding an administrative license to substitute teach.

Fiscal Impact No significant fiscal impact. There may be a slight increase in the number of applicants for the substitute teacher's license, for which the fee is \$85. There is no data available to determine how many additional applicants will result from the rule change.

ARC 4582B

Rule Summary Terminates the notice of rules increasing fees for licenses and authorizations. The rules were adopted under emergency provisions (ARC 4442B), and the notice (ARC 4440B) was given for the purpose of conducting public hearings. There were no speakers at the hearings and no objections have been filed; therefore, there is no need to proceed with the notice.

Fiscal Impact No fiscal impact.

STAFF CONTACT: Robin Madison (Ext. 15270)

ENGINEERING AND LAND SURVEYING EXAMINING BOARD – PROFESSIONAL LICENSING DIVISION, DEPARTMENT OF COMMERCE

ARC 4567B

Rule Summary The amendment clarifies the application process, changes the due dates for applications to allow the Board more time to complete a review, allows the Board office to send expiration notices by regular mail, and clarifies terms used in the exam application process.

Fiscal Impact No fiscal impact.

STAFF CONTACT: Ron Robinson (Ext. 16256) Jess Benson (Ext. 14613)

ENVIRONMENTAL PROTECTION COMMISSION

ARC 4563

Rule Summary Terminates rules that revised the federal Environmental Protection Agency (EPA) nonattainment New Source Review (NSR) provisions and the Prevention of Significant Deterioration (PSD) provisions. The rules are terminated due to a recent

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United States Appeals Court ruling. The Department of Natural Resources is waiting to receive information from the EPA prior to finalizing the rules.

Fiscal Impact No fiscal impact.

STAFF CONTACT: Debra Kozel (Ext. 16767)

ETHICS AND CAMPAIGN DISCLOSURE BOARD

Rule Summary Modifies the Board's current rule on the use of corporate property for campaign purposes, and references current laws relating to placement of campaign signs. **ARC 4588B**

Fiscal Impact No fiscal impact.

Rule Summary Permits campaign committees to make campaign transactions by debit card and credit card (currently may only do so by check). **ARC 4500B**

Fiscal Impact No fiscal impact.

STAFF CONTACT: Sam Leto (Ext. 16764)

IOWA FINANCE AUTHORITY

Rule Summary This amendment proposes a new chapter concerning the Entrepreneurs with Disabilities Program to be operated by the Authority. The Program was previously administered by the Department of Economic Development. **ARC 4603B**

Fiscal Impact The fiscal impact for FY 2006 is an estimated expenditure of \$200,000, which was the amount appropriated for FY 2006 in HF 882 (FY 2006 Standings Appropriation Act). The Authority anticipates the entire appropriation will be expended.

STAFF CONTACT: Ron Robinson (Ext. 16256)

DEPARTMENT OF HUMAN SERVICES

Rule Summary Sets up framework for administration of the Children's Mental Health Waiver. Adds consumers of the Children's Mental Health Waiver as an eligible group for targeted case management. **ARC 4561B and ARC 4562B**

Fiscal Impact The Waiver and targeted case management services are expected to serve 300 children for nine months of FY 2006 and all of FY 2007. The total cost per child per year for the Waiver is estimated to be \$21,000. Targeted case management has a cost of \$575 per month. The State is responsible for 36.4% of costs in FY 2006 and 37.12% in FY 2007. These assumptions result in a cost to the State in FY 2006 of \$2.3 million. The annualized cost for FY 2007 is estimated to be \$3.1 million.

Rule Summary Defines the term "Serious Emotional Disturbance" as it will be used to determine eligibility for the Waiver. Also sets the case-manager-to-child ratio for this service to no more than 1 to 15. **ARC 4568B and ARC 4569B**

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Fiscal Impact No fiscal impact.

STAFF CONTACT: Kerri Johannsen (Ext. 14611)

DEPARTMENT OF INSPECTIONS AND APPEALS

ARC 4579B

Rule Summary The rule permits nursing facilities to install and operate wireless calling systems to better monitor their residents. Current rules require nurse calling stations, which are less efficient and effective. The Department of Inspections and Appeals (DIA) routinely receives a half-dozen variance requests annually from facilities seeking to install this modern technology during renovations and construction projects. The rules do not require nursing facilities to install or operate wireless calling systems, but to simply permit facilities to use wireless calling systems. The number of facilities that may seek to install and operate wireless calling systems is unknown. Also unknown is the cost of a wireless calling system.

