



IOWA ADMINISTRATIVE BULLETIN

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July 28, 2010

NUMBER 2
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PREFACE

The Iowa Administrative Bulletin is published biweekly pursuant to Iowa Code chapters 2B and 17A and contains Notices of Intended Action and rules adopted by state agencies.

It also contains Proclamations and Executive Orders of the Governor which are general and permanent in nature; Regulatory Analyses; effective date delays and objections filed by the Administrative Rules Review Committee; Agenda for monthly Administrative Rules Review Committee meetings; and other materials deemed fitting and proper by the Administrative Rules Review Committee.

The Bulletin may also contain public funds interest rates [12C.6]; workers' compensation rate filings [515A.6(7)]; usury rates [535.2(3)“a”]; and agricultural credit corporation maximum loan rates [535.12].

PLEASE NOTE: Underscore indicates new material added to existing rules; ~~strike-through~~ indicates deleted material.

STEPHANIE A. HOFF, Acting Administrative Code Editor

Telephone: (515)281-3355

Fax: (515)281-5534

CITATION of Administrative Rules

The Iowa Administrative Code shall be cited as (agency identification number) IAC (chapter, rule, subrule, lettered paragraph, or numbered subparagraph).

441 IAC 79	(Chapter)
441 IAC 79.1	(Rule)
441 IAC 79.1(1)	(Subrule)
441 IAC 79.1(1)“a”	(Paragraph)
441 IAC 79.1(1)“a”(1)	(Subparagraph)

The Iowa Administrative Bulletin shall be cited as IAB (volume), (number), (publication date), (page number), (ARC number).

IAB Vol. XII, No. 23 (5/16/90) p. 2050, ARC 872A

NOTE: In accordance with Iowa Code section 7.17, a rule number within the Iowa Administrative Code includes a reference to the statute which the rule is intended to implement: 441—79.1(249A).

Schedule for Rule Making 2010

NOTICE SUBMISSION DEADLINE	NOTICE PUB. DATE	HEARING OR COMMENTS 20 DAYS	FIRST POSSIBLE ADOPTION DATE 35 DAYS	ADOPTED FILING DEADLINE	ADOPTED PUB. DATE	FIRST POSSIBLE EFFECTIVE DATE	POSSIBLE EXPIRATION OF NOTICE 180 DAYS
Dec. 23 '09	Jan. 13 '10	Feb. 2 '10	Feb. 17 '10	Feb. 19 '10	Mar. 10 '10	Apr. 14 '10	July 12 '10
Jan. 8	Jan. 27	Feb. 16	Mar. 3	Mar. 5	Mar. 24	Apr. 28	July 26
Jan. 22	Feb. 10	Mar. 2	Mar. 17	Mar. 19	Apr. 7	May 12	Aug. 9
Feb. 5	Feb. 24	Mar. 16	Mar. 31	Apr. 2	Apr. 21	May 26	Aug. 23
Feb. 19	Mar. 10	Mar. 30	Apr. 14	Apr. 16	May 5	June 9	Sep. 6
Mar. 5	Mar. 24	Apr. 13	Apr. 28	Apr. 30	May 19	June 23	Sep. 20
Mar. 19	Apr. 7	Apr. 27	May 12	May 14	June 2	July 7	Oct. 4
Apr. 2	Apr. 21	May 11	May 26	***May 26***	June 16	July 21	Oct. 18
Apr. 16	May 5	May 25	June 9	June 11	June 30	Aug. 4	Nov. 1
Apr. 30	May 19	June 8	June 23	***June 23***	July 14	Aug. 18	Nov. 15
May 14	June 2	June 22	July 7	July 9	July 28	Sep. 1	Nov. 29
May 26	June 16	July 6	July 21	July 23	Aug. 11	Sep. 15	Dec. 13
June 11	June 30	July 20	Aug. 4	Aug. 6	Aug. 25	Sep. 29	Dec. 27
June 23	July 14	Aug. 3	Aug. 18	Aug. 20	Sep. 8	Oct. 13	Jan. 10 '11
July 9	July 28	Aug. 17	Sep. 1	***Sep. 1***	Sep. 22	Oct. 27	Jan. 24 '11
July 23	Aug. 11	Aug. 31	Sep. 15	Sep. 17	Oct. 6	Nov. 10	Feb. 7 '11
Aug. 6	Aug. 25	Sep. 14	Sep. 29	Oct. 1	Oct. 20	Nov. 24	Feb. 21 '11
Aug. 20	Sep. 8	Sep. 28	Oct. 13	Oct. 15	Nov. 3	Dec. 8	Mar. 7 '11
Sep. 1	Sep. 22	Oct. 12	Oct. 27	***Oct. 27***	Nov. 17	Dec. 22	Mar. 21 '11
Sep. 17	Oct. 6	Oct. 26	Nov. 10	***Nov. 10***	Dec. 1	Jan. 5 '11	Apr. 4 '11
Oct. 1	Oct. 20	Nov. 9	Nov. 24	***Nov. 24***	Dec. 15	Jan. 19 '11	Apr. 18 '11
Oct. 15	Nov. 3	Nov. 23	Dec. 8	***Dec. 8***	Dec. 29	Feb. 2 '11	May 2 '11
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Dec. 8	Dec. 29	Jan. 18 '11	Feb. 2 '11	Feb. 4 '11	Feb. 23 '11	Mar. 30 '11	June 27 '11
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PRINTING SCHEDULE FOR IAB

<u>ISSUE NUMBER</u>	<u>SUBMISSION DEADLINE</u>	<u>ISSUE DATE</u>
4	Friday, August 6, 2010	August 25, 2010
5	Friday, August 20, 2010	September 8, 2010
6	Wednesday, September 1, 2010	September 22, 2010

PLEASE NOTE:

Rules will not be accepted after **12 o'clock noon** on the Friday filing deadline days unless prior approval has been received from the Administrative Rules Coordinator's office.

If the filing deadline falls on a legal holiday, submissions made on the following Monday will be accepted.

*****Note change of filing deadline*****

The Administrative Rules Review Committee will hold its monthly meeting on Monday, August 16, 2010, at 9:30 a.m. in Room 116, State Capitol, Des Moines, Iowa. The following rules will be reviewed:

AGING, DEPARTMENT ON[17]

Long-term care resident's advocate/ombudsman, 8.1 to 8.7 Filed Emergency After Notice **ARC 8939B** 7/14/10

AGRICULTURE AND LAND STEWARDSHIP DEPARTMENT[21]

Reportable infectious and contagious animal diseases; fee schedule, 64.1, 64.30, 64.52,
64.55(1), 64.64, 64.71, 64.81, 64.101, 64.134 Notice **ARC 8976B** 7/28/10
Chronic wasting disease—monitoring, 65.9(2) Filed **ARC 8951B** 7/28/10

COMMUNITY ACTION AGENCIES DIVISION[427]

HUMAN RIGHTS DEPARTMENT[421]"umbrella"

Family development and self-sufficiency program, ch 15 Filed **ARC 8955B** 7/28/10

CORRECTIONS DEPARTMENT[201]

Electronic mail; appeals; medical care; parole board notification, 20.4, 44.1(2)"c," 45.1(6),
45.4(2), 47.3(4), 47.4(10) Notice **ARC 8926B** 7/14/10

CULTURAL AFFAIRS DEPARTMENT[221]

Cultural trust sustainability challenge grants, 13.5 Filed **ARC 8956B** 7/28/10

EDUCATIONAL EXAMINERS BOARD[282]

EDUCATION DEPARTMENT[281]"umbrella"

Disqualifying criminal convictions, 11.35(2)"a"(2) Notice **ARC 8971B** 7/28/10
Class A license requirements, 13.10(5) Filed **ARC 8957B** 7/28/10
Class B license not issued for driver's education endorsement, 13.11(1) Notice **ARC 8969B** 7/28/10
Application for substitute teacher license, 13.16(1) Notice **ARC 8961B** 7/28/10
Substitutes in driver's education classroom, 13.16(3) Notice **ARC 8968B** 7/28/10
Elementary school teacher librarian endorsement, 13.28(21) Notice **ARC 8965B** 7/28/10
Secondary school teacher librarian endorsement, 13.28(22) Notice **ARC 8966B** 7/28/10
School teacher librarian endorsement, 13.28(23) Notice **ARC 8967B** 7/28/10
Administrator licenses for applicants with standard and professional service licenses, 18.4
 Filed **ARC 8958B** 7/28/10
Paraeducator concentration area—students with vision impairments, 24.4(7) Notice **ARC 8960B** 7/28/10
Disqualifying criminal convictions, 25.3(1)"b"(1) Notice **ARC 8970B** 7/28/10
Specific requirements for a Class B license, 27.6 Filed **ARC 8959B** 7/28/10

HOMELAND SECURITY AND EMERGENCY MANAGEMENT DIVISION[605]

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Update of division name, 1.1, 1.2 Filed Without Notice **ARC 8932B** 7/14/10
Update of division name and address, 2.1 to 2.4 Filed Without Notice **ARC 8933B** 7/14/10

HUMAN SERVICES DEPARTMENT[441]

Medicaid coverage for mental health prescription drugs, 78.2(4)"a" Notice **ARC 8975B** 7/28/10
IowaCare—premiums, provider network, services, amendments to ch 92 Notice **ARC 8977B** 7/28/10

INSURANCE DIVISION[191]

COMMERCE DEPARTMENT[181]"umbrella"

Suitability in annuity transactions, 15.68 to 15.75 Filed **ARC 8934B** 7/14/10

IOWA FINANCE AUTHORITY[265]

Low-income housing tax credit program—qualified allocation plan, 12.1, 12.2
 Notice **ARC 8948B**, also Filed Emergency **ARC 8947B** 7/28/10
Military service member home ownership assistance program, 27.2 to 27.5
 Notice **ARC 8946B**, also Filed Emergency **ARC 8945B** 7/28/10
Recovery zone bond allocation, ch 37 Filed **ARC 8962B** 7/28/10
HOME partnership program, ch 39 Notice **ARC 8964B**, also Filed Emergency **ARC 8963B** 7/28/10

IOWA PUBLIC EMPLOYEES' RETIREMENT SYSTEM[495]

Covered wages; refunds; benefits, 4.8, 6.5(3), 9.3, 11.5, 13.2(9), 14.5, 14.16, 16.2
 Notice **ARC 8928B**, also Filed Emergency **ARC 8929B** 7/14/10

NATURAL RESOURCES DEPARTMENT[561]Groundwater hazard statement, 9.2(1) Filed **ARC 8950B** 7/28/10**NURSING BOARD[655]**

PUBLIC HEALTH DEPARTMENT[641]“umbrella”

Intravenous therapy scope of practice for LPNs, 6.1, 6.3, 6.5 Notice **ARC 8930B** 7/14/10**PROFESSIONAL LICENSURE DIVISION[645]**

PUBLIC HEALTH DEPARTMENT[641]“umbrella”

Board of mortuary science, amendments to chs 4, 100 to 102 Notice **ARC 8927B** 7/14/10**PUBLIC EMPLOYMENT RELATIONS BOARD[621]**

Practice and hearing procedures; elections; negotiations; impasse procedures, amendments

to chs 1, 2, 5 to 7, 9 Filed Without Notice **ARC 8953B** 7/28/10**PUBLIC HEALTH DEPARTMENT[641]**Iowa child death review team, 90.1, 90.3 to 90.9 Notice **ARC 8973B** 7/28/10Iowa domestic abuse death review team, 91.1 to 91.11 Notice **ARC 8974B** 7/28/10**PUBLIC SAFETY DEPARTMENT[661]**Criminal history and fingerprint records, rescind ch 11; adopt ch 82 Filed **ARC 8936B** 7/14/10

State building code—factory-built structures, 16.610

Notice **ARC 8938B**, also Filed Emergency **ARC 8937B** 7/14/10

Notification of law enforcement agency by hospital prior to discharge of a person with

serious mental impairment, ch 88 Notice **ARC 8941B**, also Filed Emergency **ARC 8942B** 7/28/10

Peace officers' retirement, accident, and disability system, amend chs 400 to 402; rescind ch

404 Filed Emergency After Notice **ARC 8935B** 7/14/10**REVENUE DEPARTMENT[701]**

Individual income, corporation and franchise tax, amendments to chs 10, 38, 40, 43, 44, 53,

59 Notice **ARC 8944B** 7/28/10

Tax credits—individual income, corporation and franchise tax, amendments to chs 38, 42,

51, 52, 57, 58 Notice **ARC 8954B** 7/28/10**SECRETARY OF STATE[721]**

Proposed constitutional amendment—Iowa's water and land legacy, 21.200(4)

Notice of Termination **ARC 8972B** 7/28/10**TREASURER OF STATE[781]**Accepting credit card payments, ch 8 Notice **ARC 8952B** 7/28/10**UTILITIES DIVISION[199]**

COMMERCE DEPARTMENT[181]“umbrella”

Small wind innovation zones, 15.19, 15.22 Filed **ARC 8949B** 7/28/10

Exterior flood lighting efficiency standards—LED and solid-state lighting, 35.15(3), 36.8(3)

Notice **ARC 8931B** 7/14/10**WORKERS' COMPENSATION DIVISION[876]**

WORKFORCE DEVELOPMENT DEPARTMENT[871]“umbrella”

Payroll tax tables, 8.8 Filed Emergency **ARC 8943B** 7/28/10

ADMINISTRATIVE RULES REVIEW COMMITTEE MEMBERS

Regular, statutory meetings are held the second Tuesday of each month at the seat of government as provided in Iowa Code section 17A.8. A special meeting may be called by the Chair at any place in the state and at any time.

EDITOR'S NOTE: Terms ending April 30, 2011.

Senator Merlin Bartz
2081 410th Street
Grafton, Iowa 50440

Senator Thomas Courtney
2200 Summer Street
Burlington, Iowa 52601

Senator Wally Horn
101 Stoney Point Road, SW
Cedar Rapids, Iowa 52404

Senator John P. Kibbie
P.O. Box 190
Emmetsburg, Iowa 50536

Senator James Seymour
901 White Street
Woodbine, Iowa 51579

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Legal Counsel
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Des Moines, Iowa 50319
Telephone (515)281-3084
Fax (515)281-8451

Representative Marcella R. Frevert
P.O. Box 324
Emmetsburg, Iowa 50536

Representative David Heaton
510 East Washington
Mt. Pleasant, Iowa 52641

Representative Tyler Olson
P.O. Box 2389
Cedar Rapids, Iowa 52406

Representative Nathan Reichert
1155 Iowa Avenue
Muscatine, Iowa 52761

Representative Linda Upmeyer
2175 Pine Avenue
Garner, Iowa 50438

James Larew
Administrative Rules Coordinator
Governor's Ex Officio Representative
Capitol, Room 11
Des Moines, Iowa 50319
Telephone (515)281-0208

CORRECTIONS DEPARTMENT[201]

Electronic mail; appeals; medical care; parole board notification, 20.4, 44.1(2)“c,” 45.1(6), 45.4(2), 47.3(4), 47.4(10) IAB 7/14/10 ARC 8926B	First Floor Conference Room Jessie M. Parker State Office Bldg. 510 E. 12th St. Des Moines, Iowa	August 3, 2010 11 a.m. to 1 p.m.
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EDUCATIONAL EXAMINERS BOARD[282]

Disqualifying criminal convictions, 11.35(2)“a”(2) IAB 7/28/10 ARC 8971B	Room 3 Southwest, Third Floor Grimes State Office Bldg. Des Moines, Iowa	August 18, 2010 1 p.m.
Class B license not issued for driver’s education endorsement, 13.11(1) IAB 7/28/10 ARC 8969B	Room 3 Southwest, Third Floor Grimes State Office Bldg. Des Moines, Iowa	August 18, 2010 1 p.m.
Application for substitute teacher license, 13.16(1) IAB 7/28/10 ARC 8961B	Room 3 Southwest, Third Floor Grimes State Office Bldg. Des Moines, Iowa	August 18, 2010 1 p.m.
Substitutes in driver’s education classroom, 13.16(3) IAB 7/28/10 ARC 8968B	Room 3 Southwest, Third Floor Grimes State Office Bldg. Des Moines, Iowa	August 18, 2010 1 p.m.
Elementary school teacher librarian endorsement, 13.28(21) IAB 7/28/10 ARC 8965B	Room 3 Southwest, Third Floor Grimes State Office Bldg. Des Moines, Iowa	August 18, 2010 1 p.m.
Secondary school teacher librarian endorsement, 13.28(22) IAB 7/28/10 ARC 8966B	Room 3 Southwest, Third Floor Grimes State Office Bldg. Des Moines, Iowa	August 18, 2010 1 p.m.
School teacher librarian endorsement, 13.28(23) IAB 7/28/10 ARC 8967B	Room 3 Southwest, Third Floor Grimes State Office Bldg. Des Moines, Iowa	August 18, 2010 1 p.m.
Paraeducator concentration area—students with vision impairments, 24.4(7) IAB 7/28/10 ARC 8960B	Room 3 Southwest, Third Floor Grimes State Office Bldg. Des Moines, Iowa	August 18, 2010 1 p.m.
Disqualifying criminal convictions, 25.3(1)“b”(1) IAB 7/28/10 ARC 8970B	Room 3 Southwest, Third Floor Grimes State Office Bldg. Des Moines, Iowa	August 18, 2010 1 p.m.

ENVIRONMENTAL PROTECTION COMMISSION[567]

Water quality standards—surface water classifications, 61.3(5) IAB 7/28/10 ARC 8978B (See also ARC 8599B , IAB 3/10/10)	Grant Room Jessie M. Parker State Office Bldg. 510 E. 12th St. Des Moines, Iowa	August 23, 2010 1 p.m.
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HUMAN SERVICES DEPARTMENT[441]

Medicaid coverage for mental health prescription drugs, 78.2(4)“a” IAB 7/28/10 ARC 8975B	Conference Room 7, Level A Hoover State Office Bldg. Des Moines, Iowa	August 18, 2010 9:30 to 10:30 a.m.
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INSURANCE DIVISION[191]

Retrospective payment of claims
for registered nurse practitioners
and physician assistants, 70.10
IAB 6/30/10 **ARC 8884B**

330 Maple St.
Des Moines, Iowa

July 29, 2010
10 a.m.

IOWA PUBLIC EMPLOYEES' RETIREMENT SYSTEM[495]

Covered wages; refunds; benefits,
4.8, 6.5(3), 9.3, 11.5, 13.2(9),
14.5, 14.16, 16.2
IAB 7/14/10 **ARC 8928B**
(See also **ARC 8929B**)

7401 Register Dr.
Des Moines, Iowa

August 3, 2010
9 a.m.

NURSING BOARD[655]

Intravenous therapy scope of
practice for LPNs, 6.1, 6.3, 6.5
IAB 7/14/10 **ARC 8930B**

Des Moines West Room, Holiday Inn
1050 6th Ave.
Des Moines, Iowa

September 15, 2010
6 p.m.

PROFESSIONAL LICENSURE DIVISION[645]

Board of mortuary science,
amendments to chs 4, 100 to 102
IAB 7/14/10 **ARC 8927B**

Fifth Floor Board Conference Room
Lucas State Office Bldg.
Des Moines, Iowa

August 3, 2010
10 to 10:30 a.m.

PUBLIC HEALTH DEPARTMENT[641]

Iowa domestic abuse death review
team, 91.1 to 91.11
IAB 7/28/10 **ARC 8974B**

Room 517
Lucas State Office Bldg.
Des Moines, Iowa

August 19, 2010
10 a.m.

PUBLIC SAFETY DEPARTMENT[661]

State building code—factory-built
structures, 16.610
IAB 7/14/10 **ARC 8938B**
(See also **ARC 8937B**)

First Floor Conference Room 125
Public Safety Headquarters Bldg.
215 E. 7th St.
Des Moines, Iowa

August 3, 2010
10 a.m.

Notification prior to hospital
discharge of mentally impaired
person, ch 88
IAB 7/28/10 **ARC 8941B**
(See also **ARC 8942B** herein)

First Floor Conference Room 125
Public Safety Headquarters Bldg.
215 E. 7th St.
Des Moines, Iowa

September 7, 2010
9:30 a.m.

TREASURER OF STATE[781]

Accepting credit card payments,
ch 8
IAB 7/28/10 **ARC 8952B**

Lucas Conference Room, First Floor
State Treasurer's Office
Lucas State Office Bldg.
Des Moines, Iowa

August 17, 2010
8:30 a.m.

UTILITIES DIVISION[199]

Exterior flood lighting efficiency
standards—LED and solid-state
lighting, 35.15(3), 36.8(3)
IAB 7/14/10 **ARC 8931B**

Board Hearing Room
350 Maple St.
Des Moines, Iowa

August 24, 2010
10 a.m.

The following list will be updated as changes occur.

“Umbrella” agencies and elected officials are set out below at the left-hand margin in CAPITAL letters.

Divisions (boards, commissions, etc.) are indented and set out in lowercase type under their statutory “umbrellas.”

Other autonomous agencies are included alphabetically in SMALL CAPITALS at the left-hand margin.

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ARC 8976B

AGRICULTURE AND LAND STEWARDSHIP DEPARTMENT[21]

Notice of Intended Action

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)“b.”

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code section 164.1(1), the Department of Agriculture and Land Stewardship hereby gives Notice of Intended Action to amend Chapter 64, “Infectious and Contagious Diseases,” Iowa Administrative Code.

The proposed amendments update the list of reportable infectious and contagious animal diseases and the fee schedule paid to veterinarians under this chapter.

Any interested persons may make written suggestions or comments on the proposed amendments on or before August 17, 2010. Written comments should be addressed to Margaret Thomson, Iowa Department of Agriculture and Land Stewardship, Wallace State Office Building, 502 E. 9th Street, Des Moines, Iowa 50319. Comments may be submitted by fax to (515)281-6236 or by E-mail to Margaret.Thomson@IowaAgriculture.gov.

These proposed amendments are subject to the Department’s general waiver provision.

These amendments are intended to implement Iowa Code sections 163.1, 163.2, and 164.6.

The following amendments are proposed.

ITEM 1. Amend rule 21—64.1(163) as follows:

21—64.1(163) Reporting disease. Whenever any person or persons who shall have knowledge of the existence of any infectious or contagious disease, such disease affecting the animals within the state or resulting in exposure thereto, which may prove detrimental to the health of the animals within the state, it shall be the duty of such person or persons to report the same in writing to the State Veterinarian, Bureau of Animal Industry, Wallace State Office Building, Des Moines, Iowa 50319, who shall then take such action as deemed necessary for the suppression and prevention of such disease. The diseases as classified by the Office of International Des Epizooties are included. The following named diseases are infectious or contagious and the diagnosis or suspected diagnosis of any of these diseases in animals must be reported promptly to the Iowa department of agriculture and land stewardship by the veterinarian making the diagnosis or suspected diagnosis:

~~List A and List B diseases as classified by the Office of International Des Epizooties~~

~~List A~~

~~African horse sickness~~

~~African swine fever~~

~~Bluetongue~~

~~Classical swine fever~~

~~Contagious bovine pleuropneumonia~~

~~Foot and mouth disease~~

~~Highly pathogenic avian influenza~~

~~Lumpy skin disease~~

~~Newcastle disease~~

~~Peste des petits ruminants~~

~~Rift Valley fever~~

~~Rinderpest~~

~~Sheep pox and goat pox~~

~~Swine vesicular disease~~

AGRICULTURE AND LAND STEWARDSHIP DEPARTMENT[21](cont'd)

Vesicular stomatitis

List B

Multiple-species diseases:

Anthrax

Aujeszky's disease

Echinococcosis/hydatidosis

Heartwater

Leptospirosis

New-world screwworm (*Cochliomyia hominivorax*)

Old-world screwworm (*Chrysomya bezziana*)

Paratuberculosis

Q fever

Rabies

Trichinellosis

Cattle diseases:

Bovine anaplasmosis

Bovine babesiosis

Bovine brucellosis

Bovine cysticercosis

Bovine genital campylobacteriosis

Bovine spongiform encephalopathy

Bovine tuberculosis

Dermatophilosis

Enzootic bovine leukosis

Haemorrhagic septicaemia

Infectious bovine rhinotracheitis/infectious pustular vulvovaginitis

Malignant catarrhal fever

Theileriosis

Trichomonosis

Trypanosomosis (tsetse-borne)

Sheep and goat diseases:

Caprine and ovine brucellosis (excluding *B. ovis*)

Caprine arthritis/encephalitis

Contagious agalactia

Contagious caprine pleuropneumonia

Enzootic abortion of ewes (ovine chlamydiosis)

Maedi-visna

Nairobi-sheep disease

Ovine epididymitis (*Brucella ovis*)

Ovine pulmonary adenomatosis

Salmonellosis (*S. abortusovis*)

Serapie

Swine diseases:

Atrophic rhinitis of swine

Enterovirus-encephalomyelitis

Porcine brucellosis

Porcine cysticercosis

Porcine reproductive and respiratory syndrome

Transmissible gastroenteritis

Equine diseases:

Contagious equine metritis

Dourine

AGRICULTURE AND LAND STEWARDSHIP DEPARTMENT[21](cont'd)

Epizootic lymphangitis
 Equine encephalomyelitis (Eastern and Western)
 Equine infectious anaemia
 Equine influenza
 Equine piroplasmosis
 Equine rhinopneumonitis
 Equine viral arteritis
 Glanders
 Horse mange
 Horse pox
 Japanese encephalitis
 Surra (*Trypanosoma evansi*)
 Venezuelan equine encephalomyelitis
 Avian diseases:
 Avian chlamydiosis
 Avian infectious bronchitis
 Avian infectious laryngotracheitis
 Avian mycoplasmosis (*M. gallisepticum*)
 Avian tuberculosis
 Duck virus enteritis
 Duck virus hepatitis
 Fowl cholera
 Fowl pox
 Fowl typhoid
 Infectious bursal disease (Gumboro disease)
 Low pathogenic avian influenza (H5 and H7 subtypes)
 Marek's disease
 Pullorum disease
 Other diseases:
 Chronic wasting disease

64.1(1) *Multiple species diseases.*

- Anthrax
- Aujeszky's disease
- Bluetongue
- Brucellosis (*Brucella abortus*)
- Brucellosis (*Brucella melitensis*)
- Brucellosis (*Brucella suis*)
- Criean Congo haemorrhagic fever
- Echinococcosis/hydatidosis
- Epizootic haemorrhagic disease
- Equine encephalomyelitis (Eastern)
- Foot and mouth disease
- Heartwater
- Japanese encephalitis
- Leptospirosis
- New world screwworm (*Cochliomyia hominivorax*)
- Old world screwworm (*Chrysomya bezziana*)
- Paratuberculosis
- Q fever
- Rabies
- Rift Valley fever
- Rinderpest

AGRICULTURE AND LAND STEWARDSHIP DEPARTMENT[21](cont'd)

- Surra (Trypanosoma evansi)
- Trichinellosis
- Tularemia
- Vesicular stomatitis
- West Nile fever
- **64.1(2) *Cattle diseases.***
- Bovine anaplasmosis
- Bovine babesiosis
- Bovine genital campylobacteriosis
- Bovine spongiform encephalopathy
- Bovine tuberculosis
- Bovine viral diarrhoea
- Contagious bovine pleuropneumonia
- Enzootic bovine leukosis
- Haemorrhagic septicaemia
- Infectious bovine rhinotracheitis/infectious pustular vulvovaginitis
- Lumpy skin disease
- Theileriosis
- Trichomonosis
- Trypanosomosis (tsetse-transmitted)
- **64.1(3) *Swine diseases.***
- African swine fever
- Classical swine fever
- Nipah virus encephalitis
- Porcine cysticercosis
- Porcine reproductive and respiratory syndrome
- Swine vesicular disease
- Transmissible gastroenteritis
- **64.1(4) *Sheep and goat diseases.***
- Caprine arthritis/encephalitis
- Contagious agalactia
- Contagious caprine pleuropneumonia
- Enzootic abortion of ewes (ovine chlamydiosis)
- Maedi-visna
- Nairobi sheep disease
- Ovine epididymitis (Brucella ovis)
- Peste des petits ruminants
- Salmonellosis (S. abortusovis)
- Scrapie
- Sheep pox and goat pox
- **64.1(5) *Equine diseases.***
- African horse sickness
- Contagious equine metritis
- Dourine
- Equine encephalomyelitis (Western)
- Equine infectious anaemia
- Equine influenza
- Equine piroplasmiasis
- Equine rhinopneumonitis
- Equine viral arteritis
- Glanders
- Venezuelan equine encephalomyelitis

AGRICULTURE AND LAND STEWARDSHIP DEPARTMENT[21](cont'd)

64.1(6) *Avian diseases.*

- Avian chlamydiosis
- Avian infectious bronchitis
- Avian infectious laryngotracheitis
- Avian mycoplasmosis (M. gallisepticum)
- Avian mycoplasmosis (M. synoviae)
- Duck virus hepatitis
- Fowl cholera
- Fowl typhoid
- Highly pathogenic avian influenza and low pathogenic avian influenza in poultry
- Infectious bursal disease (Gumboro disease)
- Marek's disease
- Newcastle disease
- Pullorum disease
- Turkey rhinotracheitis

64.1(7) *Lagomorph diseases.*

- Myxomatosis
- Rabbit haemorrhagic disease

64.1(8) *Fish diseases.*

- Epizootic haematopoietic necrosis
- Epizootic ulcerative syndrome
- Gyrodactylosis (Gyrodactylus salaris)
- Infectious haematopoietic necrosis
- Infectious salmon anaemia
- Koi herpesvirus disease
- Red sea bream iridoviral disease
- Spring viraemia of carp
- Viral haemorrhagic septicaemia

64.1(9) *Mollusc diseases.*

- Infection with abalone herpes-like virus
- Infection with Bonamia exitiosa
- Infection with Bonamia ostreae
- Infection with Marteilia refringens
- Infection with Perkinsus marinus
- Infection with Perkinsus olseni
- Infection with Xenohaliotis californiensis

64.1(10) *Crustacean diseases.*

- Crayfish plague (Aphanomyces astaci)
- Infectious hypodermal and haematopoietic necrosis
- Infectious myonecrosis
- Taura syndrome
- White spot disease
- White tail disease
- Yellowhead disease

64.1(11) *Amphibian diseases.*

- Infection with Batrachochytrium dendrobatidis
- Infection with ranavirus

64.1(12) *Other diseases.*

- Camel pox
- Chronic wasting disease
- Leishmaniasis

AGRICULTURE AND LAND STEWARDSHIP DEPARTMENT[21](cont'd)

Reporting is required for any case or suspicious case of an animal having any disease that may be caused by bioterrorism, epidemic or pandemic disease, or novel or highly fatal infectious agents or biological toxins and that might pose a substantial risk of a significant number of animal fatalities, incidents of acute short-term illness in animals, or incidents of permanent or long-term disability in animals.

This rule is intended to implement Iowa Code sections 163.1, 163.2, 189A.12, 189A.13 and 197.5.

ITEM 2. Amend rule 21—64.30(163) as follows:

21—64.30(163) Scabies or mange quarantine. Whenever the ~~chief of division of animal industry~~ state veterinarian shall have knowledge of any horses, cattle, sheep or swine affected with scabies or mange, owners of any horses, cattle, sheep or swine affected shall ~~dip~~ medicate the animals at intervals ~~and at the dips as the chief of the division of animal industry~~ the state veterinarian deems necessary with a method approved by the state veterinarian.

This rule is intended to implement Iowa Code section 166A.8.

ITEM 3. Amend subrules 64.52(2) and 64.52(3) as follows:

64.52(2) Official vaccinates. ~~(Defined by law). All official vaccinates must be given an identification tag in the right ear, and in addition must be tattooed or branded in accordance with Iowa Code chapter 164. An animal vaccinated with RB-51 brucella abortus vaccine must have an official identification tag in the right ear or an individual animal registration tattoo. Additionally, the animal must be tattooed in the right ear with the U.S. Registered Shield and the letter "V," which shall be preceded by a letter "R" and followed by a number corresponding to the last digit of the year in which the animal was vaccinated.~~

64.52(3) Reactor identification. Bovine-reactor cattle eight months of age or over shall be permanently branded with a hot iron on the ~~left jaw~~ tailhead over the fourth to the seventh coccygeal vertebrae with the letter "B" not less than two inches nor more than three inches high and shall also be tagged in the left ear with a reactor identification tag approved by the department within 15 days of the date on which they were disclosed as reactors. This subrule shall not apply to official calfood vaccination as defined in Iowa Code section 164.1. Such vaccinates need not be branded if they react to the brucellosis test until 30 months of age.

ITEM 4. Amend subrule 64.55(1) as follows:

64.55(1) All brucellosis tests conducted at state-federal expense must be ~~tested~~ performed at the a state-federal laboratory, ~~Des Moines, Iowa~~ as determined by the department.

ITEM 5. Amend rule 21—64.64(164) as follows:

21—64.64(164) Fee schedule.

64.64(1) Bleeding. ~~Fifteen~~ Thirty dollars per stop (herd) and ~~two five dollars fifty cents~~ per head for the first ten bled, and two dollars per head for all cattle bled thereafter.

64.64(2) Tagging and branding reactors. Fifteen dollars for the first reactor and ~~two five dollars fifty cents~~ for each additional reactor.

This rule is intended to implement Iowa Code section 164.6.

ITEM 6. Amend rule 21—64.71(163A) as follows:

21—64.71(163A) Fee schedule.

64.71(1) Bleeding. ~~Fifteen~~ Thirty dollars per stop (herd) and ~~two five dollars fifty cents~~ per head for the first ten bled and two dollars per head for all animals bled thereafter.

64.71(2) Tagging of reactors. ~~Fifteen~~ Thirty dollars per stop (herd) and two dollars per head for all swine tagged.

This rule is intended to implement Iowa Code section 163A.12.

AGRICULTURE AND LAND STEWARDSHIP DEPARTMENT[21](cont'd)

ITEM 7. Amend rule 21—64.81(163) as follows:

21—64.81(163) Tuberculin reactors. All herds of breeding cattle in counties that are under state and federal supervision for the eradication of tuberculosis in which reactors have been found may be held in quarantine until they have passed a negative tuberculin test.

All cattle that react to the tuberculin test, as well as those which show physical evidence of tuberculosis, shall be marked for identification by branding with the letter “T” not less than two or more than three inches high on the ~~left jaw~~ hip near the tailhead, and to the left ear shall be attached a metal tag bearing a serial number and the inscription “REACTOR”.

This rule is intended to implement Iowa Code section 165.4.

ITEM 8. Amend subrules 64.101(1) and 64.101(2) as follows:

64.101(1) Injection. ~~Ten Thirty~~ Thirty dollars per stop (herd) and ~~one dollar twenty-five cents~~ two dollars per head.

64.101(2) Reading. ~~Ten Thirty~~ Thirty dollars per stop (herd) and ~~one dollar~~ two dollars per head.

ITEM 9. Amend subrules 64.134(1) and 64.134(2) as follows:

64.134(1) Injection. ~~Ten Thirty~~ Thirty dollars per stop (herd) and ~~one dollar~~ two dollars per head.

64.134(2) Reading. ~~Ten thirty~~ thirty dollars per stop (herd) and ~~seventy-five cents~~ one dollar per head.

CIVIL REPARATIONS TRUST FUND

Pursuant to Iowa Administrative Code 361—subrule 12.2(1), the Executive Council gives Notice that the Civil Reparations Trust Fund balance as of June 30, 2010, is approximately \$5,539.00. Money in the Civil Reparations Trust Fund is available for use for indigent civil litigation programs or insurance assistance programs. Application forms are available in the office of the State Treasurer by contacting GeorgAnna Madsen, Executive Secretary, State Capitol Room 114, Des Moines, Iowa 50319; telephone (515)281-5368. Applications must be filed on the thirtieth day after the date of publication of this Notice in the Iowa Administrative Bulletin, or on the thirtieth day after the date affixed to the Notice sent by first-class mail, whichever is later. Any person/company that would like to receive future notices should make request in writing to the above-mentioned contact. Rules regarding the Civil Reparations Trust Fund can be found at 361 IAC Chapter 12.

