Purpose and Summary

The proposed rulemaking implements changes to multiple tax credit programs administered by IEDA (affected tax credits) to conform to 2023 Iowa Acts, House File 703, House File 710, and Senate File 575. The changes in the legislation include:

- House File 703 extends the availability of the Hoover presidential library tax credit until the end of calendar year 2024.
- House File 710 increases the allocation of available endow Iowa tax credits from $6 million to $13 million for tax year 2023. House File 710 also changes the applicability of 2022 Iowa Acts, chapter 1002, division VIII, to specify that the change to the maximum amount of tax credits granted to a taxpayer applied to endowment gifts made to an endow Iowa-qualified community foundation on or after January 1, 2023.
- Senate File 575 changes the workforce housing tax incentives program by adding construction of new dwelling units in urban areas as an eligible project type. Previously, greenfield development was an eligible project type in only small cities.
- Senate File 575 also changes the innovation investment tax credit by removing the requirement for IEDA to establish a wait list for fiscal years in which the amount of tax credit certificates applied for exceeds the amount allocated. Senate File 575 also extends the authority of IEDA to continue certifying new funds for the innovation fund tax credit until June 30, 2028. Previously, new certifications would have ceased as of June 30, 2023.

The proposed rulemaking would update the rules for each affected program to be consistent with the Iowa Code and, pursuant to Executive Order 10, remove statutory language.

Analysis of Impact

1. Persons affected by the proposed rulemaking:

- Classes of persons that will bear the costs of the proposed rulemaking:

The rulemaking does not impose any meaningful additional costs on applicants for or recipients of the affected tax credits.

- Classes of persons that will benefit from the proposed rulemaking:

Businesses and donors that apply for and are approved for the affected tax credits will benefit from clarity in the rules and consistency with the Iowa Code.

2. Impact of the proposed rulemaking, economic or otherwise, including the nature and amount of all the different kinds of costs that would be incurred:

- Quantitative description of impact:

The rulemaking does not impose any meaningful additional costs on applicants for or recipients of the affected tax credits. Businesses interested in applying for the affected tax credits require staff time to complete applications and provide other documentation required by IEDA to receive the affected tax credits. Some businesses and donors may choose to rely on external service providers, such as accountants, to complete applications or submit other documents. The amount of the costs will vary depending on the compensation of such staff or service provider. The rulemaking is not expected to impact tax credit applications or documentation required.

- Qualitative description of impact:

Updating rules to maintain consistency with the Iowa Code will benefit those seeking information about the affected tax credits.

3. Costs to the State:

- Implementation and enforcement costs borne by the agency or any other agency:

The changes are not expected to impact the time it takes IEDA staff to administer the affected tax credits. The program changes are not expected to impact the time or cost for the Iowa Department of Revenue to process tax credit claims.

- Anticipated effect on state revenues:

The amendments have no anticipated fiscal impact beyond that of the legislation implemented.

4. Comparison of the costs and benefits of the proposed rulemaking to the costs and benefits of inaction:

Current rules are inconsistent with the Iowa Code as amended by 2023 Iowa Acts, House File 703, House File 710, and Senate File 575. The rulemaking does not impose any meaningful additional costs on applicants for or recipients of the affected tax credits. The only businesses and donors that bear the costs of the current rules as well as the amendments are those that will potentially benefit from the tax credit.

5. Determination whether less costly methods or less intrusive methods exist for achieving the purpose of the proposed rulemaking:

IEDA has not identified less costly methods or less intrusive methods of administering the affected tax credits.

6. Alternative methods considered by the agency:

- Description of any alternative methods that were seriously considered by the agency:

IEDA did not consider any other methods.

- Reasons why alternative methods were rejected in favor of the proposed rulemaking:

IEDA did not consider any other methods.

Small Business Impact

If the rulemaking will have a substantial impact on small business, include a discussion of whether it would be feasible and practicable to do any of the following to reduce the impact of the rulemaking on small business:

- Establish less stringent compliance or reporting requirements in the rulemaking for small business.
- Establish less stringent schedules or deadlines in the rulemaking for compliance or reporting requirements for small business.
- Consolidate or simplify the rulemaking's compliance or reporting requirements for small business.
- Establish performance standards to replace design or operational standards in the rulemaking for small business.
- Exempt small business from any or all requirements of the rulemaking.