Fiscal Impact The fiscal impact cannot be determined, since the number of nursing facilities that may seek to install and operate wireless calling systems is unknown. Costs will be incurred by the facilities and not the Department.

ARC 4580B

Rule Summary The rule clarifies DIA rules pertaining to the determination of death of a hospital patient for the purposes of the organ and tissue procurement policies. The rule specifically permits licensed physician assistants, licensed registered nurses, and licensed practical nurses to make a pronouncement of death in accordance with Chapter 702.8, Code of Iowa. The DIA's current rule conflicted with the Code of Iowa language.

Fiscal Impact No fiscal impact.

STAFF CONTACT: Douglas Wulf (Ext. 13250)

INSURANCE DIVISION – DEPARTMENT OF COMMERCE

ARC 4570B

Rule Summary The rule is amended to add a new subrule 35.3(3), which defines biologically based mental illnesses. In addition, rule 35.30 is repealed since it is no longer relevant in light of the new statutory language.

Fiscal Impact The fiscal impact cannot be determined. This rule will affect all insurance companies offering group health insurance to the extent that they do not already provide benefits for biologically based mental illnesses. Insurers will be required to amend their policies and procedures.

ARC 4571B

Rule Summary The amendment adopts the latest amendments to the National Association of Insurance Commissioners (NAIC) model regulation on Coordination of Benefits. The amendment gives guidance to carriers on the correct order of payment of claims when a person is covered by more than one policy.

Fiscal Impact No fiscal impact.

STAFF CONTACT: Ron Robinson (Ext. 16256) Sam Leto (Ext. 16764)

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LABOR SERVICES DIVISION – WORKFORCE DEVELOPMENT DEPARTMENT

ARC 4566B

Rule Summary Updates fees for alteration permits to reflect economic changes.

Fiscal Impact Minimal fiscal impact. The fee will increase from an average of \$123 to \$400, and will result in an increase in revenue of approximately \$41,000 when implemented for a full year. Elevator companies will pay a greater fee when applying for an alteration permit. These fees may be passed on to customers if the market will allow. Governmental entities with elevator alteration projects will be required to pay the increased fees to whatever extent the elevator companies pass the fees to their customers.

STAFF CONTACT: Ron Robinson (Ext. 16256)

IOWA LAW ENFORCEMENT ACADEMY

ARC 4591B

Rule Summary This rule allows individuals, who do not meet normal hearing standards in each ear, to have additional testing in order to be considered eligible for hiring.

Fiscal Impact Minimal fiscal impact since minimal hearing standards are already in place and monitored by the Academy. The rule change allows more individuals who can function as peace officers to be eligible for hire.

ARC 4592B

Rule Summary This rule amendment updates the administrative rules to reflect the current State and national requirements for health training for law enforcement officers and jailers.

Fiscal Impact No fiscal impact.

STAFF CONTACT: Jennifer Acton (Ext. 17846)

NATURAL RESOURCE COMMISSION – DEPARTMENT OF NATURAL RESOURCES

ARC 4586B and ARC 4585B

Rule Summary Establishes rules and procedures for whitetail hunting preserves. The rules are a result of SF 206 (FY 2006 Deer Harvest Act). The Act establishes a \$350 hunting preserve operator's registration fee, fencing requirements, and reporting requirements.

Fiscal Impact Minimal fiscal impact. The number of hunting preserves is unknown; however, the registration fee revenue is estimated to be minimal.

STAFF CONTACT: Debra Kozel (Ext. 16767)

PROFESSIONAL LICENSURE DIVISION – DEPARTMENT OF PUBLIC HEALTH

ARC 4552B

Rule Summary Behavioral Science Examiners – Increases licensure fees by \$20 per licensee. There are 690 licensees that renew licenses every two years. House File 825 (FY 2006 Health and Human Services Appropriations Act) codified language that permits the Board to retain 90.0% of any new fee increase, with the remaining 10.0% deposited into the General Fund. Also, allows licensees who renewed before the start of the next renewal cycle to wait until the following cycle to renew.

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Fiscal Impact The fee increase will generate additional revenues of approximately \$14,000. Of this, the Board will retain approximately \$12,000 (90.0%) and \$2,000 (10.0%) will be deposited into the General Fund.

ARC 4556B

Rule Summary Dietetic Examiners – Increases licensure fees by \$20 per licensee. There are 845 licensees that renew licenses every two years. House File 825 (FY 2006 Health and Human Services Appropriations Act) codified language that permits the Board to retain 90.0% of any new fee increase, with the remaining 10.0% deposited into the General Fund.