ARC 8971B

EDUCATIONAL EXAMINERS BOARD[282]

Notice of Intended Action

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)“b.”

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code section 272.2, the Board of Educational Examiners hereby gives Notice of Intended Action to amend Chapter 11, “Complaints, Investigations, Contested Case Hearings,” Iowa Administrative Code.

2010 Iowa Acts, House File 2286, amended Iowa Code section 272.2, subsection 14, paragraph “b,” subparagraph (1), subparagraph division (b), subparagraph (iii), to remove the language regarding a detention in a brothel. This same language is in the Board’s rules and therefore must be amended.

A waiver provision is not included. The Board has adopted a uniform waiver rule.

Any interested party or persons may present their views either orally or in writing at the public hearing that will be held Wednesday, August 18, 2010, at 1 p.m. in Room 3 Southwest, Third Floor, Grimes State Office Building, East 14th Street and Grand Avenue, Des Moines, Iowa.

EDUCATIONAL EXAMINERS BOARD[282](cont'd)

At the hearing, persons will be asked to give their names and addresses for the record and to confine their remarks to the subject of the proposed amendment. Persons who wish to make oral presentations at the public hearing may contact the Executive Director, Board of Educational Examiners, Grimes State Office Building, East 14th Street and Grand Avenue, Des Moines, Iowa 50319-0147, or at (515)281-5849, prior to the date of the public hearing.

Any person who intends to attend the public hearing and requires special accommodations for specific needs, such as a sign language interpreter, should contact the office of the Executive Director at (515)281-5849.

Any interested person may make written comments or suggestions on the proposed amendment before 4 p.m. on Friday, August 20, 2010. Written comments and suggestions should be addressed to Kim Cunningham, Board Secretary, Board of Educational Examiners, at the above address, or sent by E-mail to kim.cunningham@iowa.gov, or by fax to (515)281-7669.

This amendment is intended to implement Iowa Code chapter 272 as amended by 2010 Iowa Acts, House File 2286.

The following amendment is proposed.

Amend subparagraph **11.35(2)“a”(2)** as follows:

(2) Any of the following criminal sexual offenses, as provided in Iowa Code chapter 709, involving a child:

1. First-, second- or third-degree sexual abuse committed on or with a person who is under the age of 18;
2. Lascivious acts with a child;
3. ~~Detention in a brothel;~~
4. 3. Assault with intent to commit sexual abuse;
5. 4. Indecent contact with a child;
6. 5. Sexual exploitation by a counselor; or
7. 6. Lascivious conduct with a minor;

ARC 8969B

EDUCATIONAL EXAMINERS BOARD[282]

Notice of Intended Action

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)“b.”

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code section 272.2, the Board of Educational Examiners hereby gives Notice of Intended Action to amend Chapter 13, “Issuance of Teacher Licenses and Endorsements,” Iowa Administrative Code.

This amendment states that a Class B license cannot be issued for the driver’s education endorsement. The decision was made not to allow a Class B license to be issued for driver’s education. The endorsement is only nine hours in total.

A waiver provision is not included. The Board has adopted a uniform waiver rule.

Any interested party or persons may present their views either orally or in writing at the public hearing that will be held Wednesday, August 18, 2010, at 1 p.m. in Room 3 Southwest, Third Floor, Grimes State Office Building, East 14th Street and Grand Avenue, Des Moines, Iowa.

At the hearing, persons will be asked to give their names and addresses for the record and to confine their remarks to the subject of the proposed amendment. Persons who wish to make oral presentations at the public hearing may contact the Executive Director, Board of Educational Examiners, Grimes

EDUCATIONAL EXAMINERS BOARD[282](cont'd)

State Office Building, East 14th Street and Grand Avenue, Des Moines, Iowa 50319-0147, or at (515)281-5849, prior to the date of the public hearing.

Any person who intends to attend the public hearing and requires special accommodations for specific needs, such as a sign language interpreter, should contact the office of the Executive Director at (515)281-5849.

Any interested person may make written comments or suggestions on the proposed amendment before 4 p.m. on Friday, August 20, 2010. Written comments and suggestions should be addressed to Kim Cunningham, Board Secretary, Board of Educational Examiners, at the above address, or sent by E-mail to kim.cunningham@iowa.gov, or by fax to (515)281-7669.

This amendment is intended to implement Iowa Code chapter 272.

The following amendment is proposed.

Amend subrule 13.11(1) as follows:

13.11(1) *Endorsement in progress.* The individual has a valid license and one or more endorsements, but is seeking to obtain some other endorsement. A Class B license may be issued if requested by an employer and if the individual seeking to obtain some other endorsement has completed at least two-thirds of the requirements, or one-half of the content requirements in a state-designated shortage area, leading to completion of all requirements for the endorsement. A Class B license may not be issued for the driver's education endorsement.

ARC 8961B**EDUCATIONAL EXAMINERS BOARD[282]****Notice of Intended Action**

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)“b.”

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code section 272.2, the Board of Educational Examiners hereby gives Notice of Intended Action to amend Chapter 13, “Issuance of Teacher Licenses and Endorsements,” Iowa Administrative Code.

This amendment is intended to bring the rule into compliance with previous changes. This amendment establishes that the applicant must have a degree before the applicant can apply for a substitute license. Previously, an applicant could apply for a substitute license upon completion of student teaching and before graduation.

A waiver provision is not included. The Board has adopted a uniform waiver rule.

Any interested party or persons may present their views either orally or in writing at the public hearing that will be held Wednesday, August 18, 2010, at 1 p.m. in Room 3 Southwest, Third Floor, Grimes State Office Building, East 14th Street and Grand Avenue, Des Moines, Iowa.

At the hearing, persons will be asked to give their names and addresses for the record and to confine their remarks to the subject of the proposed amendment. Persons who wish to make oral presentations at the public hearing may contact the Executive Director, Board of Educational Examiners, Grimes State Office Building, East 14th Street and Grand Avenue, Des Moines, Iowa 50319-0147, or at (515)281-5849, prior to the date of the public hearing.

Any person who intends to attend the public hearing and requires special accommodations for specific needs, such as a sign language interpreter, should contact the office of the Executive Director at (515)281-5849.

Any interested person may make written comments or suggestions on the proposed amendment before 4 p.m. on Friday, August 20, 2010. Written comments and suggestions should be addressed to Kim

EDUCATIONAL EXAMINERS BOARD[282](cont'd)

Cunningham, Board Secretary, Board of Educational Examiners, at the above address, or sent by E-mail to kim.cunningham@iowa.gov, or by fax to (515)281-7669.

This amendment is intended to implement Iowa Code chapter 272.

The following amendment is proposed.

Amend subrule 13.16(1) as follows:

13.16(1) *Substitute teacher requirements.* A substitute teacher's license may be issued to an individual who:

a. No change.

~~*b.* Has successfully completed all requirements of an approved teacher education program and is eligible for the initial license, but has not applied for and been issued this license, or who meets all requirements for the initial license with the exception of the degree but whose degree will be granted at the next regular commencement; or~~

e. b. Has successfully completed all requirements of an approved Iowa teacher education program, but did not apply for an Iowa teacher's license at the time of completion of the approved program.

ARC 8968B

EDUCATIONAL EXAMINERS BOARD[282]

Notice of Intended Action

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)“b.”

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code section 272.2, the Board of Educational Examiners hereby gives Notice of Intended Action to amend Chapter 13, “Issuance of Teacher Licenses and Endorsements,” Iowa Administrative Code.

The decision was made to limit who may substitute in a driver's education classroom because of the liability issues. After consulting with a representative from the Department of Transportation, the Board decided that a person who holds a substitute license should not be allowed to substitute in a driver's education classroom.

A waiver provision is not included. The Board has adopted a uniform waiver rule.

Any interested party or persons may present their views either orally or in writing at the public hearing that will be held Wednesday, August 18, 2010, at 1 p.m. in Room 3 Southwest, Third Floor, Grimes State Office Building, East 14th Street and Grand Avenue, Des Moines, Iowa.

At the hearing, persons will be asked to give their names and addresses for the record and to confine their remarks to the subject of the proposed amendment. Persons who wish to make oral presentations at the public hearing may contact the Executive Director, Board of Educational Examiners, Grimes State Office Building, East 14th Street and Grand Avenue, Des Moines, Iowa 50319-0147, or at (515)281-5849, prior to the date of the public hearing.

Any person who intends to attend the public hearing and requires special accommodations for specific needs, such as a sign language interpreter, should contact the office of the Executive Director at (515)281-5849.

Any interested person may make written comments or suggestions on the proposed amendment before 4 p.m. on Friday, August 20, 2010. Written comments and suggestions should be addressed to Kim Cunningham, Board Secretary, Board of Educational Examiners, at the above address, or sent by E-mail to kim.cunningham@iowa.gov, or by fax to (515)281-7669.

This amendment is intended to implement Iowa Code chapter 272.

The following amendment is proposed.

EDUCATIONAL EXAMINERS BOARD[282](cont'd)

Amend subrule 13.16(3) as follows:

13.16(3) Authorization. The holder of a substitute license is authorized to teach in any school system in any position in which a regularly licensed teacher was employed to begin the school year except for in the driver's education classroom. In addition to the authority inherent in the initial, standard, master educator, professional administrator, two-year exchange, and permanent professional licenses and the endorsement(s) held, the holder of one of these regular licenses may substitute on the same basis as the holder of a substitute license while the regular license is in effect.

ARC 8965B**EDUCATIONAL EXAMINERS BOARD[282]****Notice of Intended Action**

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)“b.”

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code section 272.2, the Board of Educational Examiners hereby gives Notice of Intended Action to amend Chapter 13, “Issuance of Teacher Licenses and Endorsements,” Iowa Administrative Code.

The field of librarianship has changed significantly since the librarian endorsements were last reviewed in 1985. These changes update the endorsement to better reflect the skills needed for today's school library services.

A waiver provision is not included. The Board has adopted a uniform waiver rule.

Any interested party or persons may present their views either orally or in writing at the public hearing that will be held Wednesday, August 18, 2010, at 1 p.m. in Room 3 Southwest, Third Floor, Grimes State Office Building, East 14th Street and Grand Avenue, Des Moines, Iowa.

At the hearing, persons will be asked to give their names and addresses for the record and to confine their remarks to the subject of the proposed amendment. Persons who wish to make oral presentations at the public hearing may contact the Executive Director, Board of Educational Examiners, Grimes State Office Building, East 14th Street and Grand Avenue, Des Moines, Iowa 50319-0147, or at (515)281-5849, prior to the date of the public hearing.

Any person who intends to attend the public hearing and requires special accommodations for specific needs, such as a sign language interpreter, should contact the office of the Executive Director at (515)281-5849.

Any interested person may make written comments or suggestions on the proposed amendment before 4 p.m. on Friday, August 20, 2010. Written comments and suggestions should be addressed to Kim Cunningham, Board Secretary, Board of Educational Examiners, at the above address, or sent by E-mail to kim.cunningham@iowa.gov, or by fax to (515)281-7669.

This amendment is intended to implement Iowa Code chapter 272.

The following amendment is proposed.

Amend subrule 13.28(21) as follows:

13.28(21) Elementary school teacher librarian.

a. Authorization. The holder of this endorsement is authorized to serve as a teacher librarian in kindergarten and grades one through eight.

b. Program requirements.

- (1) Degree—baccalaureate.
- (2) Completion of an approved human relations program.
- (3) Completion of the professional education core. See subrules 13.18(3) and 13.18(4).

EDUCATIONAL EXAMINERS BOARD[282](cont'd)

c. Content—prior to September 1, 2012. The following requirements apply for endorsements issued prior to September 1, 2012. Completion of 24 semester hours in school library coursework to include the following:

- (1) Knowledge of materials and literature in all formats for elementary children.
- (2) Selection, utilization and evaluation of library resources and equipment.
- (3) Design and production of instructional materials.
- (4) Acquisition, cataloging and classification of library materials.
- (5) Information literacy, reference services and networking.
- (6) Planning, evaluation and administration of school library programs.
- (7) Practicum in an elementary school media center/library.

d. Content—effective on and after September 1, 2012. The following requirements apply for endorsements issued on and after September 1, 2012. Completion of 24 semester hours in school library coursework to include the following:

- (1) Literacy and reading.
 1. Practitioners collaborate with other teachers to integrate developmentally appropriate literature in multiple formats to support literacy in children.
 2. Practitioners demonstrate knowledge of resources and strategies to foster leisure reading and model personal enjoyment of reading among children, based on familiarity with selection tools and current trends in literature for children.
- (2) Information and knowledge.
 1. Practitioners teach multiple strategies to locate, evaluate, and ethically use information in the context of inquiry-based learning.
 2. Practitioners advocate for flexible and open access to library resources, both physical and virtual.
 3. Practitioners uphold and promote the legal and ethical codes of the profession including privacy, confidentiality, freedom and equity of access to information.
 4. Practitioners use skills and knowledge to assess reference sources, services, and tools in order to mediate between information needs and resources to assist learners in determining what they need.
 5. Practitioners model and facilitate authentic learning with current and emerging digital tools for locating, analyzing, evaluating and ethically using information resources to support research, learning, creating, and communicating in a digital society.
 6. Practitioners demonstrate knowledge of creative and innovative uses of technologies to engage students and facilitate higher-level thinking.
 7. Practitioners develop an articulated information literacy curriculum grounded in research in the information search process.
- (3) Program administration and leadership.
 1. Practitioners evaluate and select print, nonprint, and digital resources using professional selection tools and evaluation criteria to develop and manage a quality collection designed to meet the diverse curricular, personal, and professional needs of the educational community.
 2. Practitioners demonstrate knowledge to organize the library collections according to current, standard library cataloging and classification principles.
 3. Practitioners develop policies and procedures to support ethical use of information, intellectual freedom, selection, reconsideration, and the privacy of users.

ARC 8966B**EDUCATIONAL EXAMINERS BOARD[282]****Notice of Intended Action**

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)“b.”

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code section 272.2, the Board of Educational Examiners hereby gives Notice of Intended Action to amend Chapter 13, “Issuance of Teacher Licenses and Endorsements,” Iowa Administrative Code.

The field of librarianship has changed significantly since the librarian endorsements were last reviewed in 1985. These changes update the endorsement to better reflect the skills needed for today’s school library services.

A waiver provision is not included. The Board has adopted a uniform waiver rule.

Any interested party or persons may present their views either orally or in writing at the public hearing that will be held Wednesday, August 18, 2010, at 1 p.m. in Room 3 Southwest, Third Floor, Grimes State Office Building, East 14th Street and Grand Avenue, Des Moines, Iowa.

At the hearing, persons will be asked to give their names and addresses for the record and to confine their remarks to the subject of the proposed amendment. Persons who wish to make oral presentations at the public hearing may contact the Executive Director, Board of Educational Examiners, Grimes State Office Building, East 14th Street and Grand Avenue, Des Moines, Iowa 50319-0147, or at (515)281-5849, prior to the date of the public hearing.

Any person who intends to attend the public hearing and requires special accommodations for specific needs, such as a sign language interpreter, should contact the office of the Executive Director at (515)281-5849.

Any interested person may make written comments or suggestions on the proposed amendment before 4 p.m. on Friday, August 20, 2010. Written comments and suggestions should be addressed to Kim Cunningham, Board Secretary, Board of Educational Examiners, at the above address, or sent by E-mail to kim.cunningham@iowa.gov, or by fax to (515)281-7669.

This amendment is intended to implement Iowa Code chapter 272.

The following amendment is proposed.

Amend subrule 13.28(22) as follows:

13.28(22) *Secondary school teacher librarian.*

a. Authorization. The holder of this endorsement is authorized to serve as a teacher librarian in grades five through twelve.

b. Program requirements.

- (1) Degree—baccalaureate.
- (2) Completion of an approved human relations program.
- (3) Completion of the professional education core. See subrules 13.18(3) and 13.18(4).

c. Content—prior to September 1, 2012. The following requirements apply for endorsements issued prior to September 1, 2012. Completion of 24 semester hours in school library coursework to include the following:

- (1) Knowledge of materials and literature in all formats for adolescents.
- (2) Selection, utilization and evaluation of library resources and equipment.
- (3) Design and production of instructional materials.
- (4) Acquisition, cataloging and classification of library materials.
- (5) Information literacy, reference services and networking.
- (6) Planning, evaluation and administration of school library programs.

EDUCATIONAL EXAMINERS BOARD[282](cont'd)

(7) Practicum in a secondary school media center/library.

d. Content—effective on and after September 1, 2012. The following requirements apply for endorsements issued on and after September 1, 2012. Completion of 24 semester hours in school library coursework to include the following:

(1) Literacy and reading.

1. Practitioners collaborate with other teachers to integrate developmentally appropriate literature in multiple formats to support literacy in young adults.

2. Practitioners demonstrate knowledge of resources and strategies to foster leisure reading and model personal enjoyment of reading among young adults, based on familiarity with selection tools and current trends in literature for young adults.

(2) Information and knowledge.

1. Practitioners teach multiple strategies to locate, evaluate, and ethically use information in the context of inquiry-based learning.

2. Practitioners advocate for flexible and open access to library resources, both physical and virtual.

3. Practitioners uphold and promote the legal and ethical codes of the profession including privacy, confidentiality, freedom and equity of access to information.

4. Practitioners use skills and knowledge to assess reference sources, services, and tools in order to mediate between information needs and resources to assist learners in determining what they need.

5. Practitioners model and facilitate authentic learning with current and emerging digital tools for locating, analyzing, evaluating and ethically using information resources to support research, learning, creating, and communicating in a digital society.

6. Practitioners demonstrate knowledge of creative and innovative uses of technologies to engage students and facilitate higher-level thinking.

7. Practitioners develop an articulated information literacy curriculum grounded in research in the information search process.

(3) Program administration and leadership.

1. Practitioners evaluate and select print, nonprint, and digital resources using professional selection tools and evaluation criteria to develop and manage a quality collection designed to meet the diverse curricular, personal, and professional needs of the educational community.

2. Practitioners demonstrate knowledge to organize the library collections according to current, standard library cataloging and classification principles.

3. Practitioners develop policies and procedures to support ethical use of information, intellectual freedom, selection, reconsideration, and the privacy of users.

4. Practitioners develop strategies for working with regular classroom teachers, support services personnel, paraprofessionals, and other individuals involved in the educational program.

(4) Practicum.

1. Practitioners apply knowledge of learning styles, stages of human growth and development, and cultural influences of learning at the secondary level.

2. Practitioners implement the principles of effective teaching and learning that contribute to an active, inquiry-based approach to learning in a digital environment at the secondary level.

3. Practitioners understand the teacher librarian role in curriculum development and the school improvement process at the secondary level.

ARC 8967B**EDUCATIONAL EXAMINERS BOARD[282]****Notice of Intended Action**

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)“b.”

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code section 272.2, the Board of Educational Examiners hereby gives Notice of Intended Action to amend Chapter 13, “Issuance of Teacher Licenses and Endorsements,” Iowa Administrative Code.

The field of librarianship has changed significantly since the librarian endorsements were last reviewed in 1985. These changes update the endorsement to better reflect the skills needed for today’s school library services.

A waiver provision is not included. The Board has adopted a uniform waiver rule.

Any interested party or persons may present their views either orally or in writing at the public hearing that will be held Wednesday, August 18, 2010, at 1 p.m. in Room 3 Southwest, Third Floor, Grimes State Office Building, East 14th Street and Grand Avenue, Des Moines, Iowa.

At the hearing, persons will be asked to give their names and addresses for the record and to confine their remarks to the subject of the proposed amendment. Persons who wish to make oral presentations at the public hearing may contact the Executive Director, Board of Educational Examiners, Grimes State Office Building, East 14th Street and Grand Avenue, Des Moines, Iowa 50319-0147, or at (515)281-5849, prior to the date of the public hearing.

Any person who intends to attend the public hearing and requires special accommodations for specific needs, such as a sign language interpreter, should contact the office of the Executive Director at (515)281-5849.

Any interested person may make written comments or suggestions on the proposed amendment before 4 p.m. on Friday, August 20, 2010. Written comments and suggestions should be addressed to Kim Cunningham, Board Secretary, Board of Educational Examiners, at the above address, or sent by E-mail to kim.cunningham@iowa.gov, or by fax to (515)281-7669.

This amendment is intended to implement Iowa Code chapter 272.

The following amendment is proposed.

Amend subrule 13.28(23) as follows:

13.28(23) School teacher librarian. K PK-12.

a. Authorization. The holder of this endorsement is authorized to serve as a teacher librarian in ~~kindergarten and grades one~~ prekindergarten through grade twelve. The applicant must be the holder of or eligible for the initial license.

b. Program requirements. Degree—master’s.

c. Content—prior to September 1, 2012. The following requirements apply for endorsements issued prior to September 1, 2012. Completion of a sequence of courses and experiences which may have been part of, or in addition to, the degree requirements. This sequence is to be at least 30 semester hours in school library coursework, to include the following:

- (1) Planning, evaluation and administration of school library programs.
- (2) Curriculum development and teaching and learning strategies.
- (3) Instructional development and communication theory.
- (4) Selection, evaluation and utilization of library resources and equipment.
- (5) Acquisition, cataloging and classification of library materials.
- (6) Design and production of instructional materials.
- (7) Methods for instruction and integration of information literacy skills into the school curriculum.

EDUCATIONAL EXAMINERS BOARD[282](cont'd)

- (8) Information literacy, reference services and networking.
- (9) Knowledge of materials and literature in all formats for elementary children and adolescents.
- (10) Reading, listening and viewing guidance.
- (11) Utilization and application of computer technology.
- (12) Practicum at both the elementary and secondary levels.
- (13) Research in library and information science.

d. Content—effective on and after September 1, 2012. The following requirements apply for endorsements issued on and after September 1, 2012. Completion of a sequence of courses and experiences which may have been part of, or in addition to, the degree requirements. This sequence is to be at least 30 semester hours in school library coursework, to include the following:

(1) Literacy and reading.

1. Practitioners collaborate with other teachers to integrate developmentally appropriate literature in multiple formats to support literacy for youth of all ages.

2. Practitioners demonstrate knowledge of resources and strategies to foster leisure reading and model personal enjoyment of reading, based on familiarity with selection tools and current trends in literature for youth of all ages.

3. Practitioners understand how to develop a collection of reading and informational materials in print and digital formats that supports the diverse developmental, cultural, social and linguistic needs of all learners and their communities.

4. Practitioners have skills to model and teach reading comprehension strategies to create meaning from text for youth of all ages.

(2) Information and knowledge.

1. Practitioners teach multiple strategies to locate, evaluate, and ethically use information in the context of inquiry-based learning.

2. Practitioners advocate for flexible and open access to library resources, both physical and virtual.

3. Practitioners uphold and promote the legal and ethical codes of the profession including privacy, confidentiality, freedom and equity of access to information.

4. Practitioners use skills and knowledge to assess reference sources, services, and tools in order to mediate between information needs and resources to assist learners in determining what they need.

5. Practitioners model and facilitate authentic learning with current and emerging digital tools for locating, analyzing, evaluating and ethically using information resources to support research, learning, creating, and communicating in a digital society.

6. Practitioners demonstrate knowledge of creative and innovative uses of technologies to engage students and facilitate higher-level thinking.

7. Practitioners understand the process of collecting, interpreting, and using data to create new knowledge to improve the school library program.

8. Practitioners employ the methods of research in library and information science.

9. Practitioners develop an articulated information literacy curriculum grounded in research in the information search process.

(3) Program administration and leadership.

1. Practitioners evaluate and select print, nonprint, and digital resources using professional selection tools and evaluation criteria to develop and manage a quality collection designed to meet the diverse curricular, personal, and professional needs of the educational community.

2. Practitioners demonstrate knowledge to organize the library collections according to current, standard library cataloging and classification principles.

3. Practitioners demonstrate knowledge of best practices related to planning, budgeting (including alternative funding), organizing, and evaluating human and information resources and facilities to ensure equitable access.

4. Practitioners understand strategic planning to ensure that the school library program addresses the needs of diverse communities.

EDUCATIONAL EXAMINERS BOARD[282](cont'd)

5. Practitioners develop policies and procedures to support ethical use of information, intellectual freedom, selection, reconsideration, and the privacy of users of all ages.

6. Practitioners advocate for school library and information programs, resources, and services among stakeholders.

7. Practitioners promote initiatives and partnerships to further the mission and goals of the school library program.

8. Practitioners develop strategies for working with regular classroom teachers, support services personnel, paraprofessionals, and other individuals involved in the educational program.

(4) Practicum.

1. Practitioners apply knowledge of learning styles, stages of human growth and development, and cultural influences of learning at the elementary and secondary levels.

2. Practitioners implement the principles of effective teaching and learning that contribute to an active, inquiry-based approach to learning in a digital environment at the elementary and secondary levels.

3. Practitioners understand the teacher librarian role in curriculum development and the school improvement process at the elementary and secondary levels.

4. Practitioners collaborate to integrate information literacy and emerging technologies into content area curricula.

ARC 8960B

EDUCATIONAL EXAMINERS BOARD[282]

Notice of Intended Action

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)“b.”

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code section 272.2, the Board of Educational Examiners hereby gives Notice of Intended Action to amend Chapter 24, “Paraeducator Certificates,” Iowa Administrative Code.

This amendment adds a possible area of concentration to the paraeducator certificate. The area of concentration will focus on paraeducators who work with students with vision impairments.

A waiver provision is not included. The Board has adopted a uniform waiver rule.

Any interested party or persons may present their views either orally or in writing at the public hearing that will be held Wednesday, August 18, 2010, at 1 p.m. in Room 3 Southwest, Third Floor, Grimes State Office Building, East 14th Street and Grand Avenue, Des Moines, Iowa.

At the hearing, persons will be asked to give their names and addresses for the record and to confine their remarks to the subject of the proposed amendment. Persons who wish to make oral presentations at the public hearing may contact the Executive Director, Board of Educational Examiners, Grimes State Office Building, East 14th Street and Grand Avenue, Des Moines, Iowa 50319-0147, or at (515)281-5849, prior to the date of the public hearing.

Any person who intends to attend the public hearing and requires special accommodations for specific needs, such as a sign language interpreter, should contact the office of the Executive Director at (515)281-5849.

Any interested person may make written comments or suggestions on the proposed amendment before 4 p.m. on Friday, August 20, 2010. Written comments and suggestions should be addressed to Kim Cunningham, Board Secretary, Board of Educational Examiners, at the above address, or sent by E-mail to kim.cunningham@iowa.gov, or by fax to (515)281-7669.

This amendment is intended to implement Iowa Code chapter 272.

The following amendment is proposed.

EDUCATIONAL EXAMINERS BOARD[282](cont'd)

Adopt the following **new** subrule 24.4(7):

24.4(7) Vision impairments—prekindergarten through grade 12.

a. Demonstrate knowledge of the impact of vision loss on learning and concept development for students who are blind and visually impaired.

(1) Demonstrate introductory knowledge of expanded core curriculum (ECC) and the ability to support ECC skills as directed by the supervising professional.

(2) Demonstrate introductory knowledge of functional vision assessments (FVA) and learning media assessments (LMA) of students who have vision impairments.

b. Demonstrate knowledge of and skills in technology appropriate to the needs of students with vision impairments.

(1) Operate and use assistive technology that supports students who have vision impairments.

(2) Support and strengthen each student's capability to access and utilize assistive technology.

c. Demonstrate introductory knowledge of instructional strategies unique to students who have vision impairments.

(1) Demonstrate the ability to adapt educational materials using varied learning media as determined by student needs.

(2) Demonstrate an introductory knowledge of Braille in relation to identified or expressed student needs or both.

(3) Demonstrate introductory skills in operating transcription software and equipment.

d. Demonstrate introductory knowledge of motor skills, movement, orientation, and mobility for students with vision impairments.

e. Demonstrate knowledge of the role of paraeducators in student plans including individualized education programs (IEPs) and individualized family service plans (IFSPs).

f. Demonstrate knowledge about and skills in fostering independence, self-determination, social skills, self-advocacy, and appropriate behaviors for students with vision impairments.

g. Demonstrate professionalism and ethical practices, including appropriate communication skills in relation to students with vision impairments and the students' service providers and families.

ARC 8970B

EDUCATIONAL EXAMINERS BOARD[282]

Notice of Intended Action

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1) "b."

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code section 272.2, the Board of Educational Examiners hereby gives Notice of Intended Action to amend Chapter 25, "Code of Professional Conduct and Ethics," Iowa Administrative Code.

2010 Iowa Acts, House File 2286, amended Iowa Code section 272.2, subsection 14, paragraph "b," subparagraph (1), subparagraph division (b), subparagraph (iii), to remove the language regarding a detention in a brothel. This same language is in the Board's rules and therefore must be amended.

A waiver provision is not included. The Board has adopted a uniform waiver rule.

Any interested party or persons may present their views either orally or in writing at the public hearing that will be held Wednesday, August 18, 2010, at 1 p.m. in Room 3 Southwest, Third Floor, Grimes State Office Building, East 14th Street and Grand Avenue, Des Moines, Iowa.

At the hearing, persons will be asked to give their names and addresses for the record and to confine their remarks to the subject of the proposed amendment. Persons who wish to make oral presentations at the public hearing may contact the Executive Director, Board of Educational Examiners, Grimes

EDUCATIONAL EXAMINERS BOARD[282](cont'd)

State Office Building, East 14th Street and Grand Avenue, Des Moines, Iowa 50319-0147, or at (515)281-5849, prior to the date of the public hearing.

Any person who intends to attend the public hearing and requires special accommodations for specific needs, such as a sign language interpreter, should contact the office of the Executive Director at (515)281-5849.

Any interested person may make written comments or suggestions on the proposed amendment before 4 p.m. on Friday, August 20, 2010. Written comments and suggestions should be addressed to Kim Cunningham, Board Secretary, Board of Educational Examiners, at the above address, or sent by E-mail to kim.cunningham@iowa.gov, or by fax to (515)281-7669.

This amendment is intended to implement Iowa Code section 272.2 as amended by 2010 Iowa Acts, House File 2286.

The following amendment is proposed.

Amend subparagraph **25.3(1)“b”(1)** as follows:

(1) Disqualifying criminal convictions. The board shall deny an application for licensure and shall revoke a previously issued license if the applicant or licensee has, on or after July 1, 2002, been convicted of, has pled guilty to, or has been found guilty of the following criminal offenses, regardless of whether the judgment of conviction or sentence was deferred:

1. No change.
2. Any of the following criminal sexual offenses, as provided in Iowa Code chapter 709, involving a child:
 - First-, second- or third-degree sexual abuse committed on or with a person who is under the age of 18;
 - Lascivious acts with a child;
 - ~~Detention in a brothel;~~
 - Assault with intent to commit sexual abuse;
 - Indecent contact with a child;
 - Sexual exploitation by a counselor;
 - Lascivious conduct with a minor; or
 - Sexual exploitation by a school employee;
3. to 5. No change.

ARC 8978B**ENVIRONMENTAL PROTECTION COMMISSION[567]****Amended Notice of Intended Action**

Pursuant to the authority of Iowa Code sections 455B.105 and 455B.173, notice is hereby given that an additional public hearing for the Notice of Intended Action to amend Chapter 61, “Water Quality Standards,” will be held on Monday, August 23, 2010, at 1 p.m. in the Grant Room, Jessie M. Parker Building, 510 East 12th Street, Des Moines, Iowa. A parking map is available at http://www.iowa.gov/government/crc/docs/capitol_parking.pdf.

Notice of Intended Action was published in the Iowa Administrative Bulletin on March 10, 2010, as **ARC 8599B**. Due to new information from the U.S. Environmental Protection Agency (EPA), the public comment period has been extended. An additional public hearing has been scheduled at which time the Department will provide an update on how EPA decisions will affect the Department’s stream use recommendations. Persons are invited to present oral or written comments at the newly scheduled public hearing.

Additional information on Iowa’s water quality standards and the Department’s rules can be found on the Department’s Web site at <http://www.iowadnr.com/water/standards/index.html>.

Any person may submit written suggestions or comments on the proposed amendment through August 23, 2010. Such written material should be submitted to Rochelle Cardinale, Iowa Department of Natural Resources, Wallace State Office Building, 502 East 9th Street, Des Moines, Iowa 50319-0034; fax

ENVIRONMENTAL PROTECTION COMMISSION[567](cont'd)

(515)281-8895; or by E-mail to rochelle.cardinale@dnr.iowa.gov. Persons who have questions may contact Rochelle Cardinale at (515)281-4736.

ARC 8975B**HUMAN SERVICES DEPARTMENT[441]****Notice of Intended Action**

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)“b.”

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code section 249A.4 and 2010 Iowa Acts, Senate File 2088, sections 348 and 349, the Department of Human Services proposes to amend Chapter 78, “Amount, Duration and Scope of Medical and Remedial Services,” Iowa Administrative Code.

The proposed amendment affects Medicaid coverage of mental health prescription drugs that have a significant variation in therapeutic or side effect profile from other drugs in the same therapeutic class. The following policies would apply:

- If the manufacturer or labeler of the drug does not enter into a supplemental rebate contract, prior authorization may be required.
- Iowa Medicaid members established on one of these drugs before January 1, 2011, are exempt from prior authorization requirements for that specific drug.
- Medicaid reimbursement will be made for up to a seven-day supply while prior authorization is being requested.
- If the prescriber does not receive a prior authorization decision within 48 hours of a request for prior approval, the prior authorization is deemed approved, contingent on the prescriber’s having current contact information, including a current fax number, and a signed fax confidentiality form on file with the Department.

These changes are required by 2010 Iowa Acts, Senate File 2088, sections 347 to 349. Before this legislation, Iowa Code section 249A.20A included the following language on the Medicaid Preferred Drug List (PDL):

“With the exception of drugs prescribed for the treatment of human immunodeficiency virus or acquired immune deficiency syndrome, transplantation, or cancer and drugs prescribed for mental illness with the exception of drugs and drug compounds that do not have a significant variation in a therapeutic profile or side effect profile within a therapeutic class, prescribing and dispensing of prescription drugs not included on the preferred drug list shall be subject to prior authorization.”

Based on that language, mental health drugs were subject to prior authorization pursuant to the Preferred Drug List only if they did not have “a significant variation in a therapeutic profile or side effect profile within a therapeutic class.” The Department has referred to the mental health drugs exempt from prior authorization based on the Preferred Drug List as “chemically unique mental health drugs” because they do have a significant variation in therapeutic or side effect profile as compared to other drugs in the same therapeutic class.

2010 Iowa Acts, Senate File 2088, now allows for Preferred Drug List prior authorization requirements for “a chemically unique mental health prescription drug,” subject to certain protections for patients. Based on this history, the Department understands “a chemically unique mental health prescription drug” to refer to the mental health drugs that have been exempt from Preferred Drug List prior authorization requirements because they have a significant variation in therapeutic or side effect profile as compared to other drugs in the same therapeutic class. Therefore, the proposed amendment refers to the chemically unique mental health drugs referenced in 2010 Iowa Acts, Senate File 2088, as mental health drugs that have “a significant variation in therapeutic or side effect profile from other drugs in the same therapeutic class.”

HUMAN SERVICES DEPARTMENT[441](cont'd)

As a protection for patients needing a “chemically unique” mental health prescription drug, 2010 Iowa Acts, Senate File 2088, requires the Department to adopt rules providing that if an approval or disapproval is not “received by the physician or other prescriber within 48 hours” of a request for prior approval, the request is deemed approved. The proposed amendment adds a requirement that the prescriber have current contact information, including a current fax number, and a signed fax confidentiality form on file with the Department in order for a request to be deemed approved when an approval or disapproval is not received within 48 hours.

Most prior approval requests and decisions are transmitted by fax, which allows 95 percent of requests to be handled in less than two hours. Decisions are transmitted to the prescriber and the pharmacy by mail if the Department does not have a current fax number and fax confidentiality authorization. Requiring that a response be received within 48 hours is unreasonable if the response must be mailed.

