

THE FLINN REPORT

ILLINOIS GENERAL ASSEMBLY
JOINT COMMITTEE ON ADMINISTRATIVE RULES

Elaine Spencer, Editor

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The Flinn Report is a weekly summary of regulatory actions of State agencies published in the *Illinois Register* and action taken by the Illinois General Assembly's Joint Committee on Administrative Rules (JCAR). The Flinn Report honors founding JCAR member Representative Monroe Flinn, and is designed to inform