In addition, the changes allow licensees who recently reactivated their license prior to the start of a new renewal cycle to renew at the next renewal cycle; removes references to Board approval in the continuing education chapter, as well as removes other technical references regarding other professional education activities; and adds a requirement to provide a narrative describing other professional development activities.

Fiscal Impact The fee increase will generate additional revenues of approximately \$17,000. Of this, the Board will retain approximately \$15,000 (90.0%) and \$2,000 (10.0%) will be deposited into the General Fund.

ARC 4598B

Rule Summary Optometry Examiners – Amends continuing education requirements to provide for the substitution of Council on Endorsed Licensure Mobility for Optometrists (CELMO) certification in lieu of proof of continuing education program attendance, and removes reference to an approved sponsor.

Fiscal Impact No fiscal impact.

ARC 4599B

Rule Summary Optometry Examiners – Increases licensure fees by \$24 per licensee. There are 601 licensees that renew licenses every two years. House File 825 (FY 2006 Health and Human Services Appropriations Act) codified language that permits the Board to retain 90.0% of any new fee increase, with the remaining 10.0% deposited into the General Fund.

In addition, changes allow licensees who renew within six months of a new licensing cycle to wait until the subsequent renewal period; corrects discipline rules by removing references of a lapsed license and adds a new rule as replacement.

Fiscal Impact The fee increase will generate additional revenues of approximately \$14,000. Of this, the Board will retain approximately \$13,000 (90.0%) and \$1,000 (10.0%) will be deposited into the General Fund.

ARC 4593B

Rule Summary Podiatry Examiners – Increases licensure fees by \$28 per licensee. There are 232 licensees that renew licenses every two years. House File 825 (FY 2006 Health and Human Services Appropriations Act) codified language that permits the Board to retain 90.0% of any new fee increase, with the remaining 10.0% deposited into the General Fund.

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Fiscal Impact The fee increase will generate additional revenues of approximately \$7,000. Of this, the Board will retain approximately \$6,300 (90.0%) and \$700 (10.0%) will be deposited into the General Fund.

ARC 4560B

Rule Summary Athletic Training Examiners – Increases licensure fees by \$20 per licensee. There are 359 licensees that renew licenses every two years. House File 825 (FY 2006 Health and Human Services Appropriations Act) codified language that permits the Board to retain 90.0% of any new fee increase, with the remaining 10.0% deposited into the General Fund.

Fiscal Impact The fee increase will generate additional revenues of approximately \$7,000. Of this, the Board will retain approximately \$6,300 (90.0%) and \$700 (10.0%) will be deposited into the General Fund.

STAFF CONTACT: Lisa Burk (Ext. 17942)

IOWA PUBLIC EMPLOYEES' RETIREMENT SYSTEM (IPERS)

ARC 4601B

Rule Summary The rules will allow for Investment Board participation in the annual performance review of the Chief Investment Officer; remove a limitation of the qualifications of the public member of the Budget Advisory Committee (BAC) by deleting the word "substantial" from the subrule; add a provision to the IPERS overpayment collection process for persons who violate the bona fide severance requirement and cannot be located; clarify the time period for certain lump sum payments from calendar month to thirty days; add amendments to procurement proposals and procedures that align the IPERS rules with those of the Department of Administrative Services (DAS); and correct scrivener's errors.

Fiscal Impact No fiscal impact.

STAFF CONTACT: Ron Robinson (Ext. 16256) Sam Leto (Ext. 16764)

DEPARTMENT OF PUBLIC SAFETY

ARC 4600B

Rule Summary This rule adopts applicable chapters of the Life Safety Code for assembly occupancies and allows for the substitution of the International Fire Code for Fire Marshal rules, if locally adopted and enforced.

Fiscal Impact No fiscal impact.

ARC 4578B

Rule Summary This rule adopts the 2001 edition of the Explosive Materials Code (NFPA 495), with amendments.

Fiscal Impact No fiscal impact.

ARC 4577B

Rule Summary This rule would add a provision to the rules on flammable and combustible liquids to allow retail dispensing of E-85 (85.0% ethanol-blended gasoline).

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Fiscal Impact No fiscal impact.

STAFF CONTACT: Jennifer Acton (Ext. 17846)

REAL ESTATE COMMISSION – PROFESSIONAL LICENSING DIVISION, DEPARTMENT OF COMMERCE

ARC 4584B

Rule Summary The new subrule 7.4(8) is added to clarify that the prohibition provided by Section 543B.60A, Code of Iowa, includes persons not licensed in Iowa that are licensed or otherwise authorized to engage in the real estate business in another state or foreign country.