This amendment does not provide for waivers in specified situations. Requests for the waiver of any rule may be submitted under the Department’s general rule on exceptions at 441—1.8(17A,217).

Any interested person may make written comments on the proposed amendment on or before August 18, 2010. Comments should be directed to Mary Ellen Imlau, Bureau of Policy Coordination, Department of Human Services, Hoover State Office Building, 1305 East Walnut Street, Des Moines, Iowa 50319-0114. Comments may be sent by fax to (515)281-4980 or by E-mail to policyanalysis@dhs.state.ia.us.

The Department will hold a public hearing for the purposes of receiving comments on this amendment on August 18, 2010, from 9:30 to 10:30 a.m. in Conference Room 7 on Level A of the Hoover State Office Building, 1305 East Walnut Street, Des Moines. Comments may be offered at the hearing either orally or in writing. Anyone who intends to attend the hearing and has special requirements, such as those related to hearing or vision impairments, should contact the Bureau of Policy Coordination at (515)281-8440 in advance of the scheduled date to request that appropriate arrangements be made.

This amendment is intended to implement Iowa Code section 249A.4 and 2010 Iowa Acts, Senate File 2088, sections 347 to 349.

The following amendment is proposed.

Amend paragraph **78.2(4)“a”** as follows:

a. Prior authorization is required as specified in the preferred drug list published by the department pursuant to Iowa Code section 249A.20A as amended by 2010 Iowa Acts, Senate File 2088, section 347.

(1) For ~~drugs~~ any drug requiring prior authorization, reimbursement will be made for a 72-hour or three-day supply dispensed in an emergency when a prior authorization request cannot be submitted.

(2) Unless the manufacturer or labeler of a mental health prescription drug that has a significant variation in therapeutic or side effect profile from other drugs in the same therapeutic class enters into a contract to provide the state with a supplemental rebate, the drug may be placed on the preferred drug list as nonpreferred, with prior authorization required. However, prior authorization shall not be required for such a drug for a member whose regimen on the drug was established before January 1, 2011, as verified by documented pharmacy claims.

(3) For mental health prescription drugs requiring prior authorization that have a significant variation in therapeutic or side effect profile from other drugs in the same therapeutic class, reimbursement will be made for up to a seven-day supply pending prior authorization. A request for prior authorization shall be deemed approved if the prescriber:

1. Has on file with the department current contact information, including a current fax number, and a signed Form 470-4914, Fax Confidentiality Certificate, and

2. Does not receive a notice of approval or disapproval within 48 hours of a request for prior authorization.

ARC 8977B

HUMAN SERVICES DEPARTMENT[441]**Notice of Intended Action**

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)“b.”

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code section 249J.24 and 2010 Iowa Acts, Senate File 2356, section 1, and House File 2531, section 201, the Department of Human Services proposes to amend Chapter 92, “IowaCare,” Iowa Administrative Code.

The proposed amendments make the following changes in IowaCare premium policies to satisfy federal requirements:

- Recalibrate premium amounts to provide that no premium payment is required for households with income at or below 150 percent of the federal poverty level and that premiums are limited to 3.5 percent of the applicable income level. A single premium will be set for the household, rather than a separate premium for each IowaCare member. A separate table is used to determine the premium for a household containing two or more IowaCare members.
- Delay cancellation of benefits for failure to pay a premium until 60 days after the premium due date.
- Allow IowaCare members whose benefits have been canceled due to nonpayment of premiums to reapply and be approved even if payments from a previous certification period remain unpaid.

The proposed amendments also make the following changes to the IowaCare provider network and services as directed by state legislation:

- Add federally qualified health centers as IowaCare providers. Centers will be phased in as IowaCare providers as funding permits.
- Add coverage of emergency medical services rendered by providers that do not participate in IowaCare, under limited and specified conditions.
- Add requirements for “medical home” services and corresponding reimbursement.
- Clarify reimbursement methodologies for participating and nonparticipating providers.

These amendments do not provide for waivers in specified situations. Requests for the waiver of any rule may be submitted under the Department’s general rule on exceptions at 441—1.8(17A,217).

Any interested person may make written comments on the proposed amendments on or before August 17, 2010. Comments should be directed to Mary Ellen Imlau, Bureau of Policy Coordination, Department of Human Services, Hoover State Office Building, 1305 East Walnut Street, Des Moines, Iowa 50319-0114. Comments may be sent by fax to (515)281-4980 or by E-mail to policyanalysis@dhs.state.ia.us.

These amendments are intended to implement Iowa Code chapter 249J as amended by 2010 Iowa Acts, Senate File 2356, section 1, and House File 2531, section 201.

The following amendments are proposed.

ITEM 1. Amend rule **441—92.1(249A,249J)**, definition of “Medical expansion services,” as follows:

“*Medical expansion services*” means the services described in Iowa Code ~~Supplement~~ section 249J.6.

ITEM 2. Adopt the following new definitions in rule **441—92.1(249A,249J)**:

“*Medical home*” means a team approach to providing health care that originates in a primary care setting; fosters a partnership among the patient, the personal provider, other health care professionals, and where appropriate, the patient’s family; utilizes the partnership to access all medical and nonmedical health-related services needed by the patient and the patient’s family to achieve maximum health

HUMAN SERVICES DEPARTMENT[441](cont'd)

potential; maintains a centralized, comprehensive record of all health-related services to promote continuity of care; and has all of the characteristics specified in Iowa Code section 135.158.

“Provider-directed care coordination services” means provider-directed services in a clinical setting aimed at managing all aspects of a patient’s care to ensure quality of care and safety. All aspects of care are coordinated by the clinical team under the direction of a physician. The team must include a dedicated care coordinator.

“Nonparticipating provider” means a hospital that is located in Iowa and licensed pursuant to Iowa Code chapter 135B but that is not an IowaCare provider pursuant to subrule 92.8(1).

ITEM 3. Amend subrule 92.2(5) as follows:

92.2(5) *Payment of assessed premiums.* ~~As a condition of eligibility for IowaCare, an applicant or member must pay IowaCare will be canceled if premiums are not paid in accordance with 441—92.7(249A,249J). Premiums incurred and unpaid from a previous certification period must be paid in full before an applicant can establish new eligibility under this chapter. However, an application for IowaCare shall not be affected by any unpaid premiums from any previous certification period.~~

ITEM 4. Amend subrules 92.3(1) and 92.3(2) as follows:

92.3(1) An application for IowaCare may also be submitted on Comm. 239, IowaCare Application, or Form 470-4364, IowaCare Renewal Application. An applicant who submits an application on another form allowed under 441—76.1(249A) shall also sign Form 470-4194, IowaCare Premium Agreement, and submit it within ten days of the department’s request.

92.3(2) A new application is required for each ~~12-month~~ certification period.

ITEM 5. Amend subrule 92.6(1) as follows:

92.6(1) *Certification period.* IowaCare eligibility shall be effective on the first day of the month of application or the first day of the month all eligibility requirements are met, whichever is later. The certification period shall continue for 12 consecutive months ~~or~~. **EXCEPTIONS:**

a. ~~for~~ For women and newborns eligible under 92.2(1) “b” or “c,” the certification period shall continue until 60 days after the birth of the child.

b. Certification periods may be adjusted if two or more IowaCare members who were in two households are combined into one household for premium purposes.

ITEM 6. Amend rule 441—92.7(249A,249J) as follows:

441—92.7(249A,249J) Financial participation. In addition to the copayments required by 441—subrule 79.1(13), IowaCare members, with the exception of newborns eligible pursuant to 92.2(1) “c,” and members in households that include a considered person who pays a Medicaid premium, shall be assessed a sliding-scale monthly premium. ~~No premium shall be assessed at the time of initial application for months of eligibility before and including the month of decision, including the retroactive month.~~ A member shall be responsible for paying the premium for the first month after the month of decision and for the following three months, regardless of continued enrollment during the four-month period or during previous months, and for each month of continued enrollment after the required four months. If there is a break in enrollment of one month or more, a new four-month period of mandatory premiums shall be assessed, beginning with the month following the month of decision.

92.7(1) *Premium amount.* The monthly premium amount shall be established for ~~a 12-month~~ the certification period determined pursuant to subrule 92.6(1) beginning with the first month of eligibility, based on projected monthly income for the 12-month period 12 months. On an initial application, no premium shall be assessed for months of eligibility before and including the month of decision, including the retroactive month.

a. ~~The monthly premium amount~~ is based on the household’s countable monthly income as a percentage of the federal poverty level for a household of that size. If there is more than one IowaCare member in a household, a single premium is established for coverage of all of the members in the household. Effective April 1, 2009, premium amounts based on this percentage for applications and recertifications received on or after October 1, 2010, premiums are as follows:

HUMAN SERVICES DEPARTMENT[441](cont'd)

<u>When there is one IowaCare member in the household and the household's income is at or below:</u>	<u>Each The member's premium amount is:</u>
100% of federal poverty level	\$0
110% of federal poverty level	\$45
120% of federal poverty level	\$49
130% of federal poverty level	\$54
140% of federal poverty level	\$58
150% of federal poverty level	\$63 <u>\$0</u>
160% of federal poverty level	\$67 <u>\$47</u>
170% of federal poverty level	\$72 <u>\$50</u>
180% of federal poverty level	\$76 <u>\$53</u>
190% of federal poverty level	\$81 <u>\$56</u>
200% of federal poverty level	\$85 <u>\$60</u>

<u>When there are two or more IowaCare members in the household and the household's income is at or below:</u>	<u>The household's premium amount is:</u>
<u>150% of federal poverty level</u>	<u>\$0</u>
<u>160% of federal poverty level</u>	<u>\$63</u>
<u>170% of federal poverty level</u>	<u>\$68</u>
<u>180% of federal poverty level</u>	<u>\$72</u>
<u>190% of federal poverty level</u>	<u>\$76</u>
<u>200% of federal poverty level</u>	<u>\$80</u>

b. The listed premium amount is calculated based on the lowest income level in each 10 percent increment ~~for a one-person household~~ of the federal poverty level for a household of one if there is one IowaCare member in the household or of the federal poverty level for a household of two if there are two or more IowaCare members in the household.

(1) Households with income at or below ~~100~~ 150 percent of the poverty level are not subject to a premium.

(2) Premiums for households with income over ~~100~~ 150 percent of the poverty level are ~~5~~ 3.5 percent of the lowest applicable income level. The department will update these amounts ~~annually on April 1 using the latest~~ effective the second month after the month federal poverty level guidelines are released.

c. The cost of HAWK-I premiums paid for HAWK-I household members shall be deducted from the premium assessed according to this subrule.

d. The monthly premium established for a ~~12-month~~ certification period shall not be increased due to an increase in household income or a change in household size.

e. The premium may be reduced prospectively during the ~~12-month~~ certification period if ~~the~~ a member declares a reduction in projected average monthly household income or an increase in household size or is granted a hardship exemption.

92.7(2) Billing and payment. Form 470-4165, IowaCare Billing Statement, shall be used for billing and collection.

a. No change.

b. Due date. When the department notifies ~~the~~ a member of the amount of the ~~premiums~~ premium, the member or household shall pay any premiums due as follows:

(1) and (2) No change.

c. Application of payment. The department shall apply premium payments received to the oldest unpaid month ~~forward~~ in the current certification period. When premiums for all months in the

HUMAN SERVICES DEPARTMENT[441](cont'd)

certification period have been paid, the department shall hold any excess and apply it to any months for which eligibility is subsequently established.

92.7(3) *Hardship exemption.* A member ~~who~~ or household that submits a written statement indicating that payment of the monthly premium will be a financial hardship shall be exempted from premium payment for that month, except as provided in paragraph “c.” If the statement is not postmarked by the premium due date, the member or household shall be obligated to pay the premium.

a. and b. No change.

c. A member or household shall not be exempted from premium payment for a month in which the member misrepresented the household’s circumstances.

92.7(4) *Failure to pay premium.* If the member or household fails to pay the assessed premium or to declare a hardship by the date the premium is due, the department shall cancel IowaCare benefits effective ~~the last day of the next calendar month~~ 60 days after the due date and shall refer the unpaid premiums for collection. A member whose IowaCare benefits are canceled due to nonpayment of premiums must reapply to establish IowaCare eligibility.

92.7(5) *Refund of premium.* When a member’s IowaCare coverage is canceled due to a circumstance listed in paragraph “a,” premiums paid for any period after the cancellation date shall be refunded, except to the extent that premiums are still due for any household members whose IowaCare coverage is not canceled.

a. ~~The premium obligation is reduced to zero~~ Premiums may be refunded when a member’s IowaCare coverage is canceled because the member:

(1) to (5) No change.

b. The amount of the refund shall be offset by any outstanding premiums owed.

c. Any excess premium received for ~~an individual~~ a person who is not receiving IowaCare benefits shall be refunded:

(1) ~~after two~~ Two calendar months after eligibility ended unless an application or reapplication is pending; or

(2) ~~upon~~ Upon the ~~individual’s~~ person’s request.

d. Any excess premium received for an IowaCare member shall be refunded:

(1) ~~after~~ After two calendar months of a zero premium; or

(2) ~~upon~~ Upon the member’s request.

ITEM 7. Amend subrules 92.8(1), 92.8(2) and 92.8(4) as follows:

92.8(1) *Provider network.* Except as provided in subrules 92.8(3) through ~~92.8(5)~~ 92.8(6), IowaCare members shall have medical assistance only for services provided to the member by:

a. The University of Iowa Hospitals and Clinics; or

b. Broadlawns Medical Center in Des Moines; or

c. ~~A state mental health institute, exclusive of the units providing substance abuse treatment, services to geriatric patients, or treatment for sexually violent predators~~ federally qualified health center that the department has designated as part of the IowaCare network using a phased-in approach based on the degree to which the area is underserved, medical home readiness, and the availability of funds; or

d. Any physician, advanced registered nurse practitioner, or physician assistant who is part of a medical institution listed in this subrule. Physician assistants are able to render covered services as auxiliary personnel of a physician pursuant to 441—subrule 78.1(13).

92.8(2) *Covered services.* Services shall be limited to the services covered by the Iowa Medicaid program pursuant to 441—Chapter 78; or 441—79.9(249A); and 441—Chapter 85, Division I to medical home services required by subrule 92.8(7). All conditions of service provision shall apply in the same manner as under the regular Iowa Medicaid program and pursuant to 441—Chapter 78, 441—79.3(249A), 441—79.5(249A), 441—79.6(249A), 441—79.8(249A) through 441—79.14(249A), and applicable provider manuals. These conditions include, but are not limited to, prior authorization requirements and exclusions for cosmetic procedures or those otherwise determined not to be required to meet the medical need of the patient.

HUMAN SERVICES DEPARTMENT[441](cont'd)

92.8(4) Routine preventive medical examinations. A routine preventive medical examination is one that is performed without relationship to treatment or diagnosis for a specific illness, symptom, complaint, or injury.

a. IowaCare members who qualify under paragraph 92.2(1) “*b*” or “*c*” and who have not been enrolled with a medical home are eligible to receive routine preventive medical examinations from:

- (1) Any provider specified under subrule 92.8(1), or
- (2) Any physician, advanced registered nurse practitioner, or physician assistant who participates in Iowa Medicaid, including but not limited to providers available through a free clinic, a rural health clinic, or a federally qualified health center: that has not been designated as an IowaCare provider pursuant to paragraph 92.8(1) “*c*.” Physician assistants are able to render covered services as auxiliary personnel of a physician pursuant to 441—subrule 78.1(13).

b. No change.

ITEM 8. Adopt the following **new** subrules 92.8(6) and 92.8(7):

92.8(6) Medical home. As a condition of participation in the IowaCare program, network providers designated pursuant to subrule 92.8(1) must also qualify as medical homes, pursuant to Iowa Code chapter 135, division XXII.

a. The provider shall meet medical home standards. If the Iowa department of public health adopts rules that provide statewide medical home standards or provide for a statewide medical home certification process, those rules shall apply to IowaCare medical home providers and shall take precedence over the requirements in this paragraph. At a minimum, medical homes shall:

(1) Have National Committee for Quality Assurance (NCQA) Level 1 certification or equivalent certification. Effective July 1, 2011, medical homes that achieve a higher level of accreditation from NCQA or equivalent shall be designated as such for purposes of payment.

(2) Provide provider-directed care coordination services.

(3) Provide members with access to health care and information.

(4) Provide wellness and disease prevention services.

(5) Create and maintain chronic disease information in a searchable disease registry.

(6) Demonstrate evidence of implementation of an electronic health record system.

(7) Participate in and report on quality improvement processes.

b. The provider shall execute a contract with the department to be an IowaCare medical home and receive enhanced medical home reimbursements pursuant to subrule 92.9(4). The contract shall include performance measurements and specify expectations and standards for a medical home.

c. If an IowaCare member resides in a designated county near a designated medical home provider, the department shall enroll the member with that provider. A member who is enrolled with a medical home provider:

(1) Shall utilize the medical home provider for covered services available from that provider, and

(2) Must receive a referral from the medical home provider to another IowaCare provider for any services not available from the medical home provider.

92.8(7) Emergency services from nonparticipating providers.

a. A nonparticipating provider hospital may be reimbursed for covered IowaCare services subject to the following conditions and limitations:

(1) The patient is enrolled in IowaCare pursuant to the Iowa Medicaid enterprise eligibility verification system at the time the services are delivered.

(2) The services are emergency services, as designated by the department, and it is not medically possible to postpone provision of those services.

(3) It is not medically possible to transfer the member to an IowaCare provider, or the IowaCare provider does not have sufficient capacity to accept the member.

(4) The provision of emergency services is followed by an inpatient admission at the nonparticipating provider.

(5) The treating nonparticipating provider has consulted with the IowaCare provider network hospital and the providers jointly agree that the conditions for payment are met.

HUMAN SERVICES DEPARTMENT[441](cont'd)

(6) Before submitting a medical claim for reimbursement, the treating nonparticipating provider has requested and received authorization for payment from the Iowa Medicaid enterprise medical services unit. The request shall include the claim listing the emergency and inpatient services and documentation of the consultation with the IowaCare network provider.

b. If the conditions listed in paragraph “*a*” are met as specified, a nonparticipating provider may be reimbursed for covered services provided to the member from the point of emergency room admission to the point of discharge or transfer from the inpatient unit, up to the amount appropriated. This reimbursement does not include emergency or nonemergency transportation services.

ITEM 9. Amend rule 441—92.9(249A,249J) as follows:

441—92.9(249A,249J) Claims and reimbursement methodologies.

92.9(1) *Claims.* Claims for Medicaid expansion services provided to IowaCare members shall be submitted to the Iowa Medicaid Enterprise, P.O. Box 150001, Des Moines, Iowa 50315, as required by 441—Chapter 80. To facilitate tracking of expenditures, clean claims for IowaCare services shall be submitted to the Iowa Medicaid enterprise within 20 days from ending date of service.

92.9(2) *Payment for hospital services provided by IowaCare network.* Effective July 1, 2010:

a. Inpatient hospital services provided by University of Iowa Hospitals and Clinics will be paid based on 100 percent of reasonable and allowable costs.

(1) An interim rate based on the Medicaid reimbursement rates and methodologies as of November 30, 2009, shall be used to price submitted claims.

(2) At the end of the cost reporting period, a reconciliation will be performed based on the hospital’s CMS-2552 cost report as filed for the payment period and IowaCare claims data as extracted by the department from the Medicaid management information system. The aggregate payments under the interim methodology will be determined and compared to the IowaCare program costs as determined from the hospital’s cost report. For purposes of this rule, aggregate payments include amounts received for the IowaCare program, outlier payments, and patient and third-party payments up to the allowed amount.

(3) If the aggregate payments exceed the hospital’s IowaCare costs, the amount by which payments exceed actual costs will be requested and collected from the hospitals.

(4) If the aggregate payments are less than actual IowaCare costs, an additional payment equal to the difference will be made to the hospital.

b. Inpatient hospital services provided by Broadlawns Medical Center shall be paid at the Medicaid reimbursement rates and methodologies in effect on November 30, 2009.

c. Outpatient hospital services provided by University of Iowa Hospitals and Clinics or Broadlawns Medical Center shall be paid at the Medicaid reimbursement rates and methodologies in effect on November 30, 2009.

92.9(3) *Payment for nonhospital services provided by IowaCare network.* Effective July 1, 2010, IowaCare network providers shall be paid for nonhospital services at the Medicaid fee schedule amounts in effect on November 30, 2009, with the following exceptions:

a. For preventive examination codes, the fee schedule amounts shall be based on the Medicaid physician fee schedule in effect on the date of service.

b. Physician services provided to IowaCare members in a federally qualified health center shall be reimbursed based on the Medicaid physician fee schedule in effect on the date of service, limited to the amount appropriated for the fiscal year.

c. Physician services provided by University of Iowa Hospitals and Clinics physicians to IowaCare members will be reimbursed based on the Medicaid physician fee schedule in effect on the date of service, limited to the amount appropriated for the fiscal year.

92.9(4) *Medical home payments.*

a. In addition to any other IowaCare reimbursement, IowaCare providers that meet the medical home standards pursuant to subrule 92.8(6) and have contracted with the department shall receive a monthly medical home payment for each member assigned to the medical home by the department. The

HUMAN SERVICES DEPARTMENT[441](cont'd)

medical home payment shall begin the first day of the month following the member's assignment to the medical home.

(1) The medical home payment will be on a per-member, per-month basis in an amount determined by the department, but no more than \$4 per member, per month.

(2) Effective July 1, 2011, the department shall implement a tiered per-member, per-month payment method that is based on the medical home's certification level as designated by a nationally recognized medical home accreditation organization.

b. IowaCare medical homes shall be eligible for a performance payment for achieving medical home performance benchmarks designated by the department as specified in the provider's contract with the department. The performance payment shall be paid by October 31 following the end of the state fiscal year and is in addition to any other IowaCare reimbursement.

92.9(5) *Payment for services provided by nonparticipating hospitals.* Nonparticipating hospitals shall be paid at the Medicaid reimbursement rates and methodologies in effect on December 1, 2009, up to the amount appropriated to the nonparticipating provider reimbursement fund created in 2009 Iowa Code Supplement section 249J.24A. No payment shall be made after appropriated funds are exhausted.

92.9(6) *Payment for services provided by other nonparticipating providers.* Nonparticipating providers other than hospitals shall be paid at the Medicaid reimbursement rates and methodologies in effect on the date of service.

ITEM 10. Amend rule 441—92.13(249A,249J) as follows:

441—92.13(249A,249J) Recovery. The department shall recover from a member all Medicaid funds incorrectly expended on behalf of the member and any unpaid premiums in accordance with 441—76.12(249A). For this purpose, unpaid premiums shall be treated as medical assistance incorrectly paid due to client error.

92.13(1) The department shall recover Medicaid funds expended on behalf of a member and any unpaid premiums from the member's estate in accordance with 441—76.12(249A).

92.13(2) No change.

ARC 8948B

IOWA FINANCE AUTHORITY[265]

Notice of Intended Action

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)"b."

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code sections 16.5(1)"r," 16.52 and 17A.3(1)"b," the Iowa Finance Authority proposes to amend Chapter 12, "Low-Income Housing Tax Credits," Iowa Administrative Code.

These proposed amendments replace the current qualified allocation plan for the Low-Income Housing Tax Credit Program with the 2010 first amended qualified allocation plan, which is incorporated by reference in rule 265—12.1(16).

The first amended qualified allocation plan sets forth the purpose of the plan, the administrative information required for participation in the program, the threshold criteria, the postreservation requirements, the appeal process, and the compliance monitoring component. The plan also establishes the fees for filing an application for low-income housing tax credits and for compliance monitoring. Copies of the plan are available upon request from the Authority and are available electronically on the Authority's Web site at www.iowafinanceauthority.gov. It is the Authority's intent to incorporate the

IOWA FINANCE AUTHORITY[265](cont'd)

2010 first amended qualified allocation plan by reference, which is consistent with Iowa Code chapter 17A and 265—subrules 17.4(2) and 17.12(2).

The Authority does not intend to grant waivers under the provisions of any of these rules, other than as may be allowed under the Authority's general rules concerning waivers at 265—Chapter 18. The first amended qualified allocation plan is subject to state and federal requirements that cannot be waived. (See Internal Revenue Code Section 42 and Iowa Code section 16.52.)

The Authority will receive written comments on the proposed amendments and on the qualified allocation plan until 4:30 p.m. on August 17, 2010. Comments may be addressed to Carla Pope, Affordable Rental Production Director, Iowa Finance Authority, 2015 Grand Avenue, Des Moines, Iowa 50312. Comments may also be faxed to Carla Pope at (515)725-4901 or E-mailed to carla.pope@iowa.gov.

The Authority anticipates that it may make changes to the 2010 first amended qualified allocation plan based on comments received from the public.

These amendments were also Adopted and Filed Emergency and are published herein as **ARC 8947B**. The content of that submission is incorporated by reference.

These amendments are intended to implement Iowa Code sections 16.5(1)“r” and 16.52, IRC Section 42, and the Heartland Disaster Tax Relief Act of 2008.

ARC 8946B**IOWA FINANCE AUTHORITY[265]****Notice of Intended Action**

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)“b.”

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code sections 16.5(1)“r” and 17A.3(1)“b” and 2010 Iowa Acts, House File 2148, the Iowa Finance Authority proposes to amend Chapter 27, “Military Service Member Home Ownership Assistance Program,” Iowa Administrative Code.

The purpose of these proposed amendments is to clarify the requirements of the Military Service Member Home Ownership Assistance Program and to implement changes called for by 2010 Iowa Acts, House File 2148.

The Authority does not intend to grant waivers under the provisions of any of these rules, other than as may be allowed under the Authority's general rules concerning waivers at 265—Chapter 18.

The Authority will receive written comments on the proposed amendments until 4:30 p.m. on August 17, 2010. Comments may be addressed to Mark Thompson, Iowa Finance Authority, 2015 Grand Avenue, Des Moines, Iowa 50312. Comments may also be faxed to Mark Thompson at (515)725-4901 or E-mailed to mark.thompson@iowa.gov.

The Authority anticipates that it may make changes to the proposed amendments based on comments received from the public.

On June 23, 2010, the Authority adopted these amendments Emergency, pursuant to Iowa Code section 17A.4(3), to be effective upon filing on July 6, 2010. The Adopted and Filed Emergency amendments are published herein as **ARC 8945B**. The content of that submission is incorporated by reference.

These amendments are intended to implement Iowa Code section 16.5(1)“r” and 2010 Iowa Acts, House File 2148.

ARC 8964B**IOWA FINANCE AUTHORITY[265]****Notice of Intended Action**

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)“b.”

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code sections 16.5(1)“r” and 17A.3(1)“b,” the Iowa Finance Authority proposes to adopt new Chapter 39, “HOME Partnership Program,” Iowa Administrative Code.

The purpose of this proposed amendment is to implement Iowa Code sections 16.5(1)“f” and 16.5(1)“m” and the Cranston-Gonzalez National Affordable Housing Act of 1990 by establishing rules for the continued administration of the HOME Partnership Program under the Authority’s administration.

The Authority does not intend to grant waivers under the provisions of any of these rules, other than as may be allowed under the Authority’s general rules concerning waivers at 265—Chapter 18.

The Authority will receive written comments on the proposed rules until 4:30 p.m. on August 17, 2010. Comments may be addressed to Mark Thompson, Iowa Finance Authority, 2015 Grand Avenue, Des Moines, Iowa 50312. Comments may also be faxed to Mark Thompson at (515)725-4901 or E-mailed to mark.thompson@iowa.gov.

The Authority anticipates that it may make changes to the proposed rules based on comments received from the public.

These proposed rules were also Adopted and Filed Emergency and are published herein as **ARC 8963B**. The purpose of this Notice is to solicit comment on that submission, the subject matter of which is incorporated by reference.

These rules are intended to implement Iowa Code sections 16.5(1)“f” and 16.5(1)“m” and the Cranston-Gonzalez National Affordable Housing Act of 1990.

ARC 8973B**PUBLIC HEALTH DEPARTMENT[641]****Notice of Intended Action**

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)“b.”

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code section 691.6(6), the Iowa Department of Public Health hereby gives Notice of Intended Action to amend Chapter 90, “Iowa Child Death Review Team,” Iowa Administrative Code.

These amendments propose changes to the rules governing the purpose and function of the Iowa child death review team in identifying preventable deaths of children under 18 years of age and methods for prevention of such deaths.

Any interested persons may make written comments or suggestions on the proposed amendments on or before August 17, 2010. Such written comments should be directed to Jonathan Thompson, M.D., Office of the State Medical Examiner, 2250 S. Ankeny Blvd., Ankeny, Iowa 50023. E-mail may be sent to jthomps@idph.state.ia.us.

PUBLIC HEALTH DEPARTMENT[641](cont'd)

These amendments are intended to implement 2009 Iowa Code Supplement section 135.43.
The following amendments are proposed.

ITEM 1. Amend rule 641—90.1(135) as follows:

641—90.1(135) Purpose. The purpose of the Iowa child death review team is to aid in the reduction of ~~the incidence of serious injury and death to children by accurately identifying the cause and manner of child death for children under age 18~~ preventable deaths of children under the age of 18 years through the identification of unsafe consumer products; identification of unsafe environments; identification of factors that play a role in accidents, homicides and suicides which may be eliminated or counteracted; and promotion of communication, discussion, cooperation, and exchange of ideas and information among agencies investigating child deaths.

ITEM 2. Amend rule 641—90.3(135) as follows:

641—90.3(135) Agency. The Iowa child death review team is established as ~~an independent agency of state government~~ part of the office of the state medical examiner. ~~The Iowa department of public health~~ office of the state medical examiner shall provide staffing and administrative support to the team as needed to collect data, organize meetings, and issue an annual report.

ITEM 3. Amend rule 641—90.4(135) as follows:

641—90.4(135) Membership. The membership of the review team is subject to the provisions of Iowa Code sections 69.16 and 69.16A, relating to political affiliation and gender balance. Review team members who are not designated by another appointing authority shall be appointed by the ~~director of public health in consultation with the director of human services~~ state medical examiner. Membership terms shall be for three years. Members may not serve more than two consecutive terms.

90.4(1) The review team shall include the following:

- a. ~~The state medical examiner or the state medical examiner's designee.~~
- b. to n. No change.

The state medical examiner's office may temporarily appoint other members to serve as experts, as needed, on a case-by-case basis.

90.4(2) No change.

90.4(3) Three consecutive unexcused absences shall be grounds for the ~~director~~ state medical examiner to consider dismissal of the team member and to appoint another. The chairperson of the team is charged with providing notification of absences.

ITEM 4. Amend rule 641—90.5(135) as follows:

641—90.5(135) Officers. ~~Officers of the team shall be a chairperson and a vice chairperson and shall be elected at the first meeting of each fiscal year unless designated at the time of appointment.~~ The review team shall elect a chairperson, a vice chairperson, and other officers as deemed necessary by the review team. Officers shall be elected at the first meeting of each fiscal year. Vacancy in the office of the chairperson shall be filled by elevation of the vice chairperson. Vacancy in the office of the vice chairperson shall be filled by election at the next meeting after the vacancy occurs. The chairperson shall preside at all meetings of the team, appoint such subcommittees as deemed necessary, and designate the chairperson of each subcommittee. If the chairperson is absent or unable to act, the vice chairperson shall perform the duties of the chairperson. When so acting, the vice chairperson shall have all the powers of and be subject to all restrictions upon the chairperson. The vice chairperson shall also perform such other duties as may be assigned by the chairperson.

ITEM 5. Amend rule 641—90.6(135) as follows:

641—90.6(135) Meetings. The team shall meet ~~upon the call of the chairperson, upon the request of a state agency, or as determined by the team~~ as determined by the state medical examiner. Robert's Rules of Order shall govern all meetings.

PUBLIC HEALTH DEPARTMENT[641](cont'd)

ITEM 6. Amend rule 641—90.7(135) as follows:

641—90.7(135) Expenses of team members. ~~The members of the team are eligible for reimbursement of actual and necessary expenses incurred in the performance of their official duties. The state medical examiner's office shall reimburse members of the team for travel expenses according to state guidelines.~~

ITEM 7. Amend rule 641—90.8(135) as follows:

641—90.8(135) Team responsibilities. The state medical examiner's office will be responsible for the collection of data for sudden unexpected or nonnatural deaths for all children under the age of 18 years that occur in the state of Iowa. For each meeting, cases will be selected by the state medical examiner's office for review by the child death review team. The state medical examiner's office will be responsible for data entry. The team shall perform the following responsibilities:

~~1. 90.8(1) Collect, review, and analyze child death certificates and child death data, including patient records or other pertinent confidential information, and other information the review team deems appropriate concerning deaths of children aged six or younger, under 18 years of age, which have been selected by the state medical examiner's office and other information as the review team deems appropriate for use in preparing an annual report to the governor and the general assembly concerning the causes and manner of child deaths. An annual report will be prepared for the governor and the general assembly concerning the cause and manner of child deaths. The report shall include analysis of factual information obtained through review and recommendations regarding prevention of child deaths.~~

~~2. 90.8(2) Recommend to the governor and the general assembly interventions to prevent deaths of children based on an analysis of the cause and manner of such deaths.~~

~~3. 90.8(3) Recommend to the agencies represented on the review team and to other agencies changes which may prevent child deaths.~~

~~4. 90.8(4) Maintain the confidentiality of any patient records or other confidential information reviewed.~~

~~5. 90.8(5) Develop protocols for and establish a committee to review child abuse investigations which involve the death of a child. If deemed appropriate by the team at any point in the review, the team may recommend to the department of human services, appropriate law enforcement agencies, and any person involved with child protection interventions that may prevent harm to a child who is related to or is living in the same home as a child whose case is reviewed by the team.~~

90.8(6) Develop protocols for a child fatality review committee (see 641—Chapter 92) to be appointed by the state medical examiner on an ad hoc basis, to immediately review the child abuse assessments which involve the fatality of a child under the age of 18 years. The state medical examiner shall appoint a medical examiner, a pediatrician, and a person involved with law enforcement to the committee.

~~6. 90.8(7) The team may establish subcommittees to which the team may delegate some or all of the team's responsibilities set out in this rule.~~

ITEM 8. Amend rule 641—90.9(135) as follows:

641—90.9(135) Liaisons.

90.9(1) The following individuals shall each designate a liaison to assist the team in fulfilling its responsibilities.

~~1. a.~~ Director of public health.

~~2. b.~~ Director of human services.

~~3. c.~~ Commissioner of public safety.

~~4. d.~~ Administrator of the bureau of vital records of the Iowa department of public health.

~~5. e.~~ Attorney general.

~~6. f.~~ Director of transportation.

~~7. g.~~ Director of the department of education.

90.9(2) The chairperson shall designate a liaison from the public at large.

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90.9(3) The membership terms of the liaisons shall be for three years. The liaisons may not serve more than two consecutive terms.

ARC 8974B

PUBLIC HEALTH DEPARTMENT[641]

Notice of Intended Action

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)“b.”

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code section 135.112, the Department of Public Health hereby gives Notice of Intended Action to amend Chapter 91, “Iowa Domestic Abuse Death Review Team,” Iowa Administrative Code.

The rules in this chapter outline the duties and responsibilities for the Iowa Domestic Abuse Death Review Team. These amendments are intended to bring the rules into compliance with Iowa Code changes, including the composition of the team and the frequency with which reports are issued.

Any interested person may make written suggestions or comments on these proposed amendments prior to August 20, 2010. Such written materials should be directed to the Domestic Abuse Death Review Team, Department of Public Health, Lucas State Office Building, Des Moines, Iowa 50319-0075; fax (515)281-4535.

Also, there will be a public hearing on August 19, 2010, at 10 a.m. in Room 517 of the Lucas State Office Building, Des Moines, at which time persons may present their views either orally or in writing. At the hearing, persons will be asked to give their names and addresses for the record and to confine their remarks to the subject of the amendments.

Any persons who intend to attend the public hearing and have special requirements, such as those relating to hearing or mobility impairments, should contact the Department of Public Health and advise of specific needs.