If legal and feasible, how does the rulemaking use a method discussed above to reduce the substantial impact on small business?

The proposed rulemaking does not have a substantial impact on small business. The compliance and reporting requirements relating to the tax credit programs are no greater than necessary to administer the programs and are not impacted by the rulemaking. The rulemaking does not establish design or operational standards.

Text of Proposed Rulemaking

ITEM 1. Amend rule 261—43.3(15E) as follows:

261—43.3(15E) Authorization of tax credits.

43.3(1) For tax years beginning on or after January 1, 2021, but before January 1, ~~2024~~ 2025, a tax credit shall be allowed against the taxes imposed in Iowa Code chapter 422, subchapters II, III, and V, and in Iowa Code chapter 432, and against the moneys and credits tax imposed in Iowa Code section 533.329, equal to 25 percent of a donor's charitable donation made on or after July 1, 2021, to the Hoover presidential foundation for the Hoover presidential library and museum renovation project fund.

43.3(2) A donor shall not claim a tax credit for a donation made during a tax year beginning before January 1, 2021, or after December 31, ~~2023~~ 2024.

43.3(3) No change.

ITEM 2. Amend subrule 47.3(3) as follows:

47.3(3) ~~The aggregate amount of tax credits available under this rule annually is $6 million. For tax credits issued on or before December 31, 2022, the maximum amount of tax credit that may be granted to an individual taxpayer is limited to 5 percent of the aggregate amount available each year. For tax credits issued on or after January 1, 2023, the maximum amount of tax credit that may be granted to an individual taxpayer is limited to $100,000.~~ If the authority receives applications for tax credits in excess of the amount available, the applications shall be prioritized by the date the authority received the applications. Applications received on or before June 30, 2023, will be placed on a waitlist for a subsequent year's allocation of tax credits if the number of applications exceeds the amount of annual tax credits available. Applications placed on the waitlist shall first be funded in the order listed on the waitlist. Applications received on or after July 1, 2023, in excess of the amount of tax credits available will not be placed on the waitlist and will be denied by the authority. For endowment gifts made on or after June 30, 2023, a taxpayer shall submit an application to the authority for the tax credit no later than 12 months from the date of the donation which qualifies the taxpayer for the tax credit.

ITEM 3. Rescind subrule 48.4(1) and adopt the following **new** subrule in lieu thereof:

48.4(1) *Eligible project types.*

a. To receive workforce housing tax incentives pursuant to the program, a proposed housing project shall meet all of the requirements of Iowa Code section 15.353. Projects located in a 100-year floodplain are not eligible.

b. Whether a dwelling unit should be classified as a single-family dwelling unit for the purposes of this subrule shall be as determined by the authority. Factors the authority may consider include, but are not limited to, the following:

(1) Whether a unit is separated from other units by a ground-to-roof wall;

(2) Whether the unit has a separate heating system;

(3) Whether the unit has an individual meter for public utilities; and

(4) Whether the unit has other units above or below.

ITEM 4. Rescind subrule **116.3(6)**.

ITEM 5. Rescind rule 261—116.6(15E) and adopt the following **new** rule in lieu thereof:

261—116.6(15E) Approval, issuance and distribution of investment tax credits.

116.6(1) *Approval.* Upon certification and registration by the authority of an innovation fund and approval of the taxpayer's application, the board will approve the issuance of a tax credit certificate to the applicant.

116.6(2) *Preparation of the certificate.* The tax credit certificate shall be in a form approved by the authority and shall contain the taxpayer's name, address, and tax identification number; the amount of credit; the name of the innovation fund; the year in which the investment was made and any other information that may be required by the department of revenue. In addition, the tax credit certificate shall contain the following statement:

> Neither the authority nor the board has recommended or approved this investment or passed on the merits or risks of such investment. Investors should rely solely on their own investigation and analysis and seek investment, financial, legal and tax advice before making their own decision regarding investment in this fund.