Fiscal Impact No fiscal impact.

STAFF CONTACT: Ron Robinson (Ext. 16256) Sam Leto (Ext. 16764)

BOARD OF REGENTS

ARC 4565B

Rule Summary Permits nonorganized (confidential and supervisory) employees in the Board of Regents Merit System to carry over 40 hours of emergency care leave. This change was negotiated for AFSCME-covered staff in the Regents' merit system effective July 1, 2005. The amendment will allow all employees of the merit system to have the same benefit.

Fiscal Impact No fiscal impact.

STAFF CONTACT: Mary Shipman (Ext. 14617)

DEPARTMENT OF REVENUE

ARC 4576B

Rule Summary The proposed rule includes numerous changes and clarifications for motor fuel tax rates and tax filing requirements to comply with current law. Changes include:

- Authorizes the Director to require the following groups file tax returns electronically: underground storage tank depositors; licensed liquefied petroleum gas and compressed natural gas dealers; suppliers, restricted suppliers, importers, and blenders that report more than 100,000 gallons of product; and all licensees for returns due after April 30, 2006. Also, authorizes the Director to require that all reports and returns due under Chapter 452A, Code of Iowa, be filed electronically.
- Excludes methanol from the definitions of "motor fuel" and "special fuel" unless it is blended with other fuels for use in motor vehicles or aircraft.
- Adds the definition of "E-85 gasoline."
- Reflects the change in the gasoline tax rate from 20.5 cents to 20.7 cents per gallon for the period July 1, 2005 through June 30, 2006.
- Adds the new tax rate of 17.0 cents per gallon for E-85 gasoline beginning January 1, 2006, and explains the procedure the Department will use to determine if the rate will remain in effect for the following year.
- Explains the procedures for implementing the inventory tax that was enacted several years ago.
- Adds a fuel tax exemption to a company operating a taxicab service under contract with an Iowa urban transit system.

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- Adds rules to implement the tobacco tax retail permit legislation enacted in HF 339 (FY 2006 Cigarette Permits, Hookah Bars Act).

Fiscal Impact The estimated fiscal impact of the increase in gasoline tax from 20.5 cents to 20.7 cents per gallon is a net increase of \$4.6 million to the Road Use Tax Fund in FY 2006 compared to FY 2005. The net increase includes a decrease of an estimated \$11.9 million resulting from a decrease in tax revenues collected from gasoline. The decrease in gasoline tax revenues is due to a decrease in gasoline usage. The decrease, however, will be offset by an increase of an estimated \$16.5 million in tax revenues collected from ethanol-blended fuel. The estimated fiscal impact of taxing E-85 at 17.0 cents instead of 19.0 cents is minimal to the Road Use Tax Fund.

ARC 4574B

Rule Summary The rules implement SF 389 (FY 2006 Soy-Based Oil Tax Credit Act), which creates a tax credit for costs incurred in the transition from non-soy-based cutting tool oil to using soy-based cutting tool oil.

Fiscal Impact The Soy-Based Cutting Tool Oil Tax Credit will reduce net General Fund revenues by an estimated \$60,000 in FY 2007 and \$60,000 in FY 2008.

ARC 4575B

Rule Summary The rules implement HF 186 (FY 2006 Internal Revenue Update Act). The Act updates Iowa's tax laws to incorporate federal Internal Revenue Code changes made by Congress during 2003, 2004, and January 2005. The rules also implement HF 801 (FY 2006 Living Organ Donors Tax Deduction Act). This Act provides an individual income tax deduction for certain nonreimbursed expenses relating to a human organ transplant. The rules also implement SF 413 (FY 2006 Streamlined Sales Tax Cleanup Act). The Act makes changes to the individual income tax federal tax deduction and itemized deduction for vehicle registration fees.

Fiscal Impact The net General Fund revenue impact of implementing HF 186 will increase estimated revenues by \$4.6 million in FY 2006, will have no impact on revenues in FY 2007, will increase revenues by \$3.7 million in FY 2008, and will decrease revenues by \$1.4 million in FY 2009. The changes in HF 801 and SF 413 will have no significant impact on General Fund revenues.