These amendments are intended to implement Iowa Code sections 135.108 to 135.112.

The following amendments are proposed.

ITEM 1. Strike “77GA,ch1221” wherever it appears in rules **641—91.1(77GA,ch1221)** to **641—91.11(77GA,ch1221)** and insert “135” in lieu thereof.

ITEM 2. Amend rule 641—91.4(135), introductory paragraph, as follows:

641—91.4(135) Membership. The membership of the team is subject to the provisions of Iowa Code sections 69.16 and 69.16A, relating to political affiliation and gender balance. Team members who are not designated by another appointing authority shall be appointed by the director of public health, in consultation with the attorney general. At least one member shall also be a member of the Iowa child death review team. Membership terms shall be for three years. One-third of the initial members shall serve for three years, one-third of the initial members shall serve for two years, and one-third of the initial members shall serve for one year, as designated by the appointing authority.

ITEM 3. Amend paragraph **91.4(1)“b”** as follows:

b. A licensed physician or nurse who is knowledgeable concerning domestic abuse injuries and deaths, including suicide, and child deaths by homicide suicides.

ITEM 4. Amend paragraph **91.4(1)“m”** as follows:

m. ~~A former~~ Both a female and a male victim of domestic abuse.

PUBLIC HEALTH DEPARTMENT[641](cont'd)

ITEM 5. Adopt the following new subrule 91.4(5):

91.4(5) Members of the team who are currently practicing attorneys or current employees of the judicial branch shall not participate in the following:

- a. A case review involving a case in which the team member is presently involved by professional capacity.
- b. Development of protocols for domestic abuse death investigations and team review.
- c. Development of regulatory changes related to domestic abuse deaths.

ITEM 6. Rescind rule 641—91.8(135) and adopt the following new rule in lieu thereof:

641—91.8(135) Team duties and responsibilities.

91.8(1) The team shall perform the following duties:

a. Prepare a biennial report to the governor, supreme court, attorney general, and the general assembly concerning the following subjects:

(1) The causes and manner of domestic abuse deaths, including an analysis of factual information obtained through review of domestic abuse death certificates and domestic abuse death data, including patient records and other pertinent confidential and public information concerning domestic abuse deaths.

(2) The contributing factors of domestic abuse deaths.

(3) Recommendations regarding the prevention of future domestic abuse deaths, including actions to be taken by communities, based on an analysis of the contributing factors.

b. Advise and consult the agencies represented on the team and other state agencies regarding program and regulatory changes that may prevent domestic abuse deaths.

c. Develop protocols for domestic abuse death investigations and team review.

91.8(2) In performing duties pursuant to subrule 91.8(1), the review team shall:

a. Review information concerning the relationship between the decedent victim and the alleged or convicted perpetrator from the point when the abuse began until the death occurred in order to identify any correlation between events in the relationship and the escalation of the abuse.

b. Review documents such as orders of protection, dissolution, custody, and support or related court records.

c. Determine whether patterns regarding these events can be established in relation to domestic abuse deaths in general, and consider such conclusions in making recommendations for the biennial report.

91.8(3) The team may establish committees or panels to which the team may assign some or all of the team's responsibilities set out in this rule.

ITEM 7. Amend rule 641—91.9(135) as follows:

641—91.9(135) Liaisons. The following individuals shall each designate a liaison to assist the team in fulfilling its responsibilities:

1. to 8. No change.

9. Director of human rights.

10. Administrator of the bureau of vital records of the department of public health.

ITEM 8. Amend rule 641—91.10(135) as follows:

641—91.10(135) Confidentiality and disclosure of information. The team and liaisons shall maintain the confidentiality of all information and records used in the review and analysis of domestic abuse deaths, including disclosure of information which is confidential under Iowa Code chapter 22 or any other provisions of state law.

91.10(1) No information on individual deaths contained in the records described in this rule shall be disclosed except for the purposes of the team, committee or subcommittee meeting, and no confidential information received in preparation for or during the course of such meeting shall be removed from the meeting room except for further review as authorized by the team chairperson.

PUBLIC HEALTH DEPARTMENT[641](cont'd)

91.10(2) In preparation for review of an individual death by the team or its authorized committee or subcommittee, the chairperson of the team or the chairperson's designee is authorized to gather all information pertinent to the review. This information may include, but is not limited to, ~~hospital records, physician's records, school records, day care records, autopsy records, child abuse registry, investigation or assessment records, state public assistance records, traffic records, public safety records, law enforcement records, fire marshal's records, birth records, death records, and other relevant records~~ necessary to conduct a complete review.:

- a. Hospital records;
- b. Physician's records;
- c. School and child care records;
- d. Autopsy records;
- e. Child abuse registry, investigation or assessment records;
- f. State public assistance records;
- g. Traffic and public safety records;
- h. Law enforcement records;
- i. Fire marshal's records;
- j. Birth and death records; and
- k. Other relevant records necessary to conduct a complete review.

91.10(3) A person in possession or control of medical, investigative or other information pertaining to a domestic abuse death ~~and domestic abuse death review~~ and related incidents and events preceding the domestic abuse death shall allow the inspection and reproduction of the information by the department upon the request of the department to be used only in the administration and for the duties of the Iowa domestic abuse death review team.

91.10(4) Information and records which are confidential under Iowa Code section 22.7 and Iowa Code chapter 235A, and information or records received from the confidential records, remain confidential under this rule.

91.10(5) A person does not incur legal liability by reason of releasing information to the department as required under and in compliance with this rule.

91.10(6) A person who releases or discloses confidential data, records, or any other type of information in violation of this rule is guilty of a serious misdemeanor.

ITEM 9. Amend rule 641—91.11(135) as follows:

641—91.11(135) Immunity and liability.

91.11(1) Review team members and their agents are immune from any liability, civil or criminal, which might otherwise be incurred or imposed as a result of any act, omission, proceeding, decision, or determination undertaken or performed, or recommendation made as a review team member or agent provided that the review team members or agents acted in good faith and without malice in carrying out their official duties in their official capacity.

91.11(2) A complainant bears the burden of proof in establishing malice or lack of good faith in an action brought against review team members involving the performance of their duties and powers.

ITEM 10. Amend **641—Chapter 91**, implementation sentence, as follows:

These rules are intended to implement ~~1998 Iowa Acts, chapter 1221, section 5, subsection 4(10)~~ Iowa Code sections 135.108 to 135.112.

ARC 8941B**PUBLIC SAFETY DEPARTMENT[661]****Notice of Intended Action**

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)“b.”

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code sections 17A.3 and 321.4, the Department of Public Safety hereby gives Notice of Intended Action to adopt new Chapter 88, “Notification of Law Enforcement Agency by Hospital Prior to Discharge of a Person with Serious Mental Impairment,” Iowa Administrative Code.

2010 Iowa Acts, Senate File 2352, relating to the emergency hospitalization of a person with a serious mental impairment, was enacted by the Iowa General Assembly during its regular session this year. The bill requires the Department of Public Safety to prescribe the use of a form by peace officers to request notification from a hospital prior to the discharge of a person who has been detained because of a serious mental impairment and brought to the hospital by that officer or another officer, if an arrest warrant has been issued or charges are pending for the person. The rule proposed herein provides for the use of a specified form to make such requests. Although the form is published by and being prescribed by the Department of Public Safety, input was sought from major stakeholders in the process, particularly local law enforcement agencies and hospitals.

Any person may comment on the proposed amendment by fax to (515)725-6195, E-mail to admrule@dps.state.ia.us, or mail to Agency Rules Administrator, Iowa Department of Public Safety, State Public Safety Headquarters Building, 215 East 7th Street, Des Moines, Iowa 50319. Comments must be received no later than 4:30 p.m. on September 7, 2010.

A public hearing will be held to accept comments on the proposed amendment at 9:30 a.m. on September 7, 2010, in the First Floor Public Conference Room (Room 125), State Public Safety Headquarters Building, 215 East 7th Street, Des Moines. Any person who wishes to speak at the hearing should notify the Agency Rules Administrator at least one day prior to the hearing by telephone at (515)725-6185 or E-mail to admrule@dps.state.ia.us.

This amendment was also Adopted and Filed Emergency and is published herein as **ARC 8942B**. The content of that submission is incorporated by reference.

Rules of the Department of Public Safety are generally subject to the waiver provisions of rule 661—10.222(17A).

This amendment is intended to implement 2009 Iowa Code Supplement section 229.22 as amended by 2010 Iowa Acts, Senate File 2352.

ARC 8944B**REVENUE DEPARTMENT[701]****Notice of Intended Action**

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)“b.”

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code sections 421.14 and 422.68, the Department of Revenue hereby gives Notice of Intended Action to amend Chapter 10, “Interest, Penalty, Exceptions to Penalty,

REVENUE DEPARTMENT[701](cont'd)

and Jeopardy Assessments,” Chapter 38, “Administration,” Chapter 40, “Determination of Net Income,” Chapter 43, “Assessments and Refunds,” Chapter 44, “Penalty and Interest,” Chapter 53, “Determination of Net Income,” and Chapter 59, “Determination of Net Income,” Iowa Administrative Code.

These amendments are proposed as a result of 2010 Iowa Acts, House Files 2531 and 2532.

Item 1 adopts new rule 701—10.5(421), which was previously rescinded, to provide for penalties for improper receipt of a refund or credit.

Item 2 amends subrule 38.17(3) to provide for changes in the taxation of spouses of military personnel in accordance with the Military Spouses Residency Relief Act, Public Law No. 111-97.

Item 3 amends rule 701—40.1(422) to reference new rule 701—40.75(422).

Item 4 amends subrule 40.16(5) to correct an example regarding the reporting of income for Iowa individual income tax from intangible personal property for nonresidents of Iowa.

Item 5 amends rule 701—40.65(422) to provide that the increase in the expensing allowance under Section 179 of the Internal Revenue Code is not allowed for Iowa individual income tax purposes for tax periods beginning on or after January 1, 2009, but beginning before January 1, 2010.

Item 6 adopts new rule 701—40.75(422) related to the exclusion of certain income received from the Iowa veterans trust fund from Iowa individual income tax.

Item 7 amends the implementation clause for rule 701—43.4(68A,422,456A).

Item 8 adopts new rule 701—44.5(422) to provide for the waiver of penalty and interest related to additional tax associated with amended returns for Iowa individual income tax for certain casualty losses for the 2008 tax year.

Items 9 and 10 amend paragraph 53.15(1)“a” and subparagraph 53.15(3)“c”(2) to remove obsolete provisions regarding consolidated Iowa corporation income tax returns that relate to tax periods beginning prior to July 1, 1992.

Item 11 amends rule 701—53.23(422) to provide that the increase in the expensing allowance under Section 179 of the Internal Revenue Code is not allowed for Iowa corporation income tax purposes for tax periods beginning on or after January 1, 2009, but beginning before January 1, 2010. This is similar to the change in Item 5.

Item 12 amends rule 701—59.24(422) to provide that the increase in the expensing allowance under Section 179 of the Internal Revenue Code is not allowed for Iowa franchise tax purposes for tax periods beginning on or after January 1, 2009, but beginning before January 1, 2010. This is similar to the change in Item 5.

The proposed amendments will not necessitate additional expenditures by political subdivisions or agencies and entities which contract with political subdivisions.

Any person who believes that the application of the discretionary provisions of these amendments would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any.

The Department has determined that these proposed amendments may have an impact on small business. The Department has considered the factors listed in Iowa Code section 17A.4A. The Department will issue a regulatory analysis as provided in Iowa Code section 17A.4A if a written request is filed by delivery or by mailing postmarked no later than August 31, 2010, to the Policy Section, Taxpayer Services and Policy Division, Department of Revenue, Hoover State Office Building, P.O. Box 10457, Des Moines, Iowa 50306. The request may be made by the Administrative Rules Review Committee, the Administrative Rules Coordinator, at least 25 persons signing that request who each qualify as a small business or an organization representing at least 25 such persons.

Any interested person may make written suggestions or comments on these proposed amendments on or before August 17, 2010. Such written comments should be directed to the Policy Section, Taxpayer Services and Policy Division, Department of Revenue, Hoover State Office Building, P.O. Box 10457, Des Moines, Iowa 50306. Persons who want to convey their views orally should contact the Policy Section, Taxpayer Services and Policy Division, Department of Revenue, at (515)281-8450 or at the Department of Revenue offices on the fourth floor of the Hoover State Office Building.

Requests for a public hearing must be received by August 27, 2010.

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These amendments are intended to implement Iowa Code section 421.27 as amended by 2010 Iowa Acts, House File 2531, section 124; 2010 Iowa Acts, House File 2531, sections 159 and 160; and 2009 Iowa Code Supplement section 422.7 as amended by 2010 Iowa Acts, House File 2532.

The following amendments are proposed.

ITEM 1. Adopt the following new rule 701—10.5(421):

701—10.5(421) Improper receipt of credit or refund. A person who makes an erroneous application for refund or credit shall be liable for any overpayment received plus interest at the rate in effect under Iowa Code section 421.7, subsection 2. In addition, a person who willfully makes a false or frivolous application for refund or credit with the intent to evade tax or with the intent to receive a refund or credit to which the person is not entitled is guilty of a fraudulent practice and is liable for a penalty equal to 75 percent of the refund or credit claimed.

This rule is intended to implement Iowa Code section 421.27 as amended by 2010 Iowa Acts, House File 2531, section 124.

ITEM 2. Amend subrule **38.17(3)**, fifth unnumbered paragraph, as follows:

Spouses For tax years beginning before January 1, 2009, spouses of military personnel who earn wages and other incomes from Iowa sources are taxed on these incomes similarly to other nonresidents of Iowa. Spouses of Iowa resident military personnel who were nonresidents of Iowa at the time of the marriages with the Iowa residents will not be considered to be residents of Iowa until they actually reside in Iowa with their husbands or wives. For tax years beginning on or after January 1, 2009, spouses who earn wages from Iowa sources are not subject to Iowa income tax on these wages if one spouse who is present in Iowa is a member of the armed forces, the other spouse is present in Iowa solely to be with the military spouse, and the spouse who is a member of the armed forces maintains a domicile in another state. This treatment for tax years beginning on or after January 1, 2009, is required by the Military Spouses Residency Relief Act, Public Law No. 111-97.

ITEM 3. Amend rule 701—40.1(422) as follows:

701—40.1(422) Net income defined. Net income for state individual income tax purposes shall mean federal adjusted gross income as properly computed under the Internal Revenue Code and shall include the adjustments in 701—40.2(422) to 701—40.9(422). The remaining provisions of this rule and 701—40.12(422) to 701—40.74(422) 701—40.75(422) shall also be applicable in determining net income.

This rule is intended to implement Iowa Code section 422.7.

ITEM 4. Amend subrule **40.16(5)**, Example G, as follows:

EXAMPLE G - A nonresident is a partner in a family investment partnership in which the other partners are members of the same family. The other partners are residents of Iowa. The partnership invests in mutual funds, interest-bearing securities and stocks which produce interest, dividend and capital gain income for the partnership. The partners who are Iowa residents make ~~the occasional~~ decisions in Iowa on what investments should be made by the partnership. The distributive share of interest, dividend and capital gain income reported by the nonresident would not be included in net income allocated to Iowa since it was not derived from a business carried on within the state. ~~Jensen, Herman A. & Vineta L., Docket No. 88-20-1-0014, Letter of Findings (1992).~~

ITEM 5. Amend rule 701—40.65(422), introductory paragraph, as follows:

701—40.65(422) Section 179 expensing. For tax periods beginning on or after January 1, 2003, but beginning before January 1, 2006, the increase in the expensing allowance for qualifying property authorized in Section 179(b) of the Internal Revenue Code, as enacted by Public Law No. 108-27, Section 202, may be taken for Iowa individual income tax. If the taxpayer elects to take the increased Section 179 expensing, the Section 179 expensing allowance on the Iowa individual income tax return is the same as the Section 179 expensing allowance on the federal income tax return for tax years beginning on or after January 1, 2003, but beginning before January 1, 2006. In addition, for tax

REVENUE DEPARTMENT[701](cont'd)

periods beginning on or after January 1, 2008, but beginning before January 1, 2009, the increase in the expensing allowance for qualifying property authorized in Section 179(b) of the Internal Revenue Code, as enacted by Public Law No. 110-185, Section 102, may be taken for Iowa individual income tax. For tax periods beginning on or after January 1, 2009, but beginning before January 1, 2010, the increase in the expensing allowance for qualifying property authorized in Section 179(b) of the Internal Revenue Code, as enacted by Public Law No. 111-5, Section 1202, cannot be taken for Iowa individual income tax purposes. The maximum amount of Section 179 expensing allowed for tax periods beginning on or after January 1, 2009, but beginning before January 1, 2010, is \$133,000 for Iowa individual income tax purposes.

ITEM 6. Adopt the following new rule 701—40.75(422):

701—40.75(422) Exclusion of certain amounts received from Iowa veterans trust fund. For tax years beginning on or after January 1, 2010, a taxpayer may subtract, to the extent included in federal adjusted gross income, the amounts received from the Iowa veterans trust fund related to travel expenses directly related to follow-up medical care for wounded veterans and their spouses and amounts received related to unemployment assistance during a period of unemployment due to prolonged physical or mental illness or disability resulting from military service.

This rule is intended to implement Iowa Code section 422.7 as amended by 2010 Iowa Acts, House File 2532.

ITEM 7. Amend rule **701—43.4(68A,422,456A)**, implementation sentence, as follows:

This rule is intended to implement Iowa Code sections 422.12D, 422.12E, and 422.12H and ~~2008~~ 2010 Iowa Acts, ~~Senate~~ House File ~~2424~~ 2531, division H XII.

ITEM 8. Adopt the following new rule 701—44.5(422):

701—44.5(422) Waiver of penalty and interest related to certain casualty losses. For tax years beginning on or after January 1, 2008, but before January 1, 2009, the increase in the amount of casualty loss claimed as an itemized deduction authorized under Section 165(h) of the Internal Revenue Code, as modified by the Heartland Disaster Relief Act of 2008, Public Law No. 110-343, Section 706, cannot be taken for Iowa individual income tax purposes. If taxpayers filed their Iowa individual income tax return for the 2008 tax year and claimed the same amount of itemized deduction for casualty losses as allowed on the federal income tax return, taxpayers who amend their Iowa return for 2008 to claim a reduced amount of casualty losses for Iowa tax purposes will not be charged penalty and interest on the additional Iowa income tax due. If taxpayers had previously amended their Iowa return to report a reduced casualty loss for Iowa tax purposes and had paid penalty and interest related to the additional Iowa tax due, the amount of penalty and interest paid will be refunded by the department.

EXAMPLE: A taxpayer with \$50,000 of federal adjusted gross income claimed a \$15,000 itemized deduction for casualty losses on timely filed federal and Iowa income tax returns for 2008 based upon the changes to Section 165(h) of the Internal Revenue Code. Because Iowa did not adopt the changes to Section 165(h) of the Internal Revenue Code, taxpayer is only allowed a \$9,900 itemized deduction for casualty losses for Iowa tax purposes for 2008. Taxpayer filed an amended Iowa return on August 1, 2010, for the 2008 tax year and paid \$346 of additional Iowa income tax due to the reduced casualty loss deduction. Taxpayer will not owe any penalty for failure to timely pay the tax due, and the taxpayer will not owe any interest due to the late payment of tax.

This rule is intended to implement 2010 Iowa Acts, House File 2531, division XX.

ITEM 9. Amend paragraph **53.15(1)“a”** as follows:

a. An affiliated group of corporations which did not file a consolidated return for the immediately preceding taxable year may file a consolidated return in lieu of separate returns for the taxable year. Each corporation which is subject to the Iowa corporation income tax ~~or is unitary with a member which is subject to the Iowa corporation income tax~~ and has been a member during any part of the taxable year for which the consolidated return is to be filed must consent (as provided in paragraph 53.15(1)“d”) to the filing of the consolidated return. ~~For tax years beginning on or after July 1, 1992, only those~~

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~~members of the affiliated group of corporations which are subject to the Iowa corporation income tax may be included in the Iowa consolidated return. If the statutory change in the members of an affiliated group of corporations which may be included in an Iowa consolidated income tax causes a change in the members of the affiliated group actually included in the Iowa consolidated income tax return for the previous tax year, the taxpayer may discontinue filing a consolidated Iowa corporation income tax return for the first tax year beginning on or after July 1, 1992.~~

ITEM 10. Amend subparagraph **53.15(3)“c”(2)** as follows:

(2) If one or more of the members of the affiliated group cease to be subject to Iowa corporate income tax ~~or cease to have operations which constitute a part of the unitary business of one or more members subject to the Iowa tax~~, consolidation may be discontinued in whole or in part.

ITEM 11. Amend rule 701—53.23(422), introductory paragraph, as follows:

701—53.23(422) Section 179 expensing. For tax periods beginning on or after January 1, 2003, but beginning before January 1, 2006, the increase in the expensing allowance for qualifying property authorized in Section 179(b) of the Internal Revenue Code, as enacted by Public Law No. 108-27, Section 202, may be taken for Iowa corporation income tax. If the taxpayer elects to take the increased Section 179 expensing, the Section 179 expensing allowance on the Iowa corporation income tax return is the same as the Section 179 expensing allowance on the federal income tax return for tax years beginning on or after January 1, 2003, but beginning before January 1, 2006. In addition, for tax periods beginning on or after January 1, 2008, but beginning before January 1, 2009, the increase in the expensing allowance for qualifying property authorized in Section 179(b) of the Internal Revenue Code, as enacted by Public Law No. 110-185, Section 102, may be taken for Iowa corporation income tax. For tax periods beginning on or after January 1, 2009, but beginning before January 1, 2010, the increase in the expensing allowance for qualifying property authorized in Section 179(b) of the Internal Revenue Code, as enacted by Public Law No. 111-5, Section 1202, cannot be taken for Iowa corporation income tax purposes. The maximum amount of Section 179 expensing allowed for tax periods beginning on or after January 1, 2009, but beginning before January 1, 2010, is \$133,000 for Iowa corporation income tax purposes.

ITEM 12. Amend rule 701—59.24(422), introductory paragraph, as follows:

701—59.24(422) Section 179 expensing. For tax periods beginning on or after January 1, 2003, but beginning before January 1, 2006, the increase in the expensing allowance for qualifying property authorized in Section 179(b) of the Internal Revenue Code, as enacted by Public Law No. 108-27, Section 202, may be taken for Iowa franchise tax. If the taxpayer elects to take the increased Section 179 expensing, the Section 179 expensing allowance on the Iowa franchise tax return is the same as the Section 179 expensing allowance on the federal income tax return for tax years beginning on or after January 1, 2003, but beginning before January 1, 2006. In addition, for tax periods beginning on or after January 1, 2008, but beginning before January 1, 2009, the increase in the expensing allowance for qualifying property authorized in Section 179(b) of the Internal Revenue Code, as enacted by Public Law No. 110-185, Section 102, may be taken for Iowa franchise tax. For tax periods beginning on or after January 1, 2009, but beginning before January 1, 2010, the increase in the expensing allowance for qualifying property authorized in Section 179(b) of the Internal Revenue Code, as enacted by Public Law No. 111-5, Section 1202, cannot be taken for Iowa franchise tax purposes. The maximum amount of Section 179 expensing allowed for tax periods beginning on or after January 1, 2009, but beginning before January 1, 2010, is \$133,000 for Iowa franchise tax purposes.

ARC 8954B**REVENUE DEPARTMENT[701]****Notice of Intended Action**

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)“b.”

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code sections 421.14 and 422.68, the Department of Revenue hereby gives Notice of Intended Action to amend Chapter 38, “Administration,” Chapter 42, “Adjustments to Computed Tax and Tax Credits,” Chapter 51, “Administration,” Chapter 52, “Filing Returns, Payment of Tax, Penalty and Interest, and Tax Credits,” Chapter 57, “Administration,” and Chapter 58, “Filing Returns, Payment of Tax, Penalty and Interest, and Tax Credits,” Iowa Administrative Code.

These amendments are proposed as a result of 2010 Iowa Acts, Senate File 2380.

Item 1 amends subrule 38.3(2) to provide that individuals should retain any records related to Iowa tax credits claimed on Iowa individual income tax returns.

Item 2 amends paragraph 42.11(3)“e” to add a cross reference to proposed new subrule 52.7(6).

Item 3 amends subrule 42.14(2) for individual income tax to provide that the election to receive a refund of unused investment tax credit is no longer available for businesses eligible under the new jobs and income program and the enterprise zone program.

Item 4 amends the implementation clause for rule 701—42.14(15).

Item 5 amends paragraph 42.19(2)“a” for individual income tax to provide that \$45 million of historic preservation and cultural and entertainment district tax credits are available starting with the fiscal year beginning July 1, 2012.

Item 6 amends the implementation clause for rule 701—42.19(404A,422).

Item 7 amends subrule 42.22(2) for individual income tax to provide that the investment tax credit for equity investments in a venture capital fund is no longer available for investments made after July 1, 2010.

Item 8 amends the implementation clause for rule 701—42.22(15E,422).

Item 9 amends paragraph 42.23(2)“c” for individual income tax to provide that the election to receive a refund of unused investment tax credit is no longer available for businesses eligible under the new capital investment program.

Item 10 amends the implementation clause for rule 701—42.23(15).

Item 11 amends rule 701—42.24(15E,422) for individual income tax to provide that the amount of endow Iowa tax credits available starting with the 2010 calendar year is \$2.7 million plus a percentage of gaming revenues.

Item 12 amends the implementation clause for rule 701—42.24(15E,422).

Item 13 amends paragraph 42.29(2)“b” for individual income tax to provide that the election to receive a refund of unused investment tax credit is no longer available for businesses eligible under the high quality jobs creation program.

Item 14 amends rule 701—42.30(15E,422) for individual income tax to provide that the economic development region revolving fund tax credit is repealed for tax years beginning on or after January 1, 2010.

Item 15 amends the implementation clause for rule 701—42.30(15E,422).

Item 16 amends subrule 42.42(1) for individual income tax to reference proposed new subrule 52.7(6) relating to changes in the calculation of the research activities credit for eligible businesses approved under the high quality jobs program.

Item 17 amends rule 701—42.45(15) for individual income tax to provide for the new aggregate tax credit limit for certain economic development programs for fiscal years beginning on or after July 1, 2010.

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Item 18 amends subrule 51.3(2) to provide that corporations should retain any records related to Iowa tax credits claimed on Iowa corporation income tax returns. This is similar to the change in Item 1.

Item 19 amends subrule 52.7(5) for corporation income tax to provide that the calculation of the research activities credit for businesses eligible under the enterprise zone program has been changed for awards made by the Iowa Department of Economic Development on or after July 1, 2010.

Item 20 renumbers subrule 52.7(6) as 52.7(7), and Item 21 adopts new subrule 52.7(6) for corporation income tax to provide for the new calculation of the research activities credit for businesses eligible under the enterprise zone program for awards made by the Iowa Department of Economic Development on or after July 1, 2010.

Item 22 amends subrule 52.10(4) for corporation income tax to provide that the election to receive a refund of unused investment tax credit is no longer available for businesses eligible under the new jobs and income program. This is similar to the change in Item 3.

Item 23 amends the implementation clause for rule 701—52.10(15).

Item 24 amends rule 701—52.12(422) to update the sequence of tax credits for corporation income tax to include the disaster recovery housing project tax credit.

Item 25 amends subrule 52.14(3) for corporation income tax to reference proposed new subrule 52.7(6) relating to changes in the calculation of the research activities credit for businesses eligible under the enterprise zone program.

Item 26 amends paragraph 52.18(2)“a” for corporation income tax to provide that \$45 million of historic preservation and cultural and entertainment district tax credits are available starting with the fiscal year beginning July 1, 2012. This is similar to the change in Item 5.

Item 27 amends the implementation clause for rule 701—52.18(422).

Item 28 amends subrule 52.21(2) for corporation income tax to provide that the investment tax credit for equity investments in a venture capital fund is no longer available for investments made after July 1, 2010. This is similar to the change in Item 7.

Item 29 amends the implementation clause for rule 701—52.21(15E,422).

Item 30 amends paragraph 52.22(2)“c” for corporation income tax to provide that the election to receive a refund of unused investment tax credit is no longer available for businesses eligible under the new capital investment program. This is similar to the change in Item 9.

Item 31 amends the implementation clause for rule 701—52.22(15).

Item 32 amends rule 701—52.23(15E) for corporation income tax to provide that the amount of endow Iowa tax credits available starting with the 2010 calendar year is \$2.7 million plus a percentage of gaming revenues. This is similar to the change in Item 11.

Item 33 amends the implementation clause for rule 701—52.23(15E).

Item 34 amends paragraph 52.28(2)“b” for corporation income tax to provide that the election to receive a refund of unused investment tax credit is no longer available for businesses eligible under the high quality jobs creation program. This is similar to the change in Item 13.

Item 35 amends rule 701—52.29(15E,422) for corporation income tax to provide that the economic development region revolving fund tax credit is repealed for tax years beginning on or after January 1, 2010. This is similar to the change in Item 14.

Item 36 amends the implementation clause for rule 701—52.29(15E,422).

Item 37 amends subrule 52.40(1) for corporation income tax to reference proposed new subrule 52.7(6) relating to changes in the calculation of the research activities credit for eligible businesses approved under the high quality jobs program. This is similar to the change in Item 16.

Item 38 amends rule 701—52.41(15) for corporation income tax to provide for the new aggregate tax credit limit for certain economic development programs for fiscal years beginning on or after July 1, 2010. This is similar to the change in Item 17.

Item 39 amends subrule 52.42(2) to correct an error regarding the disaster recovery housing project tax credit for corporation income tax.

Item 40 amends subrule 57.3(2) to provide that financial institutions should retain any records related to Iowa tax credits claimed on Iowa franchise tax returns. This is similar to the change in Items 1 and 18.

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Item 41 amends subrule 58.11(2) for franchise tax to provide that the investment tax credit for equity investments in a venture capital fund is no longer available for investments made after July 1, 2010. This is similar to the change in Items 7 and 28.

Item 42 amends the implementation clause for rule 701—58.11(15E,422).

Item 43 amends rule 701—58.13(15E) for franchise tax to provide that the amount of endow Iowa tax credits available starting with the 2010 calendar year is \$2.7 million plus a percentage of gaming revenues. This is similar to the change in Items 11 and 32.

Item 44 amends the implementation clause for rule 701—58.13(15E).

Item 45 amends rule 701—58.18(15E,422) for franchise tax to provide that the economic development region revolving fund tax credit is repealed for tax years beginning on or after January 1, 2010. This is similar to the change in Items 14 and 35.

Item 46 amends the implementation clause for rule 701—58.18(15E,422).

The proposed amendments will not necessitate additional expenditures by political subdivisions or agencies and entities which contract with political subdivisions.

Any person who believes that the application of the discretionary provisions of these amendments would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any. The Department has determined that these proposed amendments may have an impact on small business.

The Department has considered the factors listed in Iowa Code section 17A.4A. The Department will issue a regulatory analysis as provided in Iowa Code section 17A.4A if a written request is filed by delivery or by mailing postmarked no later than August 31, 2010, to the Policy Section, Taxpayer Services and Policy Division, Department of Revenue, Hoover State Office Building, P.O. Box 10457, Des Moines, Iowa 50306. The request may be made by the Administrative Rules Review Committee, the Administrative Rules Coordinator, at least 25 persons signing that request who each qualify as a small business or an organization representing at least 25 such persons.

Any interested person may make written suggestions or comments on these proposed amendments on or before August 17, 2010. Such written comments should be directed to the Policy Section, Taxpayer Services and Policy Division, Department of Revenue, Hoover State Office Building, P.O. Box 10457, Des Moines, Iowa 50306. Persons who want to convey their views orally should contact the Policy Section, Taxpayer Services and Policy Division, Department of Revenue, at (515)281-8450 or at the Department of Revenue offices on the fourth floor of the Hoover State Office Building.

Requests for a public hearing must be received by August 27, 2010.

These amendments are intended to implement Iowa Code sections 15.119, 15.333, 15.335, 15E.51, 15E.232, 15E.305, 404A.4, 422.11G, 422.11K, 422.33 and 422.60 as amended by 2010 Iowa Acts, Senate File 2380.

The following amendments are proposed.

ITEM 1. Amend subrule 38.3(2) as follows:

38.3(2) In addition, records relating to other deductions or additions to federal adjusted income and Iowa tax credits shall be retained so long as the contents may be material in the administration of the Iowa Code under the statutes of limitations for audit specified in Iowa Code section 422.25.

ITEM 2. Amend paragraph **42.11(3)“e”** as follows:

e. An eligible business approved under the new jobs and income program prior to July 1, 2005, is eligible for an additional research activities credit as described in 701—subrule 52.7(4). An eligible business approved under the enterprise zone program is eligible for an additional research activities credit as described in 701—~~subrule~~ subrules 52.7(5) and 52.7(6).

ITEM 3. Amend subrule **42.14(2)**, first unnumbered paragraph, as follows:

Eligible businesses shall apply to the Iowa department of economic development for tax credit certificates between May 1 and May 15 of each fiscal year through the fiscal year ending June 30, 2009. The election to receive a refund of all or a portion of an unused investment tax credit is no longer available beginning with the fiscal year ending June 30, 2010. Only those businesses that have completed projects before the May 1 filing date may apply for a tax credit certificate. The

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Iowa department of economic development will not issue tax credit certificates for more than \$4 million during a fiscal year for this program and eligible businesses described in subrule 42.29(2). If applications are received for more than \$4 million, the applicants shall receive certificates for a prorated amount.

ITEM 4. Amend rule **701—42.14(15)**, implementation sentence, as follows:

This rule is intended to implement Iowa Code section 15.333 as amended by 2010 Iowa Acts, Senate File 2380.

ITEM 5. Amend paragraph **42.19(2)“a”** as follows:

a. Taxpayers who want to claim an income tax credit for completing a historic preservation and cultural and entertainment district project must submit an application for approval of the project. The application forms for the historic preservation and cultural and entertainment district tax credit may be requested from the State Tax Credit Program Manager, State Historic Preservation Office, Department of Cultural Affairs, 600 E. Locust, Des Moines, Iowa 50319-0290. The telephone number for this office is (515)281-4137. Applications for the credit will be accepted by the state historic preservation office on or after July 1, 2000, until such time as all the available credits allocated for each fiscal year are encumbered. For fiscal years beginning on or after July 1, 2000, \$2.4 million shall be appropriated for historic preservation and cultural and entertainment district tax credits for each year. For the fiscal years beginning July 1, 2005, and July 1, 2006, an additional \$4 million of tax credits is appropriated for projects located in cultural and entertainment districts which are certified by the department of cultural affairs. If less than \$4 million of tax credits is appropriated during a fiscal year, the remaining amount shall be applied to reserved tax credits for projects not located in cultural and entertainment districts in the order of original reservation by the department of cultural affairs. For the fiscal year beginning July 1, 2007, \$10 million in historic preservation and cultural and entertainment district tax credits is available. For the fiscal year beginning July 1, 2008, \$15 million in historic preservation and cultural and entertainment district tax credits is available. For the fiscal year beginning July 1, 2009, and for subsequent fiscal years through the fiscal year beginning July 1, 2011, \$50 million in historic preservation and cultural and entertainment district tax credits is available. The allocation of the \$50 million of credits for the fiscal years year beginning on or after July 1, 2009, through the fiscal year beginning July 1, 2011, is set forth in rule 223—48.7(303,404A). For fiscal years beginning on or after July 1, 2012, \$45 million in historic preservation and cultural and entertainment district tax credits is available. Tax credits shall not be reserved by the department of cultural affairs for more than three years except for tax credits issued for contracts entered into prior to July 1, 2007.

ITEM 6. Amend rule **701—42.19(404A,422)**, implementation sentence, as follows:

This rule is intended to implement Iowa Code chapter 404A as amended by ~~2009~~ 2010 Iowa Acts, Senate File ~~484~~ 2380, and Iowa Code section 422.11D.

ITEM 7. Amend subrule 42.22(2), introductory paragraph, as follows:

42.22(2) *Investment tax credit for an equity investment in a venture capital fund.* See rule 123—3.1(15E) for the discussion of the investment tax credit for an equity investment in a venture capital fund, along with the issuance of tax credit certificates by the Iowa capital investment board. This credit is repealed for investments in venture capital funds made after July 1, 2010.

ITEM 8. Amend rule **701—42.22(15E,422)**, implementation sentence, as follows:

This rule is intended to implement Iowa Code sections 15E.43, ~~15E.51~~, 15E.66, and 422.11F and sections 15E.51 and 422.11G as amended by 2010 Iowa Acts, Senate File 2380.

ITEM 9. Amend paragraph **42.23(2)“c,”** first unnumbered paragraph, as follows:

Eligible businesses that elect to receive a refund shall apply to the Iowa department of economic development for tax credit certificates between May 1 and May 15 of each fiscal year through the fiscal year ending June 30, 2009. The election to receive a refund of all or a portion of an unused investment tax credit is no longer available beginning with the fiscal year ending June 30, 2010. Only those businesses that have completed projects before the May 1 filing date may apply for a tax credit certificate. The Iowa department of economic development shall not issue tax credit certificates for more than \$4 million

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during a fiscal year to eligible businesses for this program and eligible businesses described in subrule 42.14(2). If applications are received for more than \$4 million, the applicants shall receive certificates for a prorated amount.

ITEM 10. Amend rule **701—42.23(15)**, implementation sentence, as follows:

This rule is intended to implement Iowa Code sections 15.333 as amended by 2010 Iowa Acts, Senate File 2380, 15.335 and 15.381 to 15.387.

ITEM 11. Amend rule **701—42.24(15E,422)**, first unnumbered paragraph, as follows:

The total amount of endow Iowa tax credits available is \$2 million in the aggregate for the 2003 and 2004 calendar years. The total amount of endow Iowa tax credits is \$2 million annually for the 2005-2007 calendar years, and \$200,000 of these tax credits on an annual basis is reserved for endowment gifts of \$30,000 or less. The maximum amount of tax credit granted to a single taxpayer shall not exceed \$100,000 for the 2003-2007 calendar years. The total amount of endow Iowa tax credits annually for the 2008 and 2009 calendar years is \$2 million plus a percentage of the tax imposed on the adjusted gross receipts from gambling games in accordance with Iowa Code section 99F.11(3). The total amount of endow Iowa tax credits annually for 2010 and subsequent calendar years is ~~\$3~~ \$2.7 million plus a percentage of the tax imposed on the adjusted gross receipts from gambling games in accordance with Iowa Code section 99F.11(3). The maximum amount of tax credit granted to a single taxpayer shall not exceed 5 percent of the total endow Iowa tax credit amount authorized for 2008 and subsequent years. The endow Iowa tax credit cannot be transferred to any other taxpayer.

ITEM 12. Amend rule **701—42.24(15E,422)**, implementation sentence, as follows:

This rule is intended to implement Iowa Code section 15E.305 as amended by ~~2009~~ 2010 Iowa Acts, Senate File ~~478~~ 2380, and section 422.11H.

ITEM 13. Amend paragraph **42.29(2)“b,”** first unnumbered paragraph, as follows:

Eligible businesses that elect to receive a refund shall apply to the Iowa department of economic development for tax credit certificates between May 1 and May 15 of each fiscal year through the fiscal year ending June 30, 2009. The election to receive a refund of all or a portion of an unused investment tax credit is no longer available beginning with the fiscal year ending June 30, 2010. Only those businesses that have completed projects before the May 1 filing date may apply for a tax credit certificate. The Iowa department of economic development shall not issue tax credit certificates for more than \$4 million during a fiscal year to eligible businesses for this program and the enterprise zone program described in subrule 42.14(2). If applications are received for more than \$4 million, the applicants shall receive certificates for a prorated amount.

ITEM 14. Amend rule 701—42.30(15E,422), introductory paragraph, as follows:

701—42.30(15E,422) Economic development region revolving fund tax credit. Effective for tax years ending on or after July 1, 2005, but beginning before January 1, 2010, a taxpayer who makes a contribution to an economic development region revolving fund may claim a tax credit, subject to the availability of the credit. The tax credit is equal to 20 percent of a taxpayer's contribution to the economic development region revolving fund approved by the Iowa department of economic development. The administrative rules for the economic development region revolving fund tax credit for the Iowa department of economic development may be found at 261—Chapter 32. The tax credit is repealed for tax years beginning on or after January 1, 2010.

ITEM 15. Amend rule **701—42.30(15E,422)**, implementation sentence, as follows:

This rule is intended to implement Iowa Code sections 15E.232 and 422.11K as amended by 2010 Iowa Acts, Senate File 2380.

ITEM 16. Amend subrule 42.42(1), introductory paragraph, as follows:

42.42(1) Research activities credit. An eligible business approved under the high quality jobs program is eligible for an additional research activities credit as described in 701—subrule 52.7(4) for awards issued by the Iowa department of economic development prior to July 1, 2010. The eligible

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business is eligible for the research activities credit as described in 701—subrule 52.7(6) for awards issued by the Iowa department of economic development on or after July 1, 2010.

ITEM 17. Amend rule 701—42.45(15) as follows:

701—42.45(15) Aggregate tax credit limit for certain economic development programs. Effective for the fiscal years year beginning on or after July 1, 2009, awards made under certain economic development programs cannot exceed \$185 million during a fiscal year. These programs include the assistive device tax credit program, the enterprise zone program, the housing enterprise zone program, the film, television and video project promotion program and the high quality jobs program. Effective for fiscal years beginning on or after July 1, 2010, awards made under these economic development programs cannot exceed \$120 million during a fiscal year. The administrative rules for the aggregate tax credit limit for the Iowa department of economic development may be found at 261—Chapter 76.

This rule is intended to implement 2009 Iowa Code Supplement section 15.119 as amended by 2010 Iowa Acts, Senate File 2380.

ITEM 18. Amend subrule 51.3(2) as follows:

51.3(2) In addition, records relating to the computation of the Iowa apportionment factor, allocable income, and other deductions or additions to federal taxable income and Iowa tax credits shall be retained so long as the contents may be material in the administration of the Iowa Code under the statutes of limitation for audit specified in Iowa Code section 422.25.

ITEM 19. Amend subrule 52.7(5) as follows:

52.7(5) Corporate tax research credit for increasing research activities within ~~a quality jobs an~~ enterprise zone. Effective for tax years beginning on or after January 1, 2000, for awards made by the Iowa department of economic development prior to July 1, 2010, the taxes imposed for corporate income tax purposes will be reduced by a tax credit for increasing research activities within an area designated as a quality jobs an enterprise zone. This credit for increasing research activities is in lieu of the research activities credit described in 701—subrule 42.11(3) or the research activities credit described in subrule 52.7(3). For the amount of the credit for increasing research activities within an enterprise zone for awards made by the Iowa department of economic development on or after July 1, 2010, see subrule 52.7(6).

a. The credit equals the sum of the following:

(1) Thirteen percent of the excess of qualified research expenses during the tax year over the base amount for the tax year based upon the state's apportioned share of the qualifying expenditures for research activities.

(2) Thirteen percent of the basic research payments determined under Section 41(e)(1)(A) of the Internal Revenue Code during the tax year based upon the state's apportioned share of the qualifying expenditures for increasing research activities. The state's apportioned share of the qualifying expenditures for increasing research activities is a percent equal to the ratio of qualified research expenditures in the ~~quality jobs~~ enterprise zone to total qualified research expenditures.

b. In lieu of the credit computed under paragraph “a” of this subrule, a taxpayer may elect to compute the credit amount for qualified research expenses incurred in the ~~quality jobs~~ enterprise zone in a manner consistent with the alternative incremental credit described in Section 41(c)(4) of the Internal Revenue Code. The taxpayer may make this election regardless of the method used by the taxpayer on the taxpayer's federal income tax return. The election made under this paragraph is for the tax year and the taxpayer may use another method or this same method for any subsequent tax year. For purposes of this alternative research credit computation, the credit percentages applicable to qualified research expenses described in clauses (i), (ii), and (iii) of Section 41(c)(4)(A) of the Internal Revenue Code are 3.30 percent, 4.40 percent, and 5.50 percent, respectively.

c. For purposes of this subrule, the terms “base amount,” “basic research payment,” and “qualified research expense” mean the same as defined for the federal credit for increasing research activities under Section 41 of the Internal Revenue Code, except that, for purposes of the alternative incremental credit described in ~~subrule 52.7(3) paragraph 52.7(3) “b”~~ of this rule, such amounts are limited to research

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activities conducted within the ~~quality jobs~~ enterprise zone. For purposes of this rule, “Internal Revenue Code” means the Internal Revenue Code in effect on January 1, ~~2008~~ 2009.

d. Any research credit in excess of the corporation’s tax liability for the taxable year may be refunded to the taxpayer or credited to the corporation’s tax liability for the following year.

ITEM 20. Renumber subrule **52.7(6)** as **52.7(7)**.

ITEM 21. Adopt the following **new** subrule 52.7(6):

52.7(6) *Research activities credit for awards made by the Iowa department of economic development on or after July 1, 2010.* For eligible businesses approved under the enterprise zone program by the Iowa department of economic development when an award is made on or after July 1, 2010, the taxes imposed for corporate income tax purposes will be reduced by a tax credit for increasing research activities within an area designated as an enterprise zone. This credit for increasing research activities is in lieu of the research activities credit described in 701—subrule 42.11(3) or the research activities credit described in subrule 52.7(3). The amount of the credit depends upon the gross revenues of the eligible business.

a. The credit equals the sum of the following for eligible businesses with gross revenues of less than \$20 million.

(1) Sixteen and one-half percent of the excess of qualified research expenses during the tax year over the base amount for the tax year based upon the state’s apportioned share of the qualifying expenditures for research activities.

(2) Sixteen and one-half percent of the basic research payments determined under Section 41(e)(1)(A) of the Internal Revenue Code during the tax year based upon the state’s apportioned share of the qualifying expenditures for increasing research activities. The state’s apportioned share of the qualifying expenditures for increasing research activities is a percentage equal to the ratio of qualified research expenditures in the enterprise zone to total qualified research expenditures.

b. The credit equals the sum of the following for eligible businesses with gross revenues of \$20 million or more.

(1) Nine and one-half percent of the excess of qualified research expenses during the tax year over the base amount for the tax year based upon the state’s apportioned share of the qualifying expenditures for research activities.

(2) Nine and one-half percent of the basic research payments determined under Section 41(e)(1)(A) of the Internal Revenue Code during the tax year based upon the state’s apportioned share of the qualifying expenditures for increasing research activities. The state’s apportioned share of the qualifying expenditures for increasing research activities is a percentage equal to the ratio of qualified research expenditures in the enterprise zone to total qualified research expenditures.

c. In lieu of the credit computed under paragraphs 52.7(6) “*a*” and “*b*,” a taxpayer may elect to compute the credit amount for qualified research expenses incurred in the enterprise zone in a manner consistent with the alternative incremental credit described in Section 41(c)(4) of the Internal Revenue Code. The taxpayer may make this election regardless of the method used by the taxpayer on the taxpayer’s federal income tax return. The election made under this paragraph is for the tax year and the taxpayer may use another method or this same method for any subsequent tax year. For purposes of this alternative research credit computation, the credit percentages applicable to qualified research expenses described in clauses (i), (ii), and (iii) of Section 41(c)(4)(A) of the Internal Revenue Code depend upon the gross revenues of the eligible business.

(1) The percentages are 4.19 percent, 5.58 percent, and 6.98 percent, respectively, for eligible businesses with gross revenues of less than \$20 million.

(2) The percentages are 2.41 percent, 3.22 percent, and 4.02 percent, respectively, for eligible businesses with gross revenues of \$20 million or more.

d. For purposes of this subrule, the terms “base amount,” “basic research payment,” and “qualified research expense” mean the same as defined for the federal credit for increasing research activities under Section 41 of the Internal Revenue Code, except that, for purposes of the alternative incremental credit described in paragraph 52.7(3) “*b*” of this rule, such amounts are limited to research activities

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conducted within the enterprise zone. For purposes of this rule, "Internal Revenue Code" means the Internal Revenue Code in effect on January 1, 2009.

e. Any research credit in excess of the corporation's tax liability for the taxable year may be refunded to the taxpayer or credited to the corporation's tax liability for the following year.

ITEM 22. Amend subrule **52.10(4)**, first unnumbered paragraph, as follows:

Eligible businesses that elect to receive a refund shall apply to the Iowa department of economic development for tax credit certificates between May 1 and May 15 of each fiscal year through the fiscal year ending June 30, 2009. The election to receive a refund of all or a portion of an unused investment tax credit is no longer available beginning with the fiscal year ending June 30, 2010. Only those businesses that have completed projects before the May 1 filing date may apply for a tax credit certificate. The Iowa department of economic development will not issue tax credit certificates for more than \$4 million during a fiscal year. If applications are received for more than \$4 million, the applicants shall receive certificates for a prorated amount.

ITEM 23. Amend rule **701—52.10(15)**, implementation sentence, as follows:

This rule is intended to implement Iowa Code ~~section~~ sections 15.331C₂ ~~as amended by 2009 Iowa Acts, Senate File 142, and sections 15.333 as amended by 2010 Iowa Acts, Senate File 2380, and 15.335.~~

ITEM 24. Amend rule 701—52.12(422) as follows:

701—52.12(422) Deduction of credits. The credits against computed tax set forth in Iowa Code sections 422.33 and 422.110 shall be deducted in the following sequence.

1. Franchise tax credit.
2. Disaster recovery housing project tax credit.
- ~~2.~~ 3. School tuition organization tax credit.
- ~~3.~~ 4. Venture capital credits.
- ~~4.~~ 5. Endow Iowa tax credit.
- ~~5.~~ 6. Agricultural assets transfer tax credit.
- ~~6.~~ 7. Film qualified expenditure tax credit.
- ~~7.~~ 8. Film investment tax credit.
- ~~8.~~ 9. Redevelopment tax credit.
- ~~9.~~ 10. Investment tax credit.
- ~~10.~~ 11. Wind energy production tax credit.
- ~~11.~~ 12. Renewable energy tax credit.
- ~~12.~~ 13. New jobs credit.
- ~~13.~~ 14. Economic development region revolving fund tax credit.
- ~~14.~~ 15. Charitable conservation contribution tax credit.
- ~~15.~~ 16. Alternative minimum tax credit.
- ~~16.~~ 17. Historic preservation and cultural and entertainment district tax credit.
- ~~17.~~ 18. Corporate tax credit for certain sales tax paid by developer.
- ~~18.~~ 19. Ethanol blended gasoline tax credit or ethanol promotion tax credit.
- ~~19.~~ 20. Research activities credit.
- ~~20.~~ 21. Assistive device credit.
- ~~21.~~ 22. Motor fuel credit.
- ~~22.~~ 23. Wage-benefits tax credit.
- ~~23.~~ 24. Soy-based cutting tool oil tax credit.
- ~~24.~~ 25. Refundable portion of investment tax credit, as provided in subrule 52.10(4).
- ~~25.~~ 26. E-85 gasoline promotion tax credit.
- ~~26.~~ 27. Biodiesel blended fuel tax credit.
- ~~27.~~ 28. Soy-based transformer fluid tax credit.
- ~~28.~~ 29. Estimated tax and payments with vouchers.

This rule is intended to implement Iowa Code sections 15.333, 15.335, 422.33, 422.91 and 422.110.

REVENUE DEPARTMENT[701](cont'd)

ITEM 25. Amend subrule 52.14(3), introductory paragraph, as follows:

52.14(3) *Research activities credit.* An eligible business approved under the enterprise zone program is eligible for an additional research activities credit as described in ~~subrule~~ subrules 52.7(5) and 52.7(6).

ITEM 26. Amend paragraph **52.18(2)“a”** as follows:

a. Taxpayers who want to claim an income tax credit for completing a historic preservation and cultural and entertainment district project must submit an application for approval of the project. The application forms for the historic preservation and cultural and entertainment district tax credit may be requested from the State Tax Credit Program Manager, State Historic Preservation Office, Department of Cultural Affairs, 600 E. Locust, Des Moines, Iowa 50319-0290. The telephone number for this office is (515)281-4137. Applications for the credit will be accepted by the state historic preservation office on or after July 1, 2000, until such time as all the available credits allocated for each fiscal year are encumbered. For fiscal years beginning on or after July 1, 2000, \$2.4 million shall be appropriated for historic preservation and cultural and entertainment district tax credits for each year. For the fiscal years beginning July 1, 2005, and July 1, 2006, an additional \$4 million of tax credits is appropriated for projects located in cultural and entertainment districts which are certified by the department of cultural affairs. If less than \$4 million of tax credits is appropriated during a fiscal year, the remaining amount shall be applied to reserved tax credits for projects not located in cultural and entertainment districts in the order of original reservation by the department of cultural affairs. For the fiscal year beginning July 1, 2007, \$10 million in historic preservation and cultural and entertainment district tax credits is available. For the fiscal year beginning July 1, 2008, \$15 million in historic preservation and cultural and entertainment district tax credits is available. For the fiscal year beginning July 1, 2009, ~~and for subsequent fiscal years~~ through the fiscal year beginning July 1, 2011, \$50 million in historic preservation and cultural and entertainment district tax credits is available. The allocation of the \$50 million of credits ~~for the fiscal years year beginning on or after July 1, 2009, through the fiscal year beginning July 1, 2011,~~ is set forth in rule 223—48.7(303,404A). For fiscal years beginning on or after July 1, 2012, \$45 million in historic preservation and cultural and entertainment district tax credits is available. Tax credits shall not be reserved by the department of cultural affairs for more than three years except for tax credits issued for contracts entered into prior to July 1, 2007.

ITEM 27. Amend rule **701—52.18(422)**, implementation sentence, as follows:

This rule is intended to implement Iowa Code chapter 404A as amended by ~~2009~~ 2010 Iowa Acts, Senate File ~~484~~ 2380, and Iowa Code section 422.33.

ITEM 28. Amend subrule 52.21(2), introductory paragraph, as follows:

52.21(2) *Investment tax credit for an equity investment in a venture capital fund.* See rule 123—3.1(15E) for the discussion of the investment tax credit for an equity investment in a venture capital fund, along with the issuance of tax credit certificates by the Iowa capital investment board. This credit is repealed for investments in venture capital funds made after July 1, 2010.

ITEM 29. Amend rule **701—52.21(15E,422)**, implementation sentence, as follows:

This rule is intended to implement Iowa Code section 15E.43 ~~as amended by 2004 Iowa Acts, Senate File 443,~~ and sections 15E.51, 15E.66, ~~422.11F and 422.33(13)~~ as amended by 2010 Iowa Acts, Senate File 2380.

ITEM 30. Amend paragraph **52.22(2)“c,”** first unnumbered paragraph, as follows:

Eligible businesses that elect to receive a refund shall apply to the Iowa department of economic development for tax credit certificates between May 1 and May 15 of each fiscal year through the fiscal year ending June 30, 2009. The election to receive a refund of all or a portion of an unused investment tax credit is no longer available beginning with the fiscal year ending June 30, 2010. Only those businesses that have completed projects before the May 1 filing date may apply for a tax credit certificate. The Iowa department of economic development shall not issue tax credit certificates for more than \$4 million during a fiscal year to eligible businesses for this program and eligible businesses described in subrule 52.10(4). If applications are received for more than \$4 million, the applicants shall receive certificates for a prorated amount.

REVENUE DEPARTMENT[701](cont'd)

ITEM 31. Amend rule **701—52.22(15)**, implementation sentence, as follows:

This rule is intended to implement Iowa Code sections 15.331C, 15.333 as amended by 2010 Iowa Acts, Senate File 2380, and 15.381 to 15.387.

ITEM 32. Amend rule **701—52.23(15E)**, first unnumbered paragraph, as follows:

The total amount of endow Iowa tax credits available is \$2 million in the aggregate for the 2003 and 2004 calendar years. The total amount of endow Iowa tax credits is \$2 million annually for the 2005-2007 calendar years, and \$200,000 of these tax credits on an annual basis is reserved for endowment gifts of \$30,000 or less. The maximum amount of tax credit granted to a single taxpayer shall not exceed \$100,000 for the 2003-2007 calendar years. The total amount of endow Iowa tax credits annually for the 2008 and 2009 calendar years is \$2 million plus a percentage of the tax imposed on the adjusted gross receipts from gambling games in accordance with Iowa Code section 99F.11(3). The total amount of endow Iowa tax credits annually for 2010 and subsequent calendar years is ~~\$3~~ \$2.7 million plus a percentage of the tax imposed on the adjusted gross receipts from gambling games in accordance with Iowa Code section 99F.11(3). The maximum amount of tax credit granted to a single taxpayer shall not exceed 5 percent of the total endow Iowa tax credit amount authorized for 2008 and subsequent years. The endow Iowa tax credit cannot be transferred to any other taxpayer.

ITEM 33. Amend rule **701—52.23(15E)**, implementation sentence, as follows:

This rule is intended to implement Iowa Code section 15E.305 as amended by ~~2009~~ 2010 Iowa Acts, Senate File ~~478~~ 2380, and Iowa Code section 422.33.

ITEM 34. Amend paragraph **52.28(2)“b,”** first unnumbered paragraph, as follows:

Eligible businesses that elect to receive a refund shall apply to the Iowa department of economic development for tax credit certificates between May 1 and May 15 of each fiscal year through the fiscal year ending June 30, 2009. The election to receive a refund of all or a portion of an unused investment tax credit is no longer available beginning with the fiscal year ending June 30, 2010. Only those businesses that have completed projects before the May 1 filing date may apply for a tax credit certificate. The Iowa department of economic development shall not issue tax credit certificates for more than \$4 million during a fiscal year to eligible businesses for this program and the enterprise zone program described in subrule 52.14(2). If applications are received for more than \$4 million, the applicants shall receive certificates for a prorated amount.

ITEM 35. Amend rule 701—52.29(15E,422), introductory paragraph, as follows:

701—52.29(15E,422) Economic development region revolving fund tax credit. Effective for tax years ending on or after July 1, 2005, but beginning before January 1, 2010, a taxpayer who makes a contribution to an economic development region revolving fund may claim a tax credit, subject to the availability of the credit. The credit is equal to 20 percent of a taxpayer's contribution to the economic development region revolving fund approved by the Iowa department of economic development. The administrative rules for the economic development region revolving fund tax credit for the Iowa department of economic development may be found at 261—Chapter 32. The tax credit is repealed for tax years beginning on or after January 1, 2010.

ITEM 36. Amend rule **701—52.29(15E,422)**, implementation sentence, as follows:

This rule is intended to implement Iowa Code ~~Supplement~~ sections 15E.232 and 422.33 as amended by 2010 Iowa Acts, Senate File 2380.

ITEM 37. Amend subrule 52.40(1), introductory paragraph, as follows:

52.40(1) Research activities credit. An eligible business approved under the high quality jobs program is eligible for an additional research activities credit as described in subrule 52.7(4) for awards issued by the Iowa department of economic development prior to July 1, 2010. The eligible business is eligible for the research activities credit as described in subrule 52.7(6) for awards issued by the Iowa department of economic development on or after July 1, 2010.

REVENUE DEPARTMENT[701](cont'd)

ITEM 38. Amend rule 701—52.41(15) as follows:

701—52.41(15) Aggregate tax credit limit for certain economic development programs. Effective for the fiscal years year beginning on or after July 1, 2009, awards made under certain economic development programs cannot exceed \$185 million during a fiscal year. These programs include the assistive device tax credit program, the enterprise zone program, the housing enterprise zone program, the film, television and video project promotion program, and the high quality jobs program. Effective for fiscal years beginning on or after July 1, 2010, awards made under these economic development programs cannot exceed \$120 million during a fiscal year. The administrative rules for the aggregate tax credit limit for the Iowa department of economic development may be found at 261—Chapter 76.

This rule is intended to implement ~~2009 Iowa Acts, Senate File 483, section 4~~ 2009 Iowa Code Supplement section 15.119 as amended by 2010 Iowa Acts, Senate File 2380.

ITEM 39. Amend subrule 52.42(2) as follows:

52.42(2) Limitation of tax credits. The tax credit shall not exceed 75 percent of the taxpayer's qualifying business investment in a disaster recovery housing project. The maximum amount of tax credits issued by the Iowa finance authority shall not exceed \$3 million in each of the five consecutive years beginning in the 2011 calendar year. A tax credit certificate shall be issued by the Iowa finance authority for each year that the credit can be claimed.

ITEM 40. Amend subrule 57.3(2) as follows:

57.3(2) In addition, records relating to computation of the Iowa apportionment factor, allocable income, ~~and other deductions or additions to federal taxable income, and Iowa tax credits~~ shall be retained so long as the contents may be material in the administration of the Iowa Code under the statutes of limitation for audit specified in Iowa Code section 422.25.

ITEM 41. Amend subrule 58.11(2), introductory paragraph, as follows:

58.11(2) Investment tax credit for an equity investment in a venture capital fund. See rule 123—3.1(15E) for the discussion of the investment tax credit for an equity investment in a venture capital fund, along with the issuance of tax credit certificates by the Iowa capital investment board. This credit is repealed for investments in venture capital funds made after July 1, 2010.

ITEM 42. Amend rule ~~701—58.11(15E,422)~~, implementation sentence, as follows:

This rule is intended to implement Iowa Code section 15E.43 ~~as amended by 2004 Iowa Acts, Senate File 443,~~ and sections 15E.51, 15E.66, ~~422.41F and 422.60(5)~~ as amended by 2010 Iowa Acts, Senate File 2380.

ITEM 43. Amend rule ~~701—58.13(15E)~~, first unnumbered paragraph, as follows:

The total amount of endow Iowa tax credits available is \$2 million in the aggregate for the 2003 and 2004 calendar years. The total amount of endow Iowa tax credits is \$2 million annually for the 2005-2007 calendar years, and \$200,000 of these tax credits on an annual basis is reserved for endowment gifts of \$30,000 or less. The maximum amount of tax credit granted to a single taxpayer shall not exceed \$100,000 for the 2003-2007 calendar years. The total amount of endow Iowa tax credits annually for the 2008 and 2009 calendar years is \$2 million plus a percentage of the tax imposed on the adjusted gross receipts from gambling games in accordance with Iowa Code section 99F.11(3). The total amount of endow Iowa tax credits annually for 2010 and subsequent calendar years is ~~\$3~~ \$2.7 million plus a percentage of the tax imposed on the adjusted gross receipts from gambling games in accordance with Iowa Code section 99F.11(3). The maximum amount of tax credit granted to a single taxpayer shall not exceed 5 percent of the total endow Iowa tax credit amount authorized for 2008 and subsequent years. The endow Iowa tax credit cannot be transferred to any other taxpayer.

ITEM 44. Amend rule ~~701—58.13(15E)~~, implementation sentence, as follows:

This rule is intended to implement Iowa Code ~~section~~ sections 15E.305 and 422.60 as amended by ~~2009~~ 2010 Iowa Acts, Senate File 478 2380 ~~, and Iowa Code section 422.60.~~

REVENUE DEPARTMENT[701](cont'd)

ITEM 45. Amend rule 701—58.18(15E,422), introductory paragraph, as follows:

701—58.18(15E,422) Economic development region revolving fund tax credit. Effective for tax years ending on or after July 1, 2005, but beginning before January 1, 2010, a taxpayer who makes a contribution to an economic development region revolving fund may claim a tax credit, subject to the availability of the credit. The credit is equal to 20 percent of a taxpayer's contribution to the economic development region revolving fund approved by the Iowa department of economic development. The administrative rules for the economic development region revolving fund tax credit for the Iowa department of economic development may be found at 261—Chapter 32. The tax credit is repealed for tax years beginning on or after January 1, 2010.

ITEM 46. Amend rule **701—58.18(15E,422)**, implementation sentence, as follows:

This rule is intended to implement Iowa Code Supplement sections 15E.232 and 422.60 as amended by 2010 Iowa Acts, Senate File 2380.

ARC 8972B**SECRETARY OF STATE[721]****Notice of Termination**

Pursuant to the authority of Iowa Code section 17A.3(1)“b,” the Secretary of State hereby terminates the rule making initiated by its Notice of Intended Action published in the Iowa Administrative Bulletin as **ARC 8708B** on May 5, 2010.

The period for comments passed without the Secretary receiving any comments requiring changes to the proposed summary as it appeared in the Iowa Administrative Bulletin on May 5, 2010. The Secretary of State finds no further need to proceed with rule making for **ARC 8708B**.

Document Boundary

notice-text

TRANSPORTATION DEPARTMENT

Agency

Advisory Notice

Action

Adjusted Bid Thresholds for City and County Highway, Bridge, and Culvert Construction, Reconstruction and Improvement Projects

Document Title

Pursuant to the authority of Iowa Code section 314.1B, the Director of Transportation gives an advisory notice of adjusted bid thresholds for city and county highway, bridge, and culvert construction, reconstruction and improvement projects. The adjusted bid threshold values will become effective January 1, 2011.

The horizontal infrastructure bid threshold subcommittee, composed of three contractors, two county representatives, one city representative and the Director's designee, held a meeting on June 23, 2010, to review bid thresholds. After a review of the construction price index, the subcommittee made the following three adjustments to bid thresholds for city and county highway, bridge, and culvert construction, reconstruction and improvement projects:

1. The county bid threshold in Iowa Code section 309.40 will be adjusted to \$87,000 effective January 1, 2011.

2. The bid threshold in Iowa Code section 314.1, subsection 2, for cities with a population of 50,000 or less will be adjusted to \$47,000 effective January 1, 2011.

3. The bid threshold in Iowa Code section 314.1, subsection 2, for cities with a population of more than 50,000 will be adjusted to \$67,000 effective January 1, 2011.

All other bid thresholds for city and county highway, bridge, and culvert construction, reconstruction and improvement projects that are not addressed in this advisory notice will remain as currently stated in the appropriate Iowa Code sections.

Document Boundary

Document Boundary

notice-text

Agency

TRANSPORTATION DEPARTMENT

Advisory Notice

Action

Adjusted Competitive Quotation Thresholds for
Vertical Infrastructure Public Improvements

Document Title

Pursuant to the authority of Iowa Code section 314.1B, the Director of Transportation gives an advisory notice of adjusted competitive quotation thresholds for vertical infrastructure public improvements. The adjusted competitive quotation threshold values will become effective January 1, 2011.

The vertical infrastructure bid threshold subcommittee, composed of three contractors, three representatives of public entities and the Director's designee, held a teleconference meeting on June 22, 2010, to review competitive quotation thresholds. The vertical infrastructure bid threshold subcommittee made the following adjustments to the competitive quotation thresholds listed in Iowa

Code section 26.14: **State Code Cite**

1. The competitive quotation threshold for counties, including county hospitals, will be adjusted to \$88,000 effective January 1, 2011.

2. The competitive quotation threshold for cities having a population of 50,000 or more will be adjusted to \$67,000 effective January 1, 2011.

3. The competitive quotation threshold for school districts having a population of 50,000 or more will be adjusted to \$67,000 effective January 1, 2011.

4. The competitive quotation threshold for aviation authorities created within cities having a population of 50,000 or more will be adjusted to \$67,000 effective January 1, 2011.

5. The competitive quotation threshold for cities having a population of less than 50,000, for school districts having a population of less than 50,000, and for other governmental entities will be adjusted to \$46,000 effective January 1, 2011.

Document Boundary

notice-text

Agency

TREASURER OF STATE

Notice—Public Funds Interest Rates

Action

In compliance with Iowa Code chapter 74A and section 12C.6, the committee composed of Treasurer of State Michael L. Fitzgerald, Superintendent of Credit Unions James E. Forney, Superintendent of Banking Thomas B. Gronstal, and Auditor of State David A. Vaudt have established today the following rates of interest for public obligations and special assessments. The usury rate for July is 5.50%.

INTEREST RATES FOR PUBLIC OBLIGATIONS AND ASSESSMENTS

74A.2 Unpaid Warrants	Maximum 6.0%
74A.4 Special Assessments	Maximum 9.0%

RECOMMENDED Rates for Public Obligations (74A.3) and School District Warrants (74A.7). A rate equal to 75% of the Federal Reserve monthly published indices for U.S. Government securities of comparable maturities. All Iowa Banks and Iowa Savings Associations as defined by Iowa Code section 12C.1 are eligible for public fund deposits as defined by Iowa Code section 12C.6A.

The rate of interest has been determined by a committee of the state of Iowa to be the minimum interest rate that shall be paid on public funds deposited in approved financial institutions. To be eligible to accept deposits of public funds of the state of Iowa, a financial institution shall demonstrate a commitment to serve the needs of the local community in which it is chartered to do business. These needs include credit services as well as deposit services. All such financial institutions are required to

TREASURER OF STATE[781](cont'd)

provide the committee with a written description of their commitment to provide credit services in the community. This statement is available for examination by citizens.

New official state interest rates, effective July 9, 2010, setting the minimums that may be paid by Iowa depositories on public funds are listed below.

TIME DEPOSITS

7-31 days	Minimum .05%
32-89 days	Minimum .05%
90-179 days	Minimum .05%
180-364 days	Minimum .20%
One year to 397 days	Minimum .45%
More than 397 days	Minimum .95%

These are minimum rates only. The one year and less are four-tenths of a percent below average rates. Public body treasurers and their depositories may negotiate a higher rate according to money market rates and conditions.

Inquiries may be sent to Michael L. Fitzgerald, Treasurer of State, State Capitol, Des Moines, Iowa 50319.

Document Boundary

ARC 8952B

TREASURER OF STATE[781]

Notice of Intended Action

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)“b.”

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code section 12.21, the Treasurer of State hereby gives Notice of Intended Action to rescind Chapter 8, “Accepting Credit Card Payments,” Iowa Administrative Code, and to adopt a new Chapter 8 with the same title.

The rules in Chapter 8 provide for the administration and operation of credit card receipt processing for state departments. This amendment reflects changes in credit card processing regulations by merchant services providers and credit card associations.

Any interested persons may make written suggestions or comments on the proposed rules on or before August 17, 2010. Such written materials should be directed to the Office of the Treasurer of State, State Capitol Building, 1007 E. Grand Avenue, Des Moines, Iowa, 50319; fax (515)281-7562.

There will be a public hearing on August 17, 2010, at 8:30 a.m. in the Lucas Conference Room of the State Treasurer’s Office, Lucas State Office Building, First Floor, Des Moines, Iowa 50319. At the hearing, persons will be asked to give their names and addresses for the record and to confine their remarks to the subject of the proposed rules.

These rules are intended to implement Iowa Code section 12.21.

The following amendment is proposed.

Rescind 781—Chapter 8 and adopt the following new chapter in lieu thereof:

CHAPTER 8

ACCEPTING CREDIT CARD PAYMENTS

781—8.1(12) Purpose. Iowa Code section 12.21 grants authority to the treasurer of state to enter into an agreement with a financial institution to provide credit card receipt processing for state departments and

TREASURER OF STATE[781](cont'd)

to establish administrative and other procedures as necessary to implement the acceptance of credit card payments by state departments that are authorized to accept such payments. The purpose of these rules is to provide for the administration and operation of credit card receipt processing for state departments.

781—8.2(12) Definitions. As used in this chapter:

“Acquiring bank” means a financial institution that receives credit card transactions and then settles with the card-issuing banks.

“Chargeback” means a transaction disputed by a cardholder or card issuer.

“Convenience fee” means a fee charged to the cardholder for the convenience to that cardholder of using a particular method of payment in a credit or debit card transaction in accordance with the network regulations governing that transaction.

“Credit card” means the same as defined in Iowa Code section 537.1301, subsection 17.

“Credit card associations” means Visa, MasterCard, American Express, Discover Network, Diners, JCB, and any other organization that issues or sponsors credit cards or signature-based debit cards that are accepted by state departments.