ARC 4573B

Rule Summary The proposed new chapters are intended to implement Chapter 423, Code of Iowa, otherwise known as the Streamlined Sales and Use Tax Act. The newly-drafted rules are intended to accomplish three things: 1) To explain the changes to Iowa sales and use tax law made by the Streamlined Sales and Use Tax Act; 2) To preserve the existing interpretation of portions of Iowa sales and use tax law, which the Streamlined Sales and Use Tax Act does not change; and 3) To remove from the new rules as many references as possible to sales and use tax law as it existed prior to July 1, 2004, the effective date of the Streamlined Sales and Use Tax Act. In addition, one rule is intended to correct an inaccurate definition of the phrase "inert gas."

Fiscal Impact No fiscal impact. The rules proclaim existing law and the Department's existing interpretation of that law. There are no changes to the rules which would cause revenues received to rise or fall.

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SECRETARY OF STATE

ARC 4564B

Rule Summary The proposed amendments make editorial changes to Chapter 22, provide additional security guidance to county commissioners to improve the safety of voting equipment, make changes to incorporate requirements of the Help America Vote Act (HAVA), and provide programming and vote-counting procedures for the newly certified Election Systems and Software voting system.

Fiscal Impact No fiscal impact.

STAFF CONTACT: Douglas Wulf (Ext. 13250)

STATE PUBLIC DEFENDER

ARC 4595B

Rule Summary Clarifies existing administrative procedures and conforms the rules to current law.

Fiscal Impact No fiscal impact.

STAFF CONTACT: Beth Lenstra (Ext. 16301)

DEPARTMENT OF TRANSPORTATION

ARC 4555B

Rule Summary Amends various chapters to comply with a 2004 Iowa Supreme Court ruling in *AT&T Communications of the Midwest, Inc. vs. Iowa Utilities Board*. The Supreme Court ruled that an agency cannot, under Section 17A.9A, Code of Iowa, waive one of its own rules on its own motion. Rather, a person must petition the agency. Section 17A.9A(3), Code of Iowa, states that the burden of persuasion rests with the petitioner.

This rule removes language that indicates the Department or the Director of the Department of Transportation may waive an Administrative Rule on the Department's or the Director's own motion. Rather, waivers must be requested, and the person requesting a waiver will be required to relate the relevant facts and reasons for the requested waiver to the four criteria set out in Section 17A.9A(2), Code of Iowa.

Chapters 112 and 115 are amended to shift authority to grant waivers under these chapters from the district engineer to the Director of the Department of Transportation, and to provide that the Department will use sound engineering practices to determine the appropriate design for a specific situation when the literal application of the rules to the situation will result in an unsafe situation or an unreasonable design.

Fiscal Impact No fiscal impact.

ARC 4553B

Rule Summary Amends Chapter 130 to adopt the 2003 Edition of the Manual on Uniform Traffic Control Devices (MUTCD), including Revision No. 1 to the 2003 Edition, to replace the 2000 Millennium Edition and Revision No. 1 to the 2000 Millennium Edition. The MUTCD is published by the U.S. Department of Transportation, Federal Highway Administration.

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According to the Federal Highway Administration's analysis of its final rule for the 2003 Edition of the MUTCD, most of the changes in the 2003 Edition "provide additional guidance, clarification, and optional applications for traffic control devices" and add "only a very limited number of new or changed requirements."

Fiscal Impact No fiscal impact.

Rule Summary Rescinds subrule 511.16(4), relating to vehicles and loads of excess size and weight, to assist in a more uniform interpretation of Section 321E.16, Code of Iowa. The subrule is not needed since the Code of Iowa addresses this same issue. The rule also updates paragraph 511.8(1)"e" to include an Internet address for oversize load detour and road embargo information. **ARC 4554B**

Fiscal Impact No fiscal impact.

Rule Summary This rule adopts changes to comply with the Federal Motor Carrier Safety Regulations and Hazardous Materials Regulations in Title 49, Code of Federal Regulations (CFR). Sections 321.449 and 321.450, Code of Iowa requires the Department to comply with such regulations. To ensure the consistency required by statute, the Department annually adopts the specified federal regulations, as adopted by the U.S. Department of Transportation. **ARC 4604B**

The rule also amends paragraph 520.1(2)"c" that specifies that operators of vehicles designed to transport 7 or more persons, but fewer than 16, including the driver, are not exempt from log book requirements afforded the 100-air-mile radius driver under Title 49, Code of Federal Regulations.

Fiscal Impact The fiscal impact cannot be determined. The proposed federal regulatory changes may impact motor carrier operations, equipment maintenance, and reporting requirements. Due to insufficient information, the estimated fiscal impact cannot be determined.

STAFF CONTACT: Mary Beth Mellick (Ext. 18223)