“Debit card” means a card used to purchase goods or services and to obtain cash in which the cardholder’s personal deposit account is reduced by the transaction amount. Debit card transactions that are processed on credit card association networks are typically called signature-based debit card transactions, while debit card transactions processed on electronic funds transfer networks are generally referred to as PIN-based transactions.

“Financial institution” means the same as defined in Iowa Code section 527.2 and includes any bank incorporated under the provisions of any state or federal law, any savings and loan association incorporated under the provisions of any state or federal law, any credit union organized under the provisions of any state or federal law, any corporation licensed as an industrial loan company under Iowa Code chapter 536A, and any affiliate of a bank, savings and loan association, credit union, or industrial loan company.

“Merchant” means the state department or subdivision that accepts credit card and debit card payments.

“Merchant guidelines” means the manual issued by the merchant services provider that prescribes the rules and procedures governing credit card and debit card transactions and a state department’s use of the credit card and debit card processing services.

“Merchant services provider” means a company that manages the processing of credit card and debit card transactions among merchants, credit card issuers, and acquiring banks.

“Payment card industry data security standards” or *“PCI-DSS”* means a set of comprehensive requirements for credit card data security developed by the Payment Card Industry Council, founded by American Express, Discover Financial Services, JCB International, MasterCard Worldwide and Visa Inc. International.

“Treasurer” means the treasurer of the state of Iowa and staff members who carry out duties delegated by the treasurer.

781—8.3(12) State department requirements for accepting credit card payments.

8.3(1) A state department shall notify the treasurer of its intent to accept credit card payments and provide the treasurer with the following information:

- a. The type of goods and services it will offer for payment by credit card and debit card.
- b. The estimated per-transaction amount, yearly transaction volume, and total yearly dollar volume to be collected.
- c. The number and location of departmental sites that may accept credit card payments.
- d. The method that the department will use to accept card payments, for example, through a Web site, a virtual terminal, a point-of-sale terminal, or a wireless terminal.

8.3(2) A state department shall purchase or lease any equipment or software required to accept credit card payments, or pay any fees charged for access to online virtual terminals used to process credit card and debit card payments.

TREASURER OF STATE[781](cont'd)

8.3(3) A state department shall sign an agency participation agreement with the treasurer acknowledging its responsibilities under the credit card contract, including, but not limited to:

a. Following the procedures for accepting payments by credit card and debit card as outlined in the agreement between the financial institution, merchant services provider, and treasurer, and as specified in the merchant guidelines.

b. Following procedures issued by the treasurer to record receipts, corrections to receipts, refunds, chargebacks, expenses, and any other accounting transactions associated with accepting credit card and debit card payments.

c. The payment of all equipment and software costs, all processing fees and charges incurred in accepting card payments, including the costs of supplies, and all fees charged for annual PCI-DSS reviews.

d. Becoming compliant with PCI-DSS and maintaining that compliance as long as the department accepts credit card and debit card payments.

8.3(4) A state department shall receive authorization from the treasurer prior to accepting credit card and debit card payments.

8.3(5) A state department shall follow the procedures and rules for charging a convenience fee for credit card and debit card transactions as outlined in the agreement between the financial institution, merchant services provider, and treasurer, and as specified in the merchant guidelines, and by the credit card associations' rules.

8.3(6) A state department shall follow the instructions provided by the treasurer for completing cash receipts documents to reflect credit card transactions that post to the treasurer's account at the financial institution.

8.3(7) A state department shall be responsible for achieving and maintaining compliance with all applicable PCI-DSS.

8.3(8) A state department shall be responsible for completing an annual review of its compliance with PCI-DSS, as required by the treasurer's credit card processing contract and by the PCI-DSS. At any time throughout the year, the state department shall promptly cure any instance of noncompliance of which it becomes aware.

8.3(9) A state department shall be responsible for any penalties, fees, fines, and other costs assessed against the department, the treasurer, or the State of Iowa, resulting from or arising out of the department's violation of, or noncompliance with, PCI-DSS.

781—8.4(12) Procedures for administering the credit card receipt process.

8.4(1) The treasurer shall enter into an agreement with a financial institution to provide credit card payment processing for state departments.

8.4(2) The treasurer shall specify which credit cards may be accepted by state departments.

8.4(3) The treasurer shall enter into an agency participation agreement with each state department authorized to accept credit card payments under the credit card processing contract.

8.4(4) The treasurer shall provide state departments with a copy of the merchant operating guidelines.

8.4(5) The treasurer shall provide state departments with information on costs for credit card and debit card processing, equipment, software, and supplies as specified under the credit card processing contract.

8.4(6) The treasurer shall provide state departments with instructions on creating cash receipts documents for credit card receipts.

8.4(7) The treasurer shall notify a state department that it is authorized to accept credit card and debit card payments and provide the department with its merchant identification number and other account information.

8.4(8) The treasurer shall terminate the agency participation agreement and a state department's authority to accept credit card and debit card payments if a state department fails to comply with the requirements outlined in this chapter.

TREASURER OF STATE[781](cont'd)

781—8.5(12) Adjustments for convenience fees. If a state department is allowed to charge their customers a convenience fee under the credit card processing contract, then the following shall apply:

1. The treasurer shall consult with the state department to assist in determining the amount by which the department's fees may be adjusted to reflect the cost of credit card processing.
2. The state department shall follow all credit card associations' rules on how and when a convenience fee may be charged.
3. The treasurer shall notify state departments of any changes in the credit card associations' rules on convenience fees.

These rules are intended to implement Iowa Code section 12.21.

ARC 8947B

IOWA FINANCE AUTHORITY[265]

Adopted and Filed Emergency

Pursuant to the authority of Iowa Code sections 16.5(1)“r,” 16.52 and 17A.3(1)“b,” the Iowa Finance Authority hereby amends Chapter 12, “Low-Income Housing Tax Credits,” Iowa Administrative Code.

These amendments replace the current qualified allocation plan for the Low-Income Housing Tax Credit Program with the 2010 first amended qualified allocation plan, which is incorporated by reference in rule 265—12.1(16).

The first amended qualified allocation plan sets forth the purpose of the plan, the administrative information required for participation in the program, the threshold criteria, the postreservation requirements, the appeal process, and the compliance monitoring component. The plan also establishes the fees for filing an application for low-income housing tax credits and for compliance monitoring. Copies of the plan are available upon request from the Authority and are available electronically on the Authority’s Web site at www.iowafinanceauthority.gov. It is the Authority’s intent to incorporate the 2010 first amended qualified allocation plan by reference, which is consistent with Iowa Code chapter 17A and 265—subrules 17.4(2) and 17.12(2).

The Authority does not intend to grant waivers under the provisions of any of these rules, other than as may be allowed under the Authority’s general rules concerning waivers at 265—Chapter 18. The first amended qualified allocation plan is subject to state and federal requirements that cannot be waived. (See Internal Revenue Code Section 42 and Iowa Code section 16.52.)

The Authority finds, pursuant to Iowa Code section 17A.4(3), that notice and public participation are impracticable and contrary to the public interest in that the normal notice and public participation process would delay implementation of the qualified allocation plan (QAP) and result in the loss of 2010 low-income housing tax credits.

The Authority also finds that adoption of these amendments confers a benefit on developers and prospective tenants of low-income housing, in that the amendments ease the administration of an important program that facilitates the development of decent, affordable housing. The Authority finds that these amendments should be implemented as soon as feasible in order to implement the beneficial aspects of the Heartland Disaster Tax Relief Act of 2008, to provide housing assistance to areas affected by natural disasters as quickly as possible, and to avoid the expiration of 2010 tax credits made available under the Heartland Disaster Tax Relief Act of 2008. Therefore, these amendments are filed pursuant to Iowa Code section 17A.5(2)“b”(2), and the normal effective date of these amendments is waived.

These amendments are also published herein under Notice of Intended Action as **ARC 8948B** to allow for public comment.

The Authority adopted these amendments on June 23, 2010.

These amendments became effective on July 6, 2010.

These amendments are intended to implement Iowa Code sections 16.5(1)“r” and 16.52, IRC Section 42, and the Heartland Disaster Tax Relief Act of 2008.

The following amendments are adopted.

ITEM 1. Amend rule 265—12.1(16) as follows:

265—12.1(16) Qualified allocation plan. The qualified allocation plan entitled Iowa Finance Authority Low-Income Housing Tax Credit Program 2010 First Amended Qualified Allocation Plan shall be the qualified allocation plan for the allocation of 2010 low-income housing tax credits consistent with IRC Section 42 and the applicable Treasury regulations and Iowa Code section 16.52. The qualified allocation plan includes the plan, application, and the application instructions. The qualified allocation plan is incorporated by reference pursuant to Iowa Code section 17A.6 and 265—subrules 17.4(2) and 17.12(2). The qualified allocation plan does not include any amendments or editions created subsequent to ~~October 7, 2009~~ June 23, 2010.

IOWA FINANCE AUTHORITY[265](cont'd)

ITEM 2. Amend rule 265—12.2(16) as follows:

265—12.2(16) Location of copies of the plan. The qualified allocation plan can be reviewed and copied in its entirety on the authority's Web site at <http://www.iowafinanceauthority.gov>. Copies of the qualified allocation plan, application, and all related attachments and exhibits shall be deposited with the administrative rules coordinator and at the state law library and shall be available on the authority's Web site. The plan incorporates by reference IRC Section 42 and the regulations in effect as of ~~October 7, 2009~~ June 23, 2010. Additionally, the plan incorporates by reference Iowa Code section 16.52. These documents are available from the state law library, and information about these statutes, regulations and rules is on the authority's Web site.

[Filed Emergency 7/6/10, effective 7/6/10]

[Published 7/28/10]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 7/28/10.

ARC 8945B

IOWA FINANCE AUTHORITY[265]

Adopted and Filed Emergency

Pursuant to the authority of Iowa Code sections 16.5(1)“r” and 17A.3(1)“b” and 2010 Iowa Acts, House File 2148, the Iowa Finance Authority hereby amends Chapter 27, “Military Service Member Home Ownership Assistance Program,” Iowa Administrative Code.

The purpose of these amendments is to clarify the requirements of the Military Service Member Home Ownership Assistance Program and to implement changes called for by 2010 Iowa Acts, House File 2148.

The Authority does not intend to grant waivers under the provisions of any of these rules, other than as may be allowed under the Authority's general rules concerning waivers at 265—Chapter 18.

The Authority finds, pursuant to Iowa Code section 17A.4(3), that notice and public participation are impracticable and contrary to the public interest in that a delay in implementing the changes mandated by 2010 Iowa Acts, House File 2148, would potentially disadvantage service members seeking to purchase homes in Iowa.

The Authority finds that adoption of these amendments confers a benefit on the persons affected, eligible members of the armed forces, in that the amendments ease and speed the administration of an important and popular state grant program which benefits those members of the armed forces. The Authority finds that these amendments should be implemented as soon as feasible in order to facilitate the awarding of grants under the program and to avoid confusion and delays in real estate closings. Therefore, these amendments are filed pursuant to Iowa Code section 17A.5(2)“b”(2), and the normal effective date of these amendments is waived.

These amendments are also published herein under Notice of Intended Action as **ARC 8946B** to allow for public comment.

The Authority adopted these amendments on June 23, 2010.

These amendments became effective on July 6, 2010.

These amendments are intended to implement Iowa Code section 16.5(1)“r” and 2010 Iowa Acts, House File 2148.

The following amendments are adopted.

ITEM 1. Amend rule 265—27.2(16) as follows:

265—27.2(16) Definitions. As used in this chapter, unless the context otherwise requires:

“*Closing agent*” means the attorney, real estate firm, or closing company that is closing the cash sale qualifying purchase transaction and that prepares the cash sale settlement statement.

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“Eligible service member” means a person purchasing his or her primary residence in the state of Iowa who, at the time of applying for a grant under the program, (1) is or was a member of the national guard, reserve, or regular component of the armed forces of the United States under Title 10 or Title 32 and has served at least 90 days of active duty service, other than training, beginning on or after September 11, 2001, and, if no longer in active service, was discharged in character other than dishonorable; (2) was honorably discharged due to injuries incurred while on active federal service beginning on or after September 11, 2001; or (3) is a surviving spouse of a service member who met the eligibility criteria of (1) or (2) above.

“Home ownership assistance” means the one-time ~~grant~~ assistance of up to \$5,000 per eligible service member that may be used toward down payment or closing costs, or both, in the purchase of a qualified home. This ~~grant~~ assistance does not require repayment except pursuant to rule 265—27.4(16).

“Participating lender” means a lender approved for participation in one or more of the authority’s first-time home buyer program that makes available the authority’s first-time home buyer program to customers in the same manner as other mortgage loan programs. ~~programs and a lender approved to facilitate loans under the military home ownership assistance program only.~~ Eligible home buyer program participating lenders are those that make available the authority’s home buyer program to customers in the same manner as other mortgage loan programs. This requirement applies to branch and affiliate organizations that facilitate mortgage financing with the military ~~grant~~ assistance. The authority may require participating lenders to provide evidence of proof of compliance, such as origination of ~~the authority’s first-time home buyer mortgages~~ mortgage loans made pursuant to one or more of the authority’s home buyer mortgage programs or mortgage rate sheets evidencing availability of the authority’s mortgage ~~program programs~~. The authority maintains a list of participating lenders on its Web site: www.iowafinanceauthority.gov.

“Program” or *“military ~~grant~~ home ownership assistance program”* or *“MHOA”* means the military service member home ownership assistance program authorized by ~~2008 Iowa Acts, Senate File 2354~~ Iowa Code section 16.54 as amended by 2010 Iowa Acts, House File 2148.

“Qualified home” means a home that is located in the state of Iowa, that is purchased by an eligible service member as the ~~eligible~~ service member’s primary residence ~~on or after July 1, 2008, that will be immediately occupied by the service member or spouse,~~ and that falls into one of the following categories:

1. Single-family residence, including “stick-built” homes, modular homes, or manufactured homes, provided the home is attached to a permanent foundation and is taxed as real estate;
2. Condominium;
3. Townhome;
4. A property containing two to four residential units, where one unit is to be occupied by the eligible service member as his or her primary residence.

The following categories of property shall not constitute a qualified home:

- Multifamily properties of five units or more;
- Commercial or nonresidential property;
- Farmland or other investment property;
- Recreational vehicles, mobile homes, or trailers that are not both attached to a permanent foundation and taxed as real estate.

“Qualified mortgage” means a permanent mortgage loan made pursuant to one of the authority’s first-time home buyer mortgage program programs unless the lender offers a lower annual percentage interest rate (APR), fixed-rate, fully amortizing first mortgage for eligible first-time home buyers and targeted area home buyers or, in cases where the home buyer is not eligible for the authority’s first-time home buyer mortgage program, standard 30-year, fixed-rate FHA, RD, VA, Fannie Mae, or Freddie Mac mortgage financing, any permanent, fully amortizing, fixed-rate mortgage loan made by a participating lender with amortized payments and a maturity date of not less than five years made by a participating lender. ~~First-time~~ The authority’s home buyer mortgage program information may be obtained on the authority’s Web site at www.iowafinanceauthority.gov.

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“Status documentation” means written documentation of the applicant’s status with the armed forces of the United States, typically a copy of a valid DD Form 214, showing character of service other than dishonorable, or the applicant’s most recent four months of leave and earnings statements, or other documentation satisfactory to the Iowa department of veterans affairs.

“Title guaranty certificate” means the certificate issued by the title guaranty division of the authority pursuant to Iowa Code section 16.92 to ensure marketable title to the lender or the homeowner, or both. Information about title guaranty may be obtained at: the title guaranty Web site at www.iowafinanceauthority.gov.

ITEM 2. Amend rule 265—27.3(16) as follows:

265—27.3(16) Application procedure and determination of eligibility.

27.3(1) Prior approval. Whether the purchase of a qualified home is by mortgage financing or cash, a determination of the service member’s eligibility prior approval of the assistance by the Iowa department of veterans affairs and prior approval of the grant by the authority are authority is required. Approval of the request will entail application and supporting document review by the authority and a determination of the service member’s eligibility by the Iowa department of veterans affairs. A minimum of ~~one week~~ two weeks should be allowed for ~~approval~~ response from the authority.

27.3(2) Financed home purchases.

a. In the case of the purchase of a qualified home that is to be financed, the eligible service member must apply for ~~a grant~~ assistance under the program through a participating lender or a lender approved to facilitate MHOA assistance. The mortgage financing provided shall be a mortgage loan made pursuant to one of the authority’s ~~first-time~~ home buyer mortgage programs if the service member qualifies for it, unless lower APR, fixed-rate, fully amortizing mortgage financing is available or unless another permanent, fixed-rate, fully amortizing mortgage is available if the service member does not qualify for ~~the first-time~~ one of the authority’s home buyer mortgage programs.

b. To apply for the military ~~grant~~ assistance, the eligible service member shall provide a participating lender with all of the following:

- (1) status Status documentation;₂
- (2) ~~submit a~~ A bona fide purchase agreement with any addenda or attachments for a primary residence;₂
- (3) A complete a loan application on Form 1003;₂
- (4) ~~submit a~~ A copy of a government-issued photo identification card;₂
- (5) A copy of the subject appraisal; and
- (6) Documentation that demonstrates the home will be occupied as a primary residence. ~~and assist the participating lender in completing a grant application on a form approved by the authority which states the amount of the grant being requested. In the event the applicant is not eligible for the authority’s first-time home buyer mortgage program, information evidencing ineligibility and acceptable documentation to the authority must accompany the application.~~

c. The eligible service member shall assist the participating lender in completing an MHOA application on a form approved by the authority stating the amount of the assistance being requested. In the event the service member is not using one of the authority’s mortgage programs, the request submission must include early truth-in-lending and good-faith estimate disclosures, and, if the service member is not eligible for a 30-year, fixed-rate mortgage loan, the request submission must also include fully amortized financing and information documenting ineligibility for FHA, VA, RD, Fannie Mae or Freddie Mac financing.

d. ~~The participating~~ Once it has received all of the information required by this subrule, the lender shall ~~then~~ transmit copies of the loan application, the status documentation, the purchase agreement, ~~any necessary supporting documentation,~~ the photo ID, the appraisal, any necessary supporting documentation, and the ~~grant~~ MHOA application to the authority.

e. Service members who were otherwise eligible for the program, but who were ineligible for assistance under the program at the time of closing due to the fact that they purchased a home using

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a mortgage loan other than one made through one of IFA's home buyer programs, may retroactively receive assistance under the program provided that:

(1) The mortgage loan used by the service member had a lower annual percentage rate than the mortgage loans being made through the authority's home buyer programs at the time the service member closed on the service member's mortgage loan; and

(2) The service member and the service member's lender provide all documentation as required by paragraphs "b" through "d," above.

27.3(3) *Cash home purchases.* In the case of a cash purchase of a qualified home, the eligible service member shall provide directly to the authority status documentation, a completed ~~grant~~ MHOA application form obtained from the authority, and a bona fide purchase agreement with any addenda or attachments for a primary residence.

27.3(4) *Referral of status documentation to Iowa department of veterans affairs.* Upon receipt of the completed ~~grant~~ MHOA application, the authority shall submit the status documentation to the Iowa department of veterans affairs for verification that the applicant's duty status is consistent with the definition of "eligible service member." The Iowa department of veterans affairs shall be the final authority as to whether an applicant's duty status is consistent with the definition of "eligible service member."

27.3(5) *Notice of ~~grant~~ MHOA approval.* Upon confirmation of the applicant's service record by the Iowa department of veterans affairs, provided that the information submitted on the ~~grant~~ application form complies with the requirements of this chapter, the authority shall notify the ~~participating~~ lender, or eligible service member in the case of a cash purchase, that the ~~grant~~ MHOA application has been approved.

27.3(6) *Gaps in funding.* In cases where the ~~grant~~ military assistance funds are unavailable during the home purchase process, ~~approved transactions~~ MHOA requests for approval shall be placed on a waiting list. When funds are again available, provided that all other criteria have been met, including issuance of the title guaranty certificate, and where the home purchase closed without the benefit of military ~~grant~~ assistance funds being applied toward closing costs or down payment, the proceeds of the ~~grant~~ assistance shall be paid (1) directly to the participating lender/servicing lender to be applied toward the qualified mortgage loan's principal balance or to replenish the eligible service member's contribution toward home purchase, or (2) if the qualified home was purchased pursuant to a cash purchase transaction, directly to the eligible service member. Additional documentation required shall include a statement executed by the applicant authorizing the ~~grant~~ assistance to be applied to the principal balance.

27.3(7) *Approval process for facilitating lender status.* An Iowa-regulated or federally regulated lender with a physical location in the state of Iowa may submit an application to the authority for approval, even if such lender does not participate in the authority's home ownership programs for home buyers. The application shall include a written request to be approved as an MHOA facilitating lender, a check for \$500 payable to the authority, a narrative describing the lender's mortgage origination process, including mortgage loan products offered through the lender, documentation of Iowa or federal regulation showing that the applicant is in good standing, an errors and omissions insurance declaration evidencing coverage of at least \$300,000, and a completed electronic funds transfer form. Lenders should allow a minimum of two weeks' response time from the authority. The approval to be a facilitating lender shall be valid for one year, and lenders annually will need to submit an application, including the application fee. The application fee may not be charged in part or in full to a service member or to a property seller.

ITEM 3. Amend rule 265—27.4(16) as follows:

265—27.4(16) *Grant MHOA award.* ~~Grants~~ Assistance awarded hereunder shall be up to \$5,000 toward the purchase of a qualified home and may be used for down payment or for closing costs, or for both. ~~Grant~~ Assistance funds must be applied to the purchase of a qualified home and, in the case of mortgage financing, the mortgage must be a qualified mortgage. Any ~~grant~~ assistance proceeds which are not used for down payment or closing costs toward the purchase of a qualified home which is financed by a mortgage or cash purchase transaction must be returned to the authority.

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27.4(1) ~~Grant~~ MHOA reimbursement. The participating lender or cash payment home buyer shall advance funds at closing in an amount equal to the amount of the ~~grant~~ assistance on behalf of the eligible service member to be applied toward closing costs or the down payment. The ~~participating~~ lender or cash payment home buyer, as applicable, shall, within 30 days of closing, submit to the authority a copy of the executed HUD-1 Settlement Statement (or, if the transaction is a cash purchase, the eligible service member may use the settlement statement certified by a closing agent and the eligible service member), a copy of the deed conveying title to the qualified home, a copy of a title guaranty certificate issued for the qualified home, and the military grant agreement and certification (form obtained from the authority) for reimbursement for the amount of the ~~grant~~ assistance. In the event the mortgage financing is not made pursuant to one of the authority's first-time home buyer program programs, reimbursement documentation shall include a certified copy of the promissory note, ~~and mortgage, and final truth-in-lending disclosure.~~

27.4(2) ~~Grant~~ MHOA assistance restrictions and limitations. All ~~grants~~ assistance under the program ~~are is~~ subject to funding availability. ~~Grants~~ Assistance will be awarded in the order in which completed ~~grant~~ MHOA applications are received. ~~Grants~~ Assistance awarded pursuant to the program ~~are is~~ personal to ~~their recipients~~ its recipient and may not be assigned. Only one ~~grant~~ award of assistance shall be awarded per home purchase. An eligible service member shall receive only one ~~grant~~ award under the program. While program funds are available, the ~~grant~~ award shall be valid for 60 days in the case of purchases of existing or completed property and 120 days in the case of purchases of property being constructed or renovated. A reasonable extension may be granted with evidence of a purchase loan in progress which has been delayed due to circumstances beyond the service member's control.

ITEM 4. Amend rule 265—27.5(16) as follows:

265—27.5(16) Income, purchase price and qualified mortgage. There are no income or purchase price limits under the program except ~~that for~~ eligible service members purchasing with mortgage financing who are eligible for under one of the authority's first-time home buyer program, whether a first-time home buyer or non-first-time home buyer purchasing in a targeted area, must use the authority's first-time home buyer mortgage program programs. Service members who are not eligible for one of the authority's first-time home buyer mortgage program programs and are not purchasing on a cash basis, must use other permanent mortgages made by the ~~participating~~ lender. Service members may also, if eligible, use other ~~grant~~ subsidy funds from the authority as allowed by one or more of the authority's programs, grant fund assistance available through other public agencies, ~~or~~ nonprofit organizations, ~~or~~ the service member's employer, or any forgivable, "soft second" lien subsidy. Information about the authority's ~~first-time home buyer program programs~~ or how to contact a participating lender may be obtained on the authority's Web site at www.iowafinanceauthority.gov.

ITEM 5. Amend **265—Chapter 27**, implementation sentence, as follows:

These rules are intended to implement Iowa Code ~~Supplement~~ section 16.5(1) "r" and section 16.54 as amended by 2008 2010 Iowa Acts, Senate File 2354 House File 2148.

[Filed Emergency 7/6/10, effective 7/6/10]

[Published 7/28/10]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 7/28/10.

ARC 8963B

IOWA FINANCE AUTHORITY[265]

Adopted and Filed Emergency

Pursuant to the authority of Iowa Code sections 16.5(1) "r" and 17A.3(1) "b," the Iowa Finance Authority hereby adopts Chapter 39, "HOME Partnership Program," Iowa Administrative Code.

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The purpose of this amendment is to implement Iowa Code sections 16.5(1)“f” and 16.5(1)“m” and the Cranston-Gonzalez National Affordable Housing Act of 1990 by establishing rules for the continued administration of the HOME Partnership Program under the Authority’s administration.

The Authority does not intend to grant waivers under the provisions of any of these rules, other than as may be allowed under the Authority’s general rules concerning waivers at 265—Chapter 18.

Pursuant to Iowa Code section 17A.4(3), the Authority finds that notice and public participation are impracticable and contrary to the public interest in that the effect of the new rules is to transfer the existing HOME Partnership Program from the Iowa Department of Economic Development to the Iowa Finance Authority with no substantive changes to the program.

The Authority finds that adoption of these rules confers a benefit on the public in that these rules permit the uninterrupted operation of an important housing program and facilitate a smooth transition of the HOME Partnership Program from the Iowa Department of Economic Development to the Iowa Finance Authority. The Authority finds that these rules should be implemented as soon as feasible in order to facilitate the administration of grants under the program and to avoid unnecessary expense and delays. Therefore, these rules are filed pursuant to Iowa Code section 17A.5(2)“b”(2), and the normal effective date of these rules is waived.

These rules are also published herein under Notice of Intended Action as **ARC 8964B** to allow for public comment.

The Authority adopted these rules on July 7, 2010.

These rules became effective on July 8, 2010.

These rules are intended to implement Iowa Code sections 16.5(1)“f” and 16.5(1)“m” and the Cranston-Gonzalez National Affordable Housing Act of 1990.

The following amendment is adopted.

Adopt the following new 265—Chapter 39:

CHAPTER 39 HOME PARTNERSHIP PROGRAM

265—39.1(16) Purpose. The primary purpose of the HOME partnership program is to expand or retain the supply of decent and affordable housing for low- and moderate-income Iowans.

265—39.2(16) Definitions. When used in this chapter, unless the context otherwise requires:

“*Activity*” means one or more specific housing activities, projects or programs assisted through the HOME partnership program.

“*Administrative plan*” means a document that a HOME recipient establishes that describes the operation of a funded activity in compliance with all state and federal requirements.

“*CHDO*” means a community housing development organization, which is a nonprofit organization registered with the Iowa secretary of state and certified as such by IDED or IFA, pursuant to 24 CFR 92.2 (April 1, 1997).

“*Consolidated plan*” means the state’s housing and community development planning document and the annual action plan update approved by HUD.

“*Development subsidies*” means financial assistance provided to developers of newly constructed, single-family housing to address the added costs of constructing housing. In such cases, the total cost of development is likely to exceed the sales price or the appraised fair market value of the housing. Additional costs might include labor, materials and equipment; professional design and construction oversight costs; and required third-party energy efficiency verification and certification costs.

“*Displaced homemaker*” means an individual who (1) is an adult; (2) has not worked full-time/full-year in the labor force for a number of years but has, during such years, worked primarily without remuneration to care for the home and family; and (3) is unemployed or underemployed and is experiencing difficulty in obtaining or upgrading employment.

“*First-time home buyer*” means an individual or an individual and the individual’s spouse who have not owned a home during the three-year period before the purchase of a home with HOME assistance,

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except that an individual who is a displaced homemaker or single parent may not be excluded from consideration as a first-time home buyer on the basis that the individual, while a homemaker, owned a home with the individual's spouse or resided in a home owned by a spouse; and an individual may not be excluded from consideration on the basis that the individual owns or owned, as a principal residence during the three-year period before purchase of a home with HOME assistance, a dwelling unit whose structure is (1) not permanently affixed to a permanent foundation in accordance with local or other applicable regulations or (2) not in compliance with state, local or model building codes and cannot be brought into compliance with such codes for less than the cost of constructing a permanent structure.

"Gut rehabilitation" means an activity or project that involves the total removal and replacement of all interior (nonstructural) systems, equipment, components or features of a multifamily structure, whereby the existing structure will be reduced down to the basic structure or exterior building shell (e.g., the foundation system; exterior walls; roofs; and interior structural components such as columns, beams, floors and structural bearing walls). "Gut rehabilitation" may also include structural or nonstructural modifications to the exterior of the structure.

"HOME" means the HOME Investment Partnership Program, authorized by the Cranston-Gonzalez National Affordable Housing Act of 1990.

"HUD" means the U.S. Department of Housing and Urban Development.

"IDED" means the Iowa department of economic development.

"IFA" means the Iowa finance authority.

"Iowa green communities criteria" means a set of rating factors, some optional and some mandatory, prepared by IDED and intended to promote public health, energy efficiency, water conservation, operational savings and sustainable building practices.

"Lead hazard reduction or abatement carrying costs" means the additional costs incurred by lead professionals to ensure that target housing is lead-safe at the completion of rehabilitation. "Lead hazard reduction or abatement carrying costs" includes, but is not limited to, required notifications and reports, lead hazard or abatement evaluations, revisions to project specifications to achieve lead safety, lead hazard reduction or abatement oversight, and clearance testing and final assessment.

"LIHTC" means low-income housing tax credits and federal tax incentives created through the Tax Reform Act of 1986 and allocated through IFA for affordable rental housing development.

"Local financial support" means financial investment by the recipient through the use of the recipient's own discretionary funds that are a permanent financial contribution or commitment applied to and related to the objectives of the housing activity or project assisted through the HOME partnership program and that are used during the same time frame as the requested housing activity or project.

"Local support" means involvement, endorsement and investment by citizens, organizations and the governing body of the local government in which the housing project is located that promote the objectives of the housing activity or projects assisted through the HOME partnership program.

"Net proceeds" means the amount determined by calculating the difference between the resale price and the amount of the outstanding principal loan balance owed plus any seller's reasonable and customary closing costs associated with the resale.

"New construction rental units" means the on-site construction or erection of a building, or buildings, for the purpose of providing rental housing units. New construction rental units include conventional, on-site, stick-built construction and on-site erection or fabrication of manufactured housing units or components of units. New construction rental units also include the addition of any rental units outside the existing walls (the building envelope) of an existing building, or buildings, that are part of a rental rehabilitation, renovation or conversion project.

"Program income" means funds generated by a recipient or subrecipient from the use of HOME funds.

"Reasonable and customary closing costs" means:

1. Seller's reasonable and customary closing costs incurred include, but are not limited to: abstract updating, title search fees, deed preparation fees, bringing current the seller's county taxes, and real estate commission fees. Ineligible costs include, but are not limited to: lender discount points, allowances, inspection fees, and buyer closing costs.

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2. Buyer's reasonable and customary closing costs incurred include, but are not limited to: lender origination fees, credit report fees, fees for the title evidence or title opinion, fees for recording and filing of legal documents, attorneys' fees, appraisal fees, and required inspection fees. Ineligible costs under this definition include, but are not limited to: prepayment of taxes, prepayment of insurance, and lender discount points.

"Recaptured funds" means HOME funds which are recouped by the recipient when the housing unit assisted by the HOME partnership program home ownership funds does not continue to be the principal residence of the assisted home buyer for the full affordability period required by federal statute.

"Recipient" means the entity under contract with IFA to receive housing funds and undertake the funded housing activity.

"Repayment" means HOME funds which the recipient must repay to IFA because the funds were invested in a project or activity that is terminated before completion or were invested in a project or activity which failed to comply with federal requirements.

"Single-family unit" means one dwelling unit designated or constructed to serve only one household or family as the primary residence. Single-family units include a detached single unit, condominium unit, cooperative unit, or combined manufactured housing unit and lot.

"Single parent" means an individual who (1) is unmarried or is legally separated from a spouse and (2) is pregnant or has one or more minor children for whom the individual has custody or joint custody.

"Technical services" means all services that are necessary to carry out individual, scattered site activities including but not limited to: (1) conducting initial inspections, (2) work write-up or project specification development, (3) cost estimate preparation, (4) construction supervision associated with activities that do not require an architect or engineer, (5) lead hazard reduction or lead abatement need determination and oversight, (6) lead hazard reduction or abatement carrying costs, (7) temporary relocation coordination, (8) financing costs such as security agreement preparation and recording or filing fees, (9) processing of individual applications for assistance, (10) income eligibility determination and verification, (11) value determination (new construction) or after rehabilitation value determination (existing structures), and (12) project-specific environmental clearance processes.

"Technical services provision" means the cost to provide other individual housing project-related services such as: (1) financing costs (security agreement preparation, recording and filing fees), (2) processing individual applications for assistance, (3) income eligibility determination and verification, (4) after rehabilitation value determination, and (5) project-specific environmental clearance.

265—39.3(16) Eligible applicants. Reserved.

265—39.4(16) Eligible activities and forms of assistance.

39.4(1) Eligible activities include transitional housing, tenant-based rental assistance, rental housing rehabilitation (including conversion and preservation), rental housing new construction, home ownership assistance (including development subsidies), owner-occupied housing rehabilitation, and other housing-related activities as may be deemed appropriate by IFA. Assisted housing may be single-family housing or multifamily housing and may be designed for occupancy by homeowners or tenants.

a. Assisted units shall be affordable.

(1) For rental activities, all assisted units shall rent at the lesser of the area fair market rents or a rent that does not exceed 30 percent of 65 percent of the area median family income and, for projects with five or more units, 20 percent of the assisted units shall rent at the lesser of the fair market rent or a rent that does not exceed 30 percent of 50 percent of the area median family income. Assisted units shall remain affordable for a specified period: 20 years for newly constructed units; 15 years for rehabilitated units receiving over \$40,000 per unit in assistance; 10 years for rehabilitated units receiving \$15,000 to \$40,000 per unit in assistance; and 5 years for projects receiving less than \$15,000 per unit.

(2) For tenant-based rental assistance, gross rents shall not exceed the jurisdiction's applicable rent standard and shall be reasonable, based on rents charged for comparable, unassisted rental units.

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(3) For home ownership assistance, the initial purchase price for newly constructed units or the after rehabilitation value for rehabilitated units shall not exceed 95 percent of the median purchase price as established by HUD mortgage limits for the same type of single-family housing in the area. Assisted units shall remain affordable through recapture or resale provisions for a specified period: 5 years for projects receiving less than \$15,000 in assistance per unit; 10 years for projects receiving \$15,000 to \$40,000 in assistance per unit; and 15 years for projects receiving over \$40,000 in assistance per unit.

(4) For owner-occupied housing rehabilitation, the after rehabilitation value of the rehabilitated unit shall not exceed 95 percent of the median purchase price as established by HUD mortgage limits for the same type of single-family housing in the area.

b. Assisted households shall meet income limits established by federal program requirements.

(1) For rental activities, all assisted units shall be rented to households with incomes at or below 80 percent of the area's median family income; at initial occupancy, 90 percent of the units shall be rented to households with incomes at or below 60 percent of the area's median family income and, for projects with five or more units, 20 percent of the units shall be rented initially to households with incomes at or below 50 percent of the area's median family income.

(2) For tenant-based rental assistance, only households with incomes at or below 80 percent of the area median family income shall be assisted; 90 percent of the households served shall have incomes at or below 60 percent of the area's median family income.

(3) For home ownership assistance and owner-occupied rehabilitation, only households with incomes at or below 80 percent of the area median family income shall be assisted.

c. Property standards. All newly constructed housing (single-family and multifamily housing) shall be constructed in accordance with any locally adopted and enforced building codes, standards and ordinances. In the absence of locally adopted and enforced building codes, the requirements of the state building code shall apply.

(1) All rental housing involving rehabilitation shall be rehabilitated in accordance with any locally adopted and enforced building or housing codes, standards and ordinances. In the absence of locally adopted and enforced building or housing codes, the requirements of the state building code shall apply.

(2) All single-family housing involving rehabilitation shall be rehabilitated in accordance with any locally adopted building or housing codes, standards and ordinances. In the absence of locally adopted and enforced building or housing codes, the requirements of the most current version of Iowa's Minimum Housing Rehabilitation Standards shall apply (all communities with populations of 15,000 or less).

d. Iowa green communities criteria. All newly constructed housing (single-family and multifamily housing) and all multifamily rental activities involving gut rehabilitation shall meet the mandatory requirements of the Iowa green communities criteria. All other multifamily rental activities involving rehabilitation (that is, not gut rehabilitation) shall meet the applicable mandatory requirements of the Iowa green communities criteria regarding rehabilitation.

39.4(2) Eligible forms of IFA assistance to its recipients include grants, interest-bearing loans, non-interest-bearing loans, interest subsidies, deferred payment loans, forgivable loans or other forms of assistance as may be approved by IFA.

39.4(3) For all single-family housing projects or activities assisting homeowners or home buyers, the only form of HOME funds assistance to the end beneficiary is a forgivable loan.

265—39.5(16) Application procedure. Reserved.

265—39.6(16) Minimum requirements. A recipient shall meet the following threshold criteria:

39.6(1) Any housing activity must be consistent with the purpose and eligibility requirements and the consolidated plan.

39.6(2) The recipient shall have the capacity to administer the proposed activity. Documentation of the ability of the recipient to provide technical services and of the availability of certified lead professionals and contractors either trained in safe work practices or certified as abatement contractors may also be required as applicable to the housing activity.

39.6(3) and 39.6(4) Reserved.

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39.6(5) After all other financial resources have been identified and secured for the proposed activity, a need for the HOME funds must exist.

39.6(6) The recipient must certify that the recipient will comply with all applicable state and federal laws and regulations.

39.6(7) If the recipient's project is located in a locally designated participating jurisdiction (PJ), the recipient must show evidence of a financial commitment from the local PJ at least equal to 25 percent of the total HOME funds requested. Sources of a local PJ financial commitment could include one or more of the following: HOME, CDBG, TIF, tax abatement, or general funds. This requirement is waived for awards made during federal HOME program year 2010 (October 1, 2009 – September 30, 2010).

39.6(8) Home ownership assistance activity must indicate that recipients will require the beneficiaries of their home ownership assistance activity to use a principal mortgage loan product that meets the following criteria:

a. With the exception of Habitat for Humanity principal mortgage loan products, the principal mortgage loan must be the only repayable loan in all individual home ownership assistance projects.

b. The HOME assistance may be recorded in junior position to the principal mortgage loan, but must be recorded in senior position to any and all other funding in all home ownership assistance projects. Recipients must maintain their assistance security agreements in the above-stated recording position throughout the applicable period of affordability and will not be allowed to subordinate the required recording position to any other forms of assistance, such as home equity loans.

c. Any mortgage lending entity's principal mortgage loan products may be used provided they meet all of the following minimum requirements:

(1) Loan interest rates may be no higher than four percentage points above the federal prime interest rate at the time of loan closing;

(2) Loan terms will include an 80 percent or higher loan-to-value ratio;

(3) No less than a 15-year, fully amortized, fixed-rate mortgage may be used; and

(4) No adjustable rate mortgages or balloon payment types of mortgages will be allowed.

d. Recipients are encouraged but not required to have the beneficiaries of their home ownership assistance activity utilize a principal mortgage loan product offered by one of the following: Iowa Finance Authority; USDA-Rural Development; Federal Home Loan Bank; HUD (including FHA and VA); Habitat for Humanity; Fannie Mae; or Freddie Mac.

39.6(9) Home ownership assistance activity shall be for first-time home buyers only, and the assisted unit must remain as the assisted home buyer's principal residence throughout the required period of affordability.

265—39.7(16) Application review criteria. Reserved.

265—39.8(16) Allocation of funds.

39.8(1) IFA may retain a portion of the amount up to 10 percent of the state's annual HOME allocation from HUD for administrative costs associated with program implementation and operation.

39.8(2) Not less than 15 percent of the state's annual HOME allocation shall be reserved for eligible housing activities developed, sponsored or owned by CHDOs.

39.8(3) IFA reserves the right to set aside a portion of the state's annual HOME allocation for rental housing activities jointly funded with HOME and low-income housing tax credits.

39.8(4) Reserved.

39.8(5) IFA reserves the right to limit the amount of funds that shall be awarded for any single activity type.

39.8(6) Awards shall be limited to no more than \$500,000 for all single-family activities assisting homeowners or home buyers. Awards shall be limited to no more than \$900,000 for all multifamily rental activities.

39.8(7) Single-family per unit subsidies.

a. The maximum per unit subsidy for all single-family activities involving rehabilitation is \$37,500. The \$37,500 per unit limit includes all applicable costs including, but not limited to, the

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hard costs of rehabilitation or the acquisition subsidy or both; home ownership assistance activities; technical services costs, including lead hazard reduction carrying costs; lead hazard reduction costs; and temporary relocation. All rehabilitation hard costs funded with HOME funds are limited to \$24,999. All applicable technical services costs, including any lead hazard reduction carrying costs, are limited to \$4,500 per unit.

b. Assistance for single-family activities providing acquisition assistance for newly constructed housing (mortgage buy-down, downpayment or closing costs assistance or both, or combinations thereof) is limited to \$35,000 per unit, inclusive of all costs, including technical services costs.

c. Assistance for single-family activities providing development subsidies for newly constructed housing is limited to \$20,000 per unit. Development subsidies may be provided in addition to acquisition assistance activities.

39.8(8) Multifamily per unit subsidies. The maximum per unit HOME funds subsidy for all multifamily activities is \$60,000 per unit including both newly constructed units and the rehabilitation of existing multifamily units, including conversion activities. The \$60,000 per unit multifamily limit includes all applicable costs including, but not limited to, hard costs of construction or rehabilitation; architectural design or technical services costs; lead hazard reduction or abatement costs; lead hazard reduction or abatement carrying costs; and temporary relocation.

39.8(9) Recipients shall identify general administrative costs in the HOME funds application. IFA reserves the right to negotiate the amount of funds provided for general administration, but in no case shall the amount for general administration exceed 10 percent of a total HOME funds award. Only local government and nonprofit recipients are eligible for general administrative funds.

39.8(10) IFA reserves the right to negotiate the amount and terms of a HOME funds award.

39.8(11) IFA reserves the right to make award decisions such that the state maintains the required level of local match to HOME funds.

265—39.9(16) Administration of awards. Applicants selected to receive HOME funds awards shall be notified by letter from the IDED director or IFA executive director.

39.9(1) *Preaudit survey.* A preaudit survey may be required for all for-profit and nonprofit direct recipients for assistance that exceeds \$150,000.

39.9(2) *Contract.* A contract shall be executed between the recipient and IFA. These rules, the approved application, the Iowa Housing Fund Management Guide and all applicable federal and state laws and regulations shall be part of the contract.

a. The recipient shall execute and return the contract to IFA within 45 days of transmittal of the final contract from IFA. Failure to do so may be cause for IFA to terminate the award.

b. Certain activities may require that permits or clearances be obtained from other state or local agencies before the activity may proceed. Contracts may be conditioned upon the timely completion of these requirements.

c. Awards shall be conditioned upon commitment of other sources of funds necessary to complete the housing activity.

d. Release of funds shall be conditioned upon IFA's receipt of an administrative plan for the funded activity.

e. Release of funds shall be conditioned upon IFA's receipt and approval of documentation of environmental clearance.

39.9(3) *Local administrative and technical services contracts.*

a. Recipients awarded funds for general administration that employ the services of a third-party administrator to perform all or part of the general administrative functions for the recipient shall enter into a contractual agreement for the general administrative functions to be performed.

b. Recipients awarded funds for activities requiring technical services (e.g., inspections, work write-ups, cost estimates, construction supervision, lead hazard reduction need determination and oversight, lead hazard reduction carrying costs, and temporary relocation coordination) that employ a third-party entity to perform all or part of the technical services shall enter into a contractual agreement for the technical services to be performed.

c. Recipients that employ a third party to perform all or part of the general administration for the recipient and that also employ a third party to perform all or part of the technical services for the recipient shall conduct separate procurement transactions and shall enter into separate contractual agreements for each: one contract for general administration and one contract for technical services. Separate contracts are required even if both functions are performed by the same third-party entity.

39.9(4) Requests for funds. Recipients shall submit requests for funds in the manner and on forms prescribed by IFA. Individual requests for funds shall be made in whole dollar amounts equal to or greater than \$500 per request, except for the final draw of funds.

39.9(5) Record keeping and retention.

a. HOME-funded projects. For HOME-funded projects, 24 CFR 92.508 provides the record retention requirements. All records pertaining to each fiscal year of HOME funds must be retained for the most recent five-year period, except as provided in the following:

(1) For rental housing projects, records may be retained for five years after the project completion date, except that records of individual tenant income verifications, project rents and project inspections must be retained for the most recent five-year period, until five years after the affordability period terminates;

(2) For home ownership housing projects, records may be retained for five years after the project completion date, except for documents imposing recapture/resale restrictions which must be retained for five years after the affordability period terminates;

(3) For tenant-based rental assistance projects, records must be retained for five years after the period of rental assistance terminates;

(4) Written agreements must be retained for five years after the agreement terminates;

(5) For records covering displacements and acquisitions, see 24 CFR 92.508;

(6) For records relating to litigation, see 24 CFR 92.508.

b. Representatives of IFA, HUD, the Inspector General, the General Accounting Office and the state auditor's office shall have access to all records belonging to or in use by recipients and subrecipients pertaining to a HOME funds award.

39.9(6) Performance reports and reviews. Recipients shall submit performance reports to IFA in the manner and on forms prescribed by IFA. Reports shall assess the use of funds and progress of activities. IFA may perform reviews or field inspections necessary to ensure recipient performance.

39.9(7) Amendments to contracts. Any substantive change to a contract shall be considered an amendment. Changes include time extensions, budget revisions and significant alterations of the funded activities affecting the scope, location, objectives or scale of the approved activity. Amendments shall be requested in writing by the CEO of the recipient and are not considered valid until approved in writing by IFA following the procedure specified in the contract between the recipient and IFA.

39.9(8) Contract closeout. Upon the contract expiration date or work completion date, as applicable, IFA shall initiate closeout procedures. Recipients shall comply with applicable audit requirements described in the HOME funds application and Iowa Housing Fund and Management Guide.

39.9(9) Compliance with federal, state and local laws and regulations. Recipients shall comply with these rules, with any provisions of the Iowa Code governing activities performed under this program and with applicable federal, state and local regulations.

39.9(10) Remedies for noncompliance. At any time, IFA may, for cause, find that a recipient is not in compliance with the requirements of this program. At IFA's discretion, remedies for noncompliance may include penalties up to and including the return of program funds to IFA. Reasons for a finding of noncompliance include the recipient's use of funds for activities not described in the contract, the recipient's failure to complete funded activities in a timely manner, the recipient's failure to comply with applicable state or local rules or regulations or the lack of a continuing capacity of the recipient to carry out the approved activities in a timely manner.

39.9(11) Appeals process for findings of noncompliance. Appeals will be entertained in instances where it is alleged that IFA staff participated in a decision which was unreasonable, arbitrary, or capricious or otherwise beyond the authority delegated to IFA. Appeals should be addressed to the director of the affordable rental production division. Appeals shall be in writing and submitted to IFA

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within 15 days of receipt of the finding of noncompliance. The appeal shall include reasons why the decision should be reconsidered. IFA's executive director will make the final decision on all appeals.

These rules are intended to implement Iowa Code sections 16.5(1)"f" and 16.5(1)"m" and the Cranston-Gonzalez National Affordable Housing Act of 1990.

[Filed Emergency 7/8/10, effective 7/8/10]

[Published 7/28/10]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 7/28/10.

ARC 8942B

PUBLIC SAFETY DEPARTMENT[661]

Adopted and Filed Emergency

Pursuant to the authority of Iowa Code sections 17A.3 and 321.4, the Department of Public Safety hereby adopts new Chapter 88, "Notification of Law Enforcement Agency by Hospital Prior to Discharge of a Person with Serious Mental Impairment," Iowa Administrative Code.

2010 Iowa Acts, Senate File 2352, relating to the emergency hospitalization of a person with a serious mental impairment, was enacted by the Iowa General Assembly during its regular session this year. The bill requires the Department of Public Safety to prescribe the use of a form by peace officers to request notification from a hospital prior to the discharge of a person who has been detained because of a serious mental impairment and brought to the hospital by that officer or another officer, if an arrest warrant has been issued or charges are pending for the person. The rule adopted herein provides for the use of a specified form to make such requests. Although the form is published by and being prescribed by the Department of Public Safety, input was sought from major stakeholders in the process, particularly local law enforcement agencies and hospitals.

Pursuant to Iowa Code section 17A.4(3), the Department of Public Safety finds that notice and public participation are unnecessary because the statute requires hospitals to use a form prescribed by the Department for the purpose described herein. The statute became effective on July 1, 2010.

Pursuant to Iowa Code section 17A.5(2)"b"(2), the Department of Public Safety further finds that the normal effective date of this amendment, 35 days after publication, should be waived and the amendment made effective July 1, 2010. Clarification of the responsibilities of law enforcement personnel and hospitals regarding notification of a law enforcement agency by a hospital when a hospital intends to discharge a person who has a serious mental impairment and who has been brought to the hospital by the law enforcement agency confers a significant benefit on the public by reducing the chances that such a person will be discharged without the requested notification to law enforcement.

This amendment is also proposed in a Notice of Intended Action and is published herein as **ARC 8941B**. That notice provides for a public hearing and other opportunities for public comments.

This amendment is intended to implement 2009 Iowa Code Supplement section 229.22 as amended by 2010 Iowa Acts, Senate File 2352.

This amendment became effective July 1, 2010.

The following amendment is adopted.

Adopt the following new 661—Chapter 88:

CHAPTER 88

NOTIFICATION OF LAW ENFORCEMENT AGENCY BY HOSPITAL PRIOR TO DISCHARGE OF A PERSON WITH SERIOUS MENTAL IMPAIRMENT

661—88.1(229) Notification request.

88.1(1) Scope. Pursuant to 2009 Iowa Code Supplement section 229.22 as amended by 2010 Iowa Acts, Senate File 2352, a hospital or facility is required to notify a law enforcement agency prior to the discharge of a person who was detained and delivered to the hospital by the law enforcement agency

PUBLIC SAFETY DEPARTMENT[661](cont'd)

because of a serious mental impairment, provided that the law enforcement agency has submitted to the hospital a request for such notification using the form specified in subrule 88.1(2) and that an arrest warrant has been issued for the person or criminal charges are pending against the person.

88.1(2) Form. A law enforcement agency requesting notification prior to the discharge from a hospital of a person who was delivered by a law enforcement agency to the hospital because of a serious mental impairment shall submit Form DPS-229, published by the department of public safety, to the hospital with all portions of the form completed as designated in the instructions.

This rule is intended to implement 2009 Iowa Code Supplement section 229.22 as amended by 2010 Iowa Acts, Senate File 2352.

[Filed Emergency 6/28/10, effective 7/1/10]

[Published 7/28/10]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 7/28/10.

ARC 8943B

WORKERS' COMPENSATION DIVISION[876]

Adopted and Filed Emergency

Pursuant to the authority of Iowa Code section 86.8, the Workers' Compensation Commissioner hereby amends Chapter 8, "Substantive and Interpretive Rules," Iowa Administrative Code.

This amendment updates references to the tables which determine payroll taxes.

In compliance with Iowa Code section 17A.4(3), the Workers' Compensation Commissioner finds that notice and public participation are unnecessary. Rule 876—8.8(85,17A) is noncontroversial and, further, Iowa Code section 85.61(6) requires adoption of current tables to determine payroll taxes by July 1 of each year. The Division must wait until the Internal Revenue Service and the Iowa Department of Revenue determine whether there will be changes in their publications on July 1 of the current year.

The Division also finds, pursuant to Iowa Code section 17A.5(2)"b"(2), that the normal effective date of this amendment, 35 days after publication, should be waived and the amendment made effective July 1, 2010, as it confers a benefit upon the public to ensure speedy and uniform compliance with the Division's legislative mandate.

The Division has determined that this amendment will not necessitate additional annual expenditures exceeding \$100,000 or combined expenditures exceeding \$500,000 within five years by all affected persons, including the agency. Therefore, no fiscal impact statement accompanies this rule making.

The Division has determined that this amendment will have no impact on small business within the meaning of Iowa Code section 17A.4A.

This amendment does not include a waiver provision because rule 876—12.4(17A) provides the specified situations for waiver of Workers' Compensation Division rules.

This amendment is intended to implement Iowa Code section 85.61(6).

This amendment became effective on July 1, 2010.

The following amendment is adopted.

Amend rule 876—8.8(85,17A) as follows:

876—8.8(85,17A) Payroll tax tables. Tables for determining payroll taxes to be used for the period July 1, ~~2009~~ 2010, through June 30, ~~2010~~ 2011, are the tables in effect on July 1, ~~2009~~ 2010, for computation of:

1. Federal income tax withholding according to the percentage method of withholding for weekly payroll period. (Internal Revenue Service, ~~New Wage Withholding and Advance Earned Income Credit Payment Tables, Publication 15-T~~ Employer's Supplemental Tax Guide, Publication 15-A [Rev. ~~March 2009~~ 2010].)

2. Iowa Withholding Tax Guide. (Iowa Department of Revenue Iowa Withholding Tax Rate Tables [Effective April 1, 2006].)

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3. Social Security and Medicare withholding (FICA) at the rate of 7.65 percent. (Internal Revenue Service, Circular E, Employer's Tax Guide, Publication 15 [~~2009~~ 2010].)

This rule is intended to implement Iowa Code section 85.61(6).

[Filed Emergency 6/29/10, effective 7/1/10]

[Published 7/28/10]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 7/28/10.

ARC 8951B

AGRICULTURE AND LAND STEWARDSHIP DEPARTMENT[21]

Adopted and Filed

Pursuant to the authority of Iowa Code section 163.1, the Iowa Department of Agriculture and Land Stewardship amends Chapter 65, "Animal and Livestock Importation," Iowa Administrative Code.

The amendment changes the time period for which an out-of-state Cervidae herd must be monitored from three years to five years. The amendment also makes technical clarifications regarding the certificate of veterinary inspection for Cervidae other than chronic wasting disease susceptible Cervidae. The changes have been approved by the Farm Deer Council.

Notice of Intended Action on this amendment was published in the Iowa Administrative Bulletin as **ARC 8754B** on May 19, 2010.

No editorial changes have been made. No comments were received from the public. This amendment is identical to that published under Notice of Intended Action.

This amendment is intended to implement Iowa Code section 206.16.

This amendment will become effective September 1, 2010.

The following amendment is adopted.

Amend subrule 65.9(2) as follows:

65.9(2) Chronic wasting disease.

a. Cervidae originating from an area considered to be endemic for chronic wasting disease shall not be allowed entry into Iowa. Cervidae that originate from a herd that has had animal introductions from an area endemic to chronic wasting disease during the preceding five years shall not be allowed entry into Iowa.

b. CWD susceptible Cervidae shall only be allowed into Iowa from herds which are currently enrolled in and have satisfactorily completed at least ~~three~~ five years in an official recognized CWD monitoring program. The CWD herd number, anniversary date, expiration date, and herd status for each individual animal must be listed on the CVI.

c. ~~One of the~~ The following ~~statements~~ statement must be accurate and listed on the CVI:

~~(1) For CWD susceptible Cervidae:~~

"All Cervidae on this certificate originate from a CWD monitored or certified herd in which these animals have been kept for at least one year or were natural additions. There has been no diagnosis, sign, or epidemiological evidence of CWD in this herd for the past five years."

~~(2) c.~~ For Cervidae other than CWD susceptible Cervidae shall be allowed into the state only from herds which are currently enrolled in an official recognized CWD monitoring program. The CWD herd number, anniversary date, expiration date, and herd status for each individual animal must be listed on the CVI. The following statement must be accurate and listed on the CVI:

"All Cervidae on this certificate originate from a CWD monitored or certified herd and have not spent any time within the past 36 months in a zoo, animal menagerie or like facility, and have not been on the same premises as a cervid herd which has been classified as a CWD infected herd, exposed herd or trace herd."

d. Each animal must have official individual identification, and all forms of identification must be listed on the certificate.

[Filed 7/7/10, effective 9/1/10]

[Published 7/28/10]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 7/28/10.

ARC 8955B

COMMUNITY ACTION AGENCIES DIVISION[427]

Adopted and Filed

Pursuant to the authority of Iowa Code section 216A.92B, the Commission on Community Action Agencies hereby adopts new Chapter 15, “Family Development and Self-Sufficiency Program,” Iowa Administrative Code.

This new chapter conforms to 2008 legislative changes to modify and replace rules at 441—Chapter 165. These rules define and structure the Family Development and Self-Sufficiency Council within the Department of Human Rights and the Family Development and Self-Sufficiency Grant Program administered by the Division of Community Action Agencies of the Department of Human Rights.

Notice of Intended Action was published in the April 7, 2010, Iowa Administrative Bulletin as **ARC 8637B**. A public hearing was held on April 27, 2010. No comments were received. There were no changes to the rules published under Notice of Intended Action.

The Commission approved the adoption of the new chapter at a regularly scheduled meeting on June 28, 2010.

These rules are subject to the general waiver provisions of the Department of Human Rights found at 421—Chapter 7.

These rules will become effective on September 1, 2010.

These rules are intended to implement 2009 Iowa Code Supplement section 216A.107.

EDITOR’S NOTE: Pursuant to recommendation of the Administrative Rules Review Committee published in the Iowa Administrative Bulletin, September 10, 1986, the text of these rules [Ch 15] is being omitted. These rules are identical to those published under Notice as **ARC 8637B**, IAB 4/7/10.

[Filed 7/8/10, effective 9/1/10]

[Published 7/28/10]

[For replacement pages for IAC, see IAC Supplement 7/28/10.]

ARC 8956B

CULTURAL AFFAIRS DEPARTMENT[221]

Adopted and Filed

Pursuant to the authority of Iowa Code section 303.1A(6) and chapter 303A, the Iowa Department of Cultural Affairs hereby amends Chapter 13, “Iowa Cultural Trust,” Iowa Administrative Code.

The rules in Chapter 13 describe procedures for administration of Iowa Cultural Trust grant programs. These amendments add a subrule pertaining to the new Iowa Cultural Trust Sustainability Challenge Grant program.

Notice of Intended Action for these amendments was published in the Iowa Administrative Bulletin on June 2, 2010, as **ARC 8811B**.

The Department of Cultural Affairs sought input on these amendments from the public and also held a public hearing on June 28, 2010. The only comment received was that there was some redundant language in proposed subrule 13.5(4). For that reason, the amendment adopting subrule 13.5(4) differs from the one published under Notice of Intended Action. Changes have been made to remove the unnecessary language.

The Director of the Department of Cultural Affairs adopted these amendments on July 8, 2010.

These amendments are intended to implement Iowa Code sections 303.1A(6) and 303A.7.

These amendments will become effective on September 1, 2010.

The following amendments are adopted.

CULTURAL AFFAIRS DEPARTMENT[221](cont'd)

ITEM 1. Renumber subrules **13.5(4)** to **13.5(10)** as **13.5(5)** to **13.5(11)**.

ITEM 2. Adopt the following **new** subrule 13.5(4):

13.5(4) Cultural trust sustainability challenge grants. Sustainability challenge grants support projects that will help Iowa nonprofit cultural organizations strengthen their long-term financial sustainability through endowment building.

a. General sustainability grant policies.

(1) Organizations with an operating budget up to \$150,000 may request up to \$20,000 in grant funds. Organizations with an operating budget over \$150,000 may request up to \$35,000 in grant funds.

(2) Organizations awarded sustainability challenge grants must raise a minimum of \$3 in new endowment funds raised specifically for the sustainability challenge grant campaign for every \$1 of grant funds awarded.

(3) An applicant must have, at the time of application, an established endowment fund for the support of organizational operating expenses. Sustainability challenge grant funds and all matching funds must be deposited into the endowment fund designated to support annual operating expenses of the grantee organization.

(4) An applicant must have at least one paid, part-time or full-time professional employee who is responsible for managing the business of the organization.

(5) An applicant must demonstrate that it is actively implementing a multiyear strategic plan that incorporates a fundraising plan with long-term sustainability as a clear, measurable goal.

(6) An applicant must certify and demonstrate that its operational practices are in alignment with the Iowa Principles and Practices for Charitable Nonprofit Excellence. Alignment may include any of the following:

1. The board of directors may pass a resolution adopting the Iowa Principles and Practices for Charitable Nonprofit Excellence as the standards for institutional operations.

2. An organizational representative may complete an Iowa Principles and Practices for Charitable Nonprofit Excellence training program which will result in a certificate of completion for a stated period.

3. An Iowa charitable nonprofit that is accredited by a national organization or licensed by a state agency will be presumed to have significantly complied with the Iowa Principles and Practices for Charitable Nonprofit Excellence.

(7) An applicant must have been incorporated in the community for a minimum of three years.

(8) Sustainability challenge grant funds will be paid to grantees after grantees demonstrate that they have achieved a 3:1 cash match but no later than two years and 90 days beyond the date of the award. Under no circumstances shall the total amount paid to the recipient exceed the grant award specified in the grant award letter.

(9) No organization may receive more than one sustainability challenge grant in a five-year period.

(10) Additional requirements may be indicated in guidelines published on the Iowa department of cultural affairs Web site.

b. Specific requirements related to matching funds.

(1) All matching gifts must be made (i.e., given, pledged, and pledges fulfilled) during the sustainability challenge grant period.

(2) Gifts eligible for matching must be made explicitly in response to the sustainability challenge grant.

(3) Donors must be aware that their gifts will be used to support the organization's general operating expenses and to match the sustainability challenge grant.

(4) Eligible types of gifts may include:

1. Cash.

2. Nonfederal and nonstate grants.

3. Special legislative appropriations from county or municipal governments and government organizations. This appropriation must represent a level of support above the normal appropriation for the recipient institution.

CULTURAL AFFAIRS DEPARTMENT[221](cont'd)

4. Net proceeds from special fundraising events or benefits held specifically to raise funds to match the sustainability challenge grant. Only the net proceeds are eligible; the intrinsic value of items donated for auction or sale is not eligible.

5. Membership contributions, “friends” or alumni giving, or similar campaigns. The value of any tangible items received by donors, such as magazines, newsletters, or gift “premiums” must be deducted from a membership contribution to assess the actual gift value. Membership forms or solicitation material should indicate that contributions will be used to match the sustainability challenge grant.

6. Marketable securities, valued as of the date of transfer from donor to grant recipient, if the securities are held in the endowment and are earning interest.

7. Real estate donated during the period of the sustainability challenge grant and converted into cash by means of sale before the end of the grant period. The value of the gift is equivalent to the net sale value.

8. Charitable gift annuity contracts that are signed during the period of the sustainability challenge grant. Annuities will be valued at the amount of the donor’s charitable deduction.

(5) Ineligible gifts include:

1. Gifts deferred beyond the end of the grant period.

2. Bequests and other forms of planned giving that are not paid out or completed during the grant period except charitable gift annuities that are finalized within the grant period and meet the criteria outlined in 13.5(4) “b”(4).

3. Discounts on goods or services provided through contracts.

4. In-kind gifts or donated services.

5. Income from other endowed funds.

6. Gifts that derive from the grantee institution itself. For instance, the sale of land or assets already owned by an organization would not be eligible unless the land or asset was donated within the sustainability challenge grant period and in response to the sustainability challenge grant.

c. Acknowledgment.

(1) Organizations that receive a sustainability challenge grant must recognize the funds donated by the cultural trust and the matching funds raised to meet the grant requirements in either a separate listing or a named endowment fund for the lifetime of the organization.

(2) Organizations that receive a sustainability challenge grant must also acknowledge the cultural trust’s support for the project in all related signage, program materials, promotion, publicity and advertising activities, and other printed and electronic forms of communication pertaining to the project.

d. Obligations beyond the life of the contract. Organizations that receive a sustainability challenge grant must return the grant funds to the cultural trust if the recipient closes, loses its nonprofit 501(c)(3) status, or goes out of business. The recipient may not donate these funds to another organization, individual, or company.

ITEM 3. Amend renumbered paragraph **13.5(11)“c”** as follows:

c. All requests for appeals shall be made in writing and shall be hand-delivered, E-mailed, or bear a U.S. Postal Service postmark within 30 days of notification of the decision. The director shall consider and rule on the appeal and will notify the appellant in writing of the decision within 30 days from the receipt of the appeal. The decision of the director is final except as provided for in Iowa Code sections 17A.19 and 17A.20.

[Filed 7/8/10, effective 9/1/10]

[Published 7/28/10]

EDITOR’S NOTE: For replacement pages for IAC, see IAC Supplement 7/28/10.

ARC 8957B**EDUCATIONAL EXAMINERS BOARD[282]****Adopted and Filed**

Pursuant to the authority of Iowa Code section 272.2, the Board of Educational Examiners hereby amends Chapter 13, "Issuance of Teacher Licenses and Endorsements," Iowa Administrative Code.

Applicants for Class A licenses who are employed by an Iowa educational unit and who hold an expired license because they do not meet the renewal requirements will be required to have the signature of their superintendent before the license will be issued. This amendment will address individuals who have not completed the required credits for licensure renewal. This change would help to notify employers that an employee has not been taking renewal credits as required.

Notice of Intended Action was published in the Iowa Administrative Bulletin on April 7, 2010, as **ARC 8686B**. A public hearing on the amendments was held on Wednesday, April 28, 2010. No one attended the public hearing, and no written comments were received. This amendment is identical to that published under Notice.

This amendment is intended to implement Iowa Code chapter 272.

This amendment will become effective September 1, 2010.

The following amendment is adopted.

Amend subrule 13.10(5) as follows:

13.10(5) *Based on an expired Iowa certificate or license, exclusive of a Class A or Class B license.*

a. The holder of an expired license, exclusive of a Class A or Class B license, shall be eligible to receive a Class A license upon application. This license shall be endorsed for the type of service authorized by the expired license on which it is based.

b. The holder of an expired license who is currently under contract with an Iowa educational unit (area education agency/local education agency/local school district) and who does not meet the renewal requirements for the license held shall be required to secure the signature of the superintendent or designee before the license will be issued.

[Filed 7/8/10, effective 9/1/10]

[Published 7/28/10]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 7/28/10.

ARC 8958B**EDUCATIONAL EXAMINERS BOARD[282]****Adopted and Filed**

Pursuant to the authority of Iowa Code section 272.2, the Board of Educational Examiners hereby amends Chapter 18, "Issuance of Administrator Licenses and Endorsements," Iowa Administrative Code.

This amendment allows a person who has completed a non-teaching program, such as a school guidance counseling program or a social work program, to become an administrator. An applicant would be required to complete the administrative coursework and the additional coursework proposed in rule 282—18.4(272), including the professional education core requirements that are the foundation of a teacher preparation program. This amendment ensures the same quality of preparation for an applicant who has completed the requirements for the Professional Service license to become an administrator as for the person who has completed a teacher preparation program.

Notice of Intended Action was published in the Iowa Administrative Bulletin on April 7, 2010, as **ARC 8687B**. A public hearing on the amendments was held on Wednesday, April 28, 2010. No one attended the public hearing, and no written comments were received. This amendment is identical to that published under Notice.

EDUCATIONAL EXAMINERS BOARD[282](cont'd)

This amendment is intended to implement Iowa Code chapter 272.

This amendment will become effective September 1, 2010.

The following amendment is adopted.

Amend rule 282—18.4(272) as follows:

282—18.4(272) General requirements for an administrator license.

18.4(1) *Eligibility for applicants who have completed a teacher preparation program.* Applicants for the administrator license must first comply with the requirements for all Iowa practitioners set out in 282—Chapter 13. Additionally, the requirements of rules 282—13.2(272) and 282—13.3(272) and the license-specific requirements set forth under each license must be met before an applicant is eligible for an administrator license.

18.4(2) *Specific requirements for an initial administrator license for applicants who have completed a teacher preparation program.* An initial administrator license valid for one year may be issued to an applicant who:

- a. Is the holder of or is eligible for a standard license; and
- b. Has three years of teaching experience; and
- c. Has completed a state-approved PK-12 principal and PK-12 supervisor of special education program (see subrule 18.9(1)); and
- d. Is assuming a position as a PK-12 principal and PK-12 supervisor of special education (see subrule 18.9(1)) for the first time or has ~~two years~~ one year of out-of-state or nonpublic administrative experience; and
- e. Has completed an approved human relations component; and
- f. Has completed an exceptional learner component; and
- g. Has completed an evaluator approval program.

18.4(3) *Eligibility for applicants who have completed a professional service endorsement program.* Applicants for the administrator license must first comply with the requirements set out in 282—Chapter 27.

18.4(4) *Specific requirements for an initial administrator license for applicants who have completed a professional service endorsement.* An initial administrator license valid for one year may be issued to an applicant who:

- a. Is the holder of an Iowa professional service license; and
- b. Has three years of experience in an educational setting in the professional service endorsement area; and
- c. Has completed a state-approved PK-12 principal and PK-12 supervisor of special education program (see subrule 18.9(1)); and
- d. Is assuming a position as a PK-12 principal and PK-12 supervisor of special education (see subrule 18.9(1)) for the first time or has one year of out-of-state or nonpublic administrative experience; and
- e. Has completed an approved human relations component; and
- f. Has completed an exceptional learner component; and
- g. Has completed the professional education core in 282—paragraphs 13.18(4) “a” through “j”; and
- h. Has completed an evaluator approval program.

[Filed 7/8/10, effective 9/1/10]

[Published 7/28/10]

EDITOR’S NOTE: For replacement pages for IAC, see IAC Supplement 7/28/10.

ARC 8959B

EDUCATIONAL EXAMINERS BOARD[282]**Adopted and Filed**

Pursuant to the authority of Iowa Code section 272.2, the Board of Educational Examiners hereby amends Chapter 27, "Issuance of Professional Service Licenses," Iowa Administrative Code.

This amendment allows an individual who has a Professional Service license to apply for a Class B license. This license would allow the individual to practice in an additional professional service area while completing the necessary coursework requirements to add the new endorsement to the individual's Professional Service license.

Notice of Intended Action was published in the Iowa Administrative Bulletin on April 7, 2010, as **ARC 8689B**. A public hearing on the amendments was held on Wednesday, April 28, 2010. No one attended the public hearing, and no written comments were received. This amendment is identical to that published under Notice.

This amendment is intended to implement Iowa Code chapter 272.

This amendment will become effective September 1, 2010.

The following amendment is adopted.

Adopt the following new rule 282—27.6(272):

282—27.6(272) Specific requirements for a Class B license. A Class B license, which is valid for two years and which is nonrenewable, may be issued to an individual under the following conditions:

27.6(1) *Endorsement in progress.* The individual has a valid professional service license and one or more professional service endorsements, but is seeking to obtain some other professional service endorsement. A Class B license may be issued if requested by an employer and if the individual seeking to obtain some other professional service endorsement has completed at least two-thirds of the requirements, or one-half of the content requirements in a state-designated shortage area, leading to completion of all requirements for the endorsement.

27.6(2) *Request for exception.* A school district administrator may file a written request with the board for an exception to the minimum content requirements on the basis of documented need and benefit to the instructional program. The board will review the request and provide a written decision either approving or denying the request.

27.6(3) *Expiration.* This license will expire on June 30 of the fiscal year in which it was issued plus one year.

[Filed 7/8/10, effective 9/1/10]

[Published 7/28/10]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 7/28/10.

ARC 8962B

IOWA FINANCE AUTHORITY[265]**Adopted and Filed**

Pursuant to the authority of Iowa Code sections 16.5(1)"r" and 17A.3(1)"b" and 2010 Iowa Acts, House File 2487, the Iowa Finance Authority hereby adopts new Chapter 37, "Recovery Zone Bond Allocation," Iowa Administrative Code.

The purpose of these rules is to implement 2010 Iowa Acts, House File 2487, by providing a means of allocating bonding authority for recovery zone bonds.

Notice of Intended Action was published in the Iowa Administrative Bulletin on May 5, 2010, as **ARC 8710B**. These rules were also Adopted and Filed Emergency and were published as **ARC 8709B**

IOWA FINANCE AUTHORITY[265](cont'd)

on the same date. The Authority did not receive any public comment on the rules. The Authority has made no changes to the rules as published under Notice.

The Iowa Finance Authority adopted these rules on July 7, 2010.

These rules are intended to implement Iowa Code section 16.5(1)“r” and 2010 Iowa Acts, House File 2487.

These rules will become effective on September 1, 2010, at which time the Adopted and Filed Emergency rules are hereby rescinded.

EDITOR’S NOTE: Pursuant to recommendation of the Administrative Rules Review Committee published in the Iowa Administrative Bulletin, September 10, 1986, the text of these rules [Ch 37] is being omitted. These rules are identical to those published under Notice as **ARC 8710B** and Adopted and Filed Emergency as **ARC 8709B**, IAB 5/5/10.

[Filed 7/8/10, effective 9/1/10]

[Published 7/28/10]

[For replacement pages for IAC, see IAC Supplement 7/28/10.]

ARC 8950B

NATURAL RESOURCES DEPARTMENT[561]

Adopted and Filed

Pursuant to the authority of Iowa Code section 558.69 as amended by 2010 Iowa Acts, House File 2437, the Department of Natural Resources hereby amends Chapter 9, “Groundwater Hazard Documentation,” Iowa Administrative Code.

The amendment adopts by reference a revised Form 542-0960, “Groundwater Hazard Statement,” to incorporate changes to the private sewage disposal requirements contained in Iowa Code Supplement section 455B.172(11) as amended by 2010 Iowa Acts, House File 2437, and the groundwater hazard statement requirements contained in Iowa Code section 558.69. These changes were enacted by the Iowa Legislature in 2010 Iowa Acts, House File 2437.

Notice of Intended Action was published in the Iowa Administrative Bulletin on June 2, 2010, as **ARC 8776B**. A public hearing was held on Thursday, June 24, 2010, and public comments were received through that date. Based upon public comments, the language of Form 542-0960 was revised to more closely match the language of Iowa Code Supplement section 455B.172(11) as amended by 2010 Iowa Acts, House File 2437, and to clearly express that buildings that do not have any legal sewage disposal system are subject to inspection.

This amendment is intended to implement Iowa Code section 558.69 as amended by 2010 Iowa Acts, House File 2437, section 6.

This amendment will become effective on September 1, 2010.

The following amendment is adopted.

Amend subrule 9.2(1) as follows:

9.2(1) The transferor or the transferor’s agent or attorney shall sign department Form 542-0960, “Groundwater Hazard Statement,” which may be obtained from the department or local county recorder. An agent or attorney may sign the form for the transferor, but in doing so the agent or attorney represents that a good faith inquiry of the transferor has been made regarding the information contained in the form and that the information is correct. The department hereby adopts by reference Form 542-0960, “Groundwater Hazard Statement,” as amended through ~~June 26, 2009~~ September 1, 2010. For all real estate transactions dated July 1, 2009, or later, a county recorder shall accept only the ~~amended and revised currently adopted form, as adopted by reference on April 1, 2009. Beginning September 1, 2009, a county recorder shall accept only the amended and revised form as amended through June 26, 2009, as adopted by reference. From July 1, 2009, through August 31, 2009, either of the above-referenced forms may be used.~~ The department authorizes the reproduction of Form 542-0960 by any person

NATURAL RESOURCES DEPARTMENT[561](cont'd)

through photocopying or electronic means so long as the general format and wording are not altered in the reproduction thereof.

[Filed 7/7/10, effective 9/1/10]

[Published 7/28/10]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 7/28/10.

ARC 8953B

PUBLIC EMPLOYMENT RELATIONS BOARD[621]

Adopted and Filed Without Notice

Pursuant to the authority of Iowa Code section 20.6(5), the Public Employment Relations Board hereby amends Chapter 1, "General Provisions," Chapter 2, "General Practice and Hearing Procedures," Chapter 5, "Elections," Chapter 6, "Negotiations and Negotiability Disputes," Chapter 7, "Impasse Procedures," and Chapter 9, "Administrative Remedies," Iowa Administrative Code.

The amendments conform existing agency rules to technical and corrective statutory amendments to Iowa Code chapter 20 which are contained in 2010 Iowa Acts, House Files 2485 and 2531.

Pursuant to Iowa Code section 17A.4(3), the Board finds that notice and public participation prior to the adoption of these amendments are impracticable, as it is desirable to have the Board's rules reflect current statutory provisions and to have the amendments in effect prior to the commencement of collective bargaining between public employers and employee organizations in the fall of 2010, for agreements to become effective July 1, 2011.

These amendments are intended to implement Iowa Code chapter 20 as amended by 2010 Iowa Acts, House Files 2485 and 2531.

These amendments will become effective September 1, 2010.

The following amendments are adopted.

ITEM 1. Amend rule 621—1.2(20) as follows:

621—1.2(20) General agency description. The purpose of the public employment relations board established by the Public Employment Relations Act is to implement the provisions of the Act and adjudicate and conciliate employment related cases involving the state of Iowa and other public employers and employee organizations. For these purposes the powers and duties of the board include, but are not limited to, the following:

Determining appropriate bargaining units and conducting representation elections.

Adjudicating prohibited practice complaints and fashioning appropriate remedial relief for violations of the Act.

Adjudicating and serving as arbitrators regarding state merit system grievances and grievances arising under collective bargaining agreements between public employers and certified employee organizations.

Providing mediators, ~~fact finders~~ and arbitrators to resolve impasses in negotiations.

Collecting and disseminating information concerning the wages, hours, and other conditions of employment of public employees.

~~Assisting the attorney general in the preparation of~~ Preparing legal briefs and ~~the presentation of presenting~~ oral arguments in the district courts, the court of appeals and the supreme court in cases affecting the board.

ITEM 2. Amend subrule 1.6(6) as follows:

1.6(6) "*Impasse procedures*" means either the procedures set forth in Iowa Code sections 20.20, ~~20.21~~ and 20.22 or any procedures agreed upon by the parties pursuant to Iowa Code section 20.19 which are designed to result in a binding collective bargaining agreement.

PUBLIC EMPLOYMENT RELATIONS BOARD[621](cont'd)

ITEM 3. Amend rule 621—1.8(20,279) as follows:

621—1.8(20,279) Fees of neutrals. Qualified ~~fact-finders~~, arbitrators and teacher termination adjudicators appointed from a ~~list~~ lists maintained by the board may be compensated by a sum not to exceed \$800 per day of service, plus their necessary expenses incurred.

ITEM 4. Amend subrule 2.12(1) as follows:

2.12(1) Attendance of witnesses. The board, an administrative law judge, or board-appointed fact finder or an arbitrator selected pursuant to Iowa Code section 20.22 shall issue subpoenas to compel the attendance of witnesses and the production of relevant records upon written application of any party filed with the board presiding officer prior to the hearing or oral motion at the hearing. The party requesting subpoenas shall serve the subpoenas, and notify the board presiding officer in writing prior to hearing, or orally at the time of hearing, of the names and addresses of the witnesses or the person or party having possession of the requested documents. Where a subpoena has been served more than seven days prior to the hearing, a party may move to quash the subpoena not less than three days prior to the hearing. Subpoenas for production of records shall list with specificity the items sought for production and the name and address of the person or party having possession or control thereof. A written motion to quash subpoenas may be filed with the board presiding officer issuing the subpoenas prior to hearing or with the hearing officer, fact finder or arbitrator at the time of hearing. ~~The motion filed prior to hearing shall be in writing, and the moving party shall provide serve copies to upon all parties of record.~~

ITEM 5. Amend rule 621—2.17(20) as follows:

621—2.17(20) Prohibition against testimony of mediators, ~~fact-finders~~, arbitrators and board employees. A Except as authorized by Iowa Code section 20.31, a mediator, ~~fact-finder~~, arbitrator, labor relations examiner, administrative law judge, member of the board or other officer or employee of the board shall not testify on behalf of any party to a prohibited practice, representation or impasse resolution proceeding, pending in any court or before the board, with respect to any information, facts, or other matter coming to that individual's knowledge through a party or parties in an official capacity as a resolver of disputes.

ITEM 6. Amend rule 621—5.5(20) as follows:

621—5.5(20) Bars to an election. ~~Notwithstanding the filing or pendency of an election petition, the board shall conduct no representation election when one or more of the following conditions exist:~~

5.5(1) Certification elections. ~~During the one-year period following the date of certification or noncertification subsequent to a valid representation election. Notwithstanding the filing or pendency of a certification petition, the board shall conduct no certification election:~~

a. During the one-year period following the date of an employee organization's noncertification subsequent to a valid certification election; or

b. If the bargaining unit in question is at that time represented by a certified exclusive bargaining representative. This representation bar shall not apply to a representation election in an amendment of unit case pursuant to 621—subrule 4.6(3).

5.5(2) Decertification elections. ~~In any case where the board determines that substantial changes in the employer's operations are occurring which will imminently and substantially alter the structure or scope of the bargaining unit. Notwithstanding the filing or pendency of a decertification petition, the board shall conduct no decertification election:~~

a. During the one-year period following the date of an employee organization's certification subsequent to a valid certification election; or

b. During the one-year period following the date of the issuance of an order of continued certification subsequent to a valid decertification election; or

5.5(3) c. ~~Whenever a collective bargaining agreement exists, provided such agreement is written and executed by the parties to it; that such agreement is between a public employer and a certified employee organization; that such agreement does not discriminate among groups of employees on the~~

PUBLIC EMPLOYMENT RELATIONS BOARD[621](cont'd)

basis of age, race, sex, religion, national origin or physical disability, as provided by law; and provided further, that any such agreement which exists for a duration in excess of two years shall be deemed for the purposes of this section rule to be for a duration of two years only. ~~This contract bar shall not apply to a representation election in an amendment of unit case.~~

ITEM 7. Amend rule 621—5.6(20) as follows:

621—5.6(20) Decertification elections. Petitions for decertification which are filed with the board not less than 180 nor more than 240 days prior to the expiration of an otherwise valid collective bargaining agreement shall be processed by the board notwithstanding the provisions of ~~5.5(3), paragraph 5.5(2) “c,”~~ and the board shall, pursuant to Iowa Code section 20.15, conduct an election not more than 180 nor less than 150 days prior to the expiration of the collective bargaining agreement.

ITEM 8. Amend rule 621—5.8(20) as follows:

621—5.8(20) Destruction of ballots. In the absence of litigation over the validity or outcome of an election and after a period of 60 days has elapsed from the date of the certification, ~~decertification,~~ or noncertification, decertification or continued certification of an employee organization pursuant to a certification or decertification election, the board may destroy the ballots involved in such election.

ITEM 9. Amend rule 621—6.1(20) as follows:

621—6.1(20) Scope of negotiations. The scope of negotiations shall be as provided in ~~section nine of the Act~~ Iowa Code section 20.9. Either party may introduce other, nonmandatory matters for negotiation, and negotiation on these matters may continue until resolved by mutual agreement of the parties or until negotiations reach the ~~fact-finding or~~ arbitration stage of impasse; provided, however, that no party may be required to negotiate on nonmandatory subjects of bargaining. Unresolved ~~other nonmandatory~~ matters shall be excluded from the ~~fact-finding or~~ arbitration ~~processes~~ unless submission of the matter has been mutually agreed upon by the parties. ~~The~~ Such an agreement is applicable only to negotiations toward the collective bargaining agreement then sought and is not binding upon the parties for future negotiations.

ITEM 10. Amend rule 621—6.3(20) as follows:

621—6.3(20) Negotiability disputes.

6.3(1) Defined. “*Negotiability dispute*” is a dispute arising in good faith during the course of collective bargaining as to whether a proposal is subject to collective bargaining under ~~the Act~~ Iowa Code section 20.9 or whether a proposal which is subject to collective bargaining under Iowa Code section 20.9 is a mandatory topic of bargaining.

6.3(2) Expedited resolution. In the event that a negotiability dispute arises between the employer and the certified employee organization, either party may petition the board for expedited resolution of the dispute. The petition shall set forth the material facts of the dispute, the precise question of negotiability submitted for resolution, and certificate of service upon the other party. ~~The~~ Unless the dispute is resolved by the board prior to the arbitration hearing, the parties shall present evidence on all issues items to the ~~fact-finder or~~ arbitrator, including the issue item which is the subject of the negotiability dispute. A negotiability dispute raised at the ~~fact-finding~~ arbitration hearing shall be upon written objection to the submission of the proposal to the ~~fact-finder or~~ arbitrator. The objection shall request the ~~fact-finder or~~ arbitrator to seek a negotiability ruling from the board regarding the proposal or state that the objecting party will file a petition for resolution of the dispute with the board, which petition shall be filed within five days of the making of the objection. ~~In the event a negotiability dispute arises at the arbitration stage of impasse procedures, either party may petition the board for expedited resolution, which petition shall be filed within seven days of the submission of final offers.~~ Arbitrators and fact finders shall rule on all issues items submitted to them including the issue item which is the subject of the negotiability dispute, unless explicitly stayed by the board. Arbitration awards and ~~fact-finder’s recommendations~~ issued prior to the final determination of the negotiability dispute will be contingent upon that determination.

PUBLIC EMPLOYMENT RELATIONS BOARD[621](cont'd)

6.3(3) Decisions. ~~The petition~~ Petitions filed pursuant to subrule 6.3(2) shall be given priority by the board. If deemed necessary by the board, the petition may be set for ~~hearing or~~ oral argument.

ITEM 11. Amend rule 621—6.4(20), introductory paragraph, as follows:

621—6.4(20) Acceptance of proposed agreement. Where the parties have reached a proposed (or “tentative”) collective bargaining agreement, the terms of that agreement shall be made public by the public employer, and the employee organization shall give reasonable notice of the date, time and place of a ratification election on the tentative agreement to the public employees; provided, however, that such notice shall be at least 24 hours prior to the election and the election shall be within seven days of the date of the tentative agreement. The vote shall be by secret ballot and only members of the employee organization shall be entitled to vote; provided, however, that the employee organization may, pursuant to its internal procedures, extend voting rights to nonmember bargaining unit employees. The employee organization shall within 24 hours notify the public employer whether the proposed agreement has been ratified.

ITEM 12. Amend subrules 7.3(1) and 7.3(4) as follows:

7.3(1) Request for mediation. Either party to an impasse may request the board in writing to appoint a mediator to the impasse.

An original and one copy of the request for mediation shall be filed with the board and shall, in addition to the request for mediation, contain:

a. The name, address, and telephone number of the requesting party, and the name, address, ~~business and residential~~ and telephone ~~numbers~~ number of its bargaining representative or of the chairperson of its bargaining team.

b. The name, address, and telephone number of the opposing party to the impasse, and the name, address, ~~business and residential~~ and telephone ~~numbers~~ number of its bargaining representative or of the chairperson of its bargaining team.

c. A description of the collective bargaining unit ~~or units~~ involved and the approximate number of employees in ~~each~~ the unit.

d. A statement indicating whether the public employer of the unit involved is subject to the budget certification requirements of Iowa Code section 24.17 and, if the public employer is not subject to those requirements, a statement of the date upon which the public employer’s next fiscal or budget year commences.

~~*d. e.*~~ *e.* A concise and specific listing of the negotiated items upon which the parties have reached impasse.

7.3(4) Confidential nature of mediation. Any information, either written or oral, disclosed by the parties to the mediator in the performance of mediation duties shall not be discussed by the mediator voluntarily or by compulsion unless approved by the parties involved or permitted by Iowa Code section 20.31.

The mediator shall not disclose any information with regard to any mediation conducted on behalf of any party to any cause pending in a proceeding before a court, board, investigatory body, or arbitrator ~~or fact finder~~, except as permitted by Iowa Code section 20.31, without the written consent of the public employment relations board. Without such written consent, the mediator shall respectfully decline, by reason of this rule, to divulge any information disclosed by a party in the performance of the mediator’s duties.

ITEM 13. Rescind and reserve rule **621—7.4(20)**.

ITEM 14. Amend subrules 7.5(1) and 7.5(4) to 7.5(9) as follows:

7.5(1) Request for arbitration. ~~At any time following the making public by the board of the fact finder’s report and recommendations~~ If the dispute remains unresolved ten days after the effective date of the appointment of the mediator, either party to ~~an~~ the impasse may request the board to arrange for binding arbitration. ~~In disputes unresolved after mediation where all or a portion of the public employees in the bargaining unit are teachers licensed under Iowa Code chapter 260 and the public employer is a school district, community college, or area education association, such request may be made not less~~

PUBLIC EMPLOYMENT RELATIONS BOARD[621](cont'd)

than ten days after the effective date of the appointment of the mediator but must be made not later than April 16 of the year when the resulting collective bargaining agreement is to become effective.

7.5(4) Preliminary information Exchange of final offers. Within four days of the filing board's receipt of the request with the board for arbitration, each party shall submit to the board the following information: serve its final offer on each of the impasse items to the other party to the impasse. Final offers shall not be amended. A party shall not submit a final offer for arbitration which has not been offered to the other party in the course of negotiations.

a. Final offers shall not be amended. A party shall not submit an offer for arbitration which has not been offered to the other party in the course of negotiations.

b. Two copies of the final offer of the party on each impasse item.

c. Two copies of the agreed upon provisions of the proposed collective bargaining agreement.

d. The name of the parties' selected arbitrator, or name of a single arbitrator where the parties agree to submit the dispute to a single arbitrator.

e. Certificate of service upon the opposing party of items "b" and "d" above.

7.5(5) Selection of chairperson arbitrator. Within eight days of the filing of the request for arbitration, the arbitrators selected by each party shall attempt to agree upon the selection of a third person to act as chairperson of the arbitration panel. If the parties to the impasse fail to agree upon an arbitration chairperson within the time allotted under this rule, Upon the filing of a timely request for arbitration, the board shall submit serve a list of three persons who have agreed to act as arbitration chairperson to five arbitrators upon the parties. The Within five days of service of the list, the parties shall then select the arbitration chairperson their arbitrator from the list as provided by the Act in the manner specified in Iowa Code section 20.22(4) as amended by 2010 Iowa Acts, House File 2485, section 26.

7.5(6) Date and conduct of hearings. Impasse items are deemed submitted to binding arbitration on the date of the commencement of the arbitration hearing, regardless of its duration. In disputes where the public employer is a community college, or where all or a portion of the public employees in the bargaining unit are teachers licensed under Iowa Code chapter 260 272 and the public employer is a school district or area education agency, the submission of impasse items to binding arbitration shall occur not later than May 13 of the year when the resulting collective bargaining agreement is to become effective.

Arbitration hearings shall be open to the public and shall be recorded either by mechanized means or by a certified shorthand reporter. The arbitration hearing shall be limited to those factors listed in Iowa Code section 20.22 20.22(9) and such other relevant factors as may enable the arbitrator or arbitration panel to select the fact finder's recommendation (if fact finding has taken place) or the most reasonable offer, in the arbitrator's judgment, of the final offer of either party for offers submitted by the parties on each impasse item. Arbitrators appointed pursuant to impasse procedures agreed upon by the parties shall likewise consider the factors listed in Iowa Code section 20.22 20.22(9).

7.5(7) Continued bargaining. The parties may continue to bargain on the impasse items before the arbitrator or arbitration panel until the arbitrator or arbitration panel announces its decision arbitrator's selections are made. Should the parties reach agreement on an impasse item following its submission to arbitration, they shall immediately report their agreement to the arbitrator or arbitration panel. The arbitrator or arbitration panel shall add the agreed upon term to shall be incorporated into the parties' collective bargaining contract agreement, and the arbitrator shall no longer consider the final offers of the parties or the fact finder's recommendation on that impasse item.

7.5(8) Report of the arbitrator or arbitration panel. Within 15 days after its first meeting (unless such time period is waived by the parties) the arbitration hearing, the arbitrator or arbitration panel shall issue the a written award specifying and explaining the arbitrator's selections and serve each party and the board with a copy by ordinary mail. In reaching the panel decision, the chairperson may communicate telephonically, by mail, or may meet individually or collectively with the other panel members.

7.5(9) Dismissal of arbitrator or arbitration panel. In the event of a failure of the arbitrator or arbitration panel to issue the an award within 15 days of after the first meeting arbitration hearing, the arbitrator or chairperson of the arbitration panel shall notify the board and the parties of this failure. Either

PUBLIC EMPLOYMENT RELATIONS BOARD[621](cont'd)

party may thereafter request a new arbitrator ~~or arbitration panel~~. Unless the parties agree otherwise, the procedures in subrules 7.5(1) to 7.5(5) shall apply; provided, however, that the parties may submit new final offers ~~and nominate different arbitrators~~. No arbitrator ~~or arbitration panel~~ shall issue a partial award except by mutual consent of the parties.

ITEM 15. Amend subrules 7.6(1), 7.6(3) and 7.6(4) as follows:

7.6(1) Objections. Any objection by a party to ~~mediation or the conduct of fact-finding or arbitration~~ proceedings which will not be completed by the applicable deadline for completion of impasse procedures shall be filed with the board and served upon the other party. Such filing and service shall take place no later than ~~20 days prior to the applicable deadline for completion of impasse procedures, 10 days after the effective date of the appointment of the mediator, or 10 days after the filing with the board of a~~ the request for mediation or arbitration, whichever occurs later to which the objection refers. For purposes of this rule, a single-party request for mediation which is filed more than 120 days prior to the applicable deadline for completion of impasse procedures or a request for arbitration which is filed prior to the applicable filing period specified in subrule 7.5(1) shall be deemed filed on the first day of that filing period. Failure to file an objection in a timely manner may constitute waiver of such objection, in which case the applicable deadline for completion of impasse procedures shall not apply.

7.6(3) Procedure. Filing of an objection before the applicable deadline for completion of impasse procedures shall not affect the obligation of each party to continue the impasse procedures. Further, the board may postpone hearing on the objection if it determines that ~~a fact-finder's recommendation or mediation may take place or that an~~ arbitration award may be rendered on or before the applicable deadline; in. In making that determination, the board will attempt to expedite any remaining impasse proceedings, but no party shall be required to waive or shorten any mandatory statutory time periods which apply to that party.

7.6(4) Hearings. Insofar as is applicable, hearings on a party's objection shall be conducted pursuant to 621—Chapter 2. The nonobjecting party shall proceed first and shall have the burden to show that ~~fact-finding or arbitration~~ impasse procedures should not be terminated. The board shall then issue a final order that further impasse procedures should be completed or should continue for a specified period of time or should be either terminated or completed.

ITEM 16. Amend subrule 7.7(3) as follows:

7.7(3) Statutory procedures. In the absence of independent procedures, the procedures in Iowa Code sections 20.20 to and 20.22 and rules 621—7.1(20) to 621—7.5(20) shall apply, except that a single-party request for mediation must be filed no later than December 14, and the appointment of a fact finder by the board will be made by December 24, effective the date of hearing, which shall be no later than January 10. ~~A~~ a request for binding arbitration must be filed by February 1, and any impasse must be submitted to the arbitrator(s), and an arbitration hearing must be concluded no later than February 28.

ITEM 17. Amend subrule 9.2(3) as follows:

9.2(3) Hearing. On appeal the board ~~may conduct a new evidentiary proceeding or shall~~ utilize the record as submitted before the administrative law judge but may, upon application of a party, order that additional evidence be taken on appeal if it is shown that the additional evidence is material and that there were good reasons for the party's failure to present it before the administrative law judge. Any person, employee organization or public employer who has a significant interest in the outcome of the appeal may petition the board for intervention in the appeal proceedings. Where intervention is granted by the board, the intervening parties may submit briefs and arguments and participate in the same manner as an original party to the proceeding. The board shall set a time and place of hearing or argument and give notice thereof to the parties. The decision rendered by the board shall be a final decision of the agency.

[Filed Without Notice 7/7/10, effective 9/1/10]

[Published 7/28/10]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 7/28/10.

ARC 8949B**UTILITIES DIVISION[199]****Adopted and Filed**

Pursuant to Iowa Code sections 17A.4, 17A.7, and 476.1 and 2009 Iowa Acts, House File 810 [now Iowa Code Supplement section 476.48], the Utilities Board (Board) gives notice that on July 7, 2010, the Board issued an order in Docket No. RMU-2009-0010, In re: Small Wind Innovation Zones, “Order Adopting Rules.” The Board is adopting amendments to 199 IAC 15.19(476C) and new rule 199 IAC 15.22(476). The adopted amendments and new rule address small wind innovation zones, which are the subject of Iowa Code Supplement section 476.48.

In 2009, the General Assembly enacted 2009 Iowa Acts, House File 810 [Iowa Code Supplement section 476.48], which directs the Board to establish and administer a small wind innovation zone program. The statute provides that the program is “to facilitate and expedite interconnection of small wind energy systems with electric utilities” within areas designated as small wind innovation zones.

To be designated as a small wind innovation zone, an area must be “a political subdivision of this state, including but not limited to a city, county, township, school district, community college, area education agency, institution under the control of the state board of regents, or any other local commission, association, or tribal council which adopts, or is encompassed within a local government which adopts, the model ordinance ...” (Iowa Code Supplement section 476.48(1)“c”).

The model ordinance referred to in the statute was jointly developed by the Iowa League of Cities, the Iowa State Association of Counties, the Iowa Environmental Council, the Iowa Wind Energy Association, and representatives from the utility industry, and is posted on the Web sites of the Iowa League of Cities and the Iowa State Association of Counties. The statute does not describe the content of the model ordinance but states that a local government adopting the ordinance “shall establish an expedited approval process with regard to small wind energy systems in compliance with the ordinance” (Iowa Code Supplement section 476.48(3)).

In addition to adopting the model ordinance, an area seeking to be designated as a small wind innovation zone must also be served by an electric utility that “has agreed to utilize the model interconnection agreement to contract with the small wind energy system owners who agree to its terms” (Iowa Code Supplement section 476.48(2)“b”).

The model interconnection agreement referred to in the statute was the subject of a separate Board rule-making docket, Docket No. RMU-2009-0008, “Electric Interconnection of Distributed Generation Facilities,” which was published in the Iowa Administrative Bulletin on October 7, 2009, as **ARC 8201B**. The model interconnection rules adopted in that docket are mandatory for rate-regulated electric utilities and voluntary for utilities that are not rate-regulated by the Board.

The adopted rules for implementing 2009 Iowa Acts, House File 810, include new rule 199 IAC 15.22(476), “Small wind innovation zones,” and changes to 199 IAC 15.19(476C), “Certification of eligibility for wind energy and renewable energy tax credits under Iowa Code chapter 476C.”

Notice of Intended Action in Docket No. RMU-2009-0010 was published in IAB Vol. XXXII, No. 12 (12/02/2009), p. 1460, as **ARC 8335B**. Written comments were received from Interstate Power and Light Company, MidAmerican Energy Company, the Iowa Association of Electric Cooperatives (IAEC), and the Consumer Advocate Division of the Department of Justice. An oral presentation was held on January 11, 2010, and additional written comments were received after the presentation.

Several changes have been made to the proposed amendments published under Notice of Intended Action. The most significant are as follows:

In response to the IAEC’s comments, the definition of “model interconnection agreement” in 199 IAC 15.22(1) has been simplified to reflect the adoption of the model ordinance in March 2010 and the Board’s adoption of the final interconnection rules on May 26, 2010, in Docket No. RPU-2009-0008. Because both the model ordinance and interconnection rules have been adopted, there is no reason to delay adopting the small wind innovation rules. The Board has also amended the definition of “small wind energy system” to clarify, consistent with the statute, that if a non-rate-regulated electric utility has

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not adopted the interconnection rules, a small wind owner served by the utility will not benefit from the streamlined application process referred to in Iowa Code Supplement section 476.48(2)“a.”

Also in response to IAEC comments, the amendments have been changed to require political subdivisions to provide legal boundary descriptions when they seek small wind innovation zone status. The adopted amendments have been revised to clarify the requirements for political subdivisions that are not local governments (including a requirement to identify all applicable local governments) and to distinguish them from the requirements that apply to local governments. The adopted amendments also require electric utilities to provide certain documentation to political subdivisions, upon request, to clarify whether the utility is subject to or has agreed to use the provisions of the model interconnection agreement.

In addition, the Board has clarified 199 IAC 15.22(3) in response to the comments. Any changes the electric utility and owner agree to make to the standard interconnection agreements (if applicable to the electric utility in question) in 199—Chapter 45 only apply to those parties and do not alter the standard agreements in 199—Chapter 45. This was the intent of the proposed subrule.

The Board does not find it necessary to propose a separate waiver provision in this rule making. The Board’s general waiver provision in 199 IAC 1.3(17A,474,476,78GA,HF2206) is applicable to these amendments. Any waiver requests pursuant to these amendments should include the information listed in 199 IAC 15.22(3).

The adopted amendments have been revised from the Noticed amendments. However, the changes have been made in response to the oral and written comments and to provide clarification to the rules consistent with the statute and are within the scope of the original Notice of Intended Action. No additional notice is necessary prior to adopting these amendments.

These amendments are intended to implement Iowa Code section 476.1 and Iowa Code Supplement section 476.48.

These amendments will become effective on September 1, 2010.

The following amendments are adopted.

ITEM 1. Amend paragraph **15.19(1)“b,”** introductory paragraph, as follows:

b. Information regarding the ownership of the facility, including the legal name of each owner, information demonstrating the legal status of each owner, and the percentage of equity interest held by each owner. The “legal status of each owner” refers to either ownership of a small wind energy system operating in a small wind innovation zone as defined in Iowa Code Supplement section 476.48(1) and 199—15.22(476), or, alternatively, the ownership requirements of Iowa Code Supplement section 476C.1(6)“b,” which provides that an eligible renewable energy facility must be at least 51 percent owned by one or more or any combination of the following:

ITEM 2. Amend paragraph **15.19(1)“d”** as follows:

d. For any owner meeting the eligibility requirements of Iowa Code section 476C.1(6)“b” with an equity interest in the facility equal to or greater than 51 percent, a statement attesting that the owner does not have an equity interest greater than 10 percent in any other eligible renewable energy facility.

ITEM 3. Amend paragraph **15.19(1)“e”** as follows:

e. For any owner meeting the eligibility requirements of Iowa Code section 476C.1(6)“b” with an equity interest in the facility greater than 10 percent and less than 51 percent, a statement attesting that the owner does not have an equity interest equal to or greater than 51 percent in any other eligible renewable energy facility.

ITEM 4. Adopt the following new rule 199—15.22(476):

199—15.22(476) Small wind innovation zones.

15.22(1) Definitions. For purposes of this rule:

“*Electric utility*” means a public utility that furnishes electricity to the public for compensation.

“*Model interconnection agreement*” means the applicable standard interconnection agreement under 199—Chapter 45.

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“Model ordinance” means the model ordinance developed pursuant to Iowa Code Supplement section 476.48(3), which when adopted will be posted on the Web sites of the Iowa League of Cities at www.iowaleague.org and the Iowa State Association of Counties at www.iowacounties.org.

“Small wind energy system” means a wind energy conversion system that collects and converts wind into energy to generate electricity, which has a nameplate generating capacity of 100 kilowatts or less. A small wind energy system located in a small wind innovation zone but in the exclusive service territory of an electric utility that is not subject to 199—Chapter 45 and has not adopted the standard forms, procedures, and interconnection agreements in 199—Chapter 45 is not eligible for the streamlined application process referred to in Iowa Code Supplement section 476.48(2) *“a.”*

“Small wind innovation zone” means a political subdivision of this state, including but not limited to a city, county, township, school district, community college, area education agency, institution under the control of the state board of regents, or any other local commission, association, or tribal council which adopts, or is encompassed within a local government which adopts, the model ordinance.

15.22(2) Application for small wind innovation zone designation. A political subdivision of this state, including but not limited to a city, county, township, school district, community college, area education agency, institution under the control of the state board of regents, or any other local commission, association, or tribal council, may apply to the board for designation as a small wind innovation zone under Iowa Code Supplement section 476.48. The application must include the following information:

a. The name, location, description, and legal boundary of the political subdivision seeking designation as a small wind innovation zone;

b. Contact information for the applicant filing on behalf of the political subdivision, including legal name, address, telephone number, and, as applicable, facsimile transmission number and electronic mail address;

c. If the political subdivision is other than a local government:

(1) Identification of the local government (or governments) that encompasses the political subdivision;

(2) Confirmation that all identified local governments have either adopted or are about to adopt the model ordinance, including copies of model ordinances adopted by the local governments, or copies of pending amendments to existing zoning ordinances intended to comply with the model ordinance; and

(3) Dates the model ordinances were adopted or anticipated dates of adoption of pending amendments to existing zoning ordinances intended to comply with the model ordinance;

d. If the political subdivision is a local government:

(1) A copy of the model ordinance adopted by the local government or copy of a pending amendment to an existing zoning ordinance intended to comply with the model ordinance; and

(2) Date the model ordinance was adopted or anticipated date of adoption of the pending amendment to an existing zoning ordinance intended to comply with the model ordinance;

e. Identification of the electric utilities that provide service within the political subdivision; and

f. Documentation from each electric utility that provides service within the political subdivision confirming that the electric utility is serving the political subdivision and that the utility is either:

(1) A utility subject to the provisions of 199—Chapter 45; or

(2) A utility not subject to the provisions of 199—Chapter 45, but which nonetheless agrees to use the standard forms, procedures, and standard interconnection agreements of 199—Chapter 45 for small wind energy systems in its service territory within the political subdivision; or

(3) A utility that is not subject to the provisions of 199—Chapter 45 and has not adopted them.

NOTE: Electric utilities shall provide political subdivisions the documentation required in paragraph 15.22(2) *“f.”*

15.22(3) Motion for modification of a model interconnection agreement in a small wind innovation zone. An electric utility that uses the standard interconnection agreements in 199—Chapter 45 and the owner of a small wind energy system in a small wind innovation zone may jointly seek to modify their version of the model interconnection agreement by jointly filing a motion for board approval. The motion must include the following information:

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- a.* The name, location, and description of the political subdivision designated as a small wind innovation zone;
- b.* The interconnecting electric utility;
- c.* Information regarding the owner of the small wind energy system, including legal name, address, telephone number, and, as applicable, facsimile transmission number and electronic mail address;
- d.* Description of the small wind energy system, including location and nameplate generating capacity;
- e.* A copy of the modified interconnection agreement clearly identifying the proposed modifications;
- f.* A description of the reasons and circumstances that require the modifications; and
- g.* Signed statements from the electric utility and the owner of the small wind energy system attesting that the proposed modifications to the interconnection agreement are mutually agreeable.

15.22(4) *Annual reporting requirement.* A current listing of small wind innovation zones shall be maintained on the board's Web site at www.state.ia.us/iub. Beginning April 1, 2011, each electric utility that has one or more small wind innovation zones in its service territory shall file an annual report for the previous calendar year listing the nameplate kW capacity of each small wind energy system that was interconnected (or previously interconnected) with the utility and produced electricity in each of the small wind innovation zones served by the utility. The information shall be provided in the following format:

Small Wind Innovation Zone	Customer Name	Nameplate kW Capacity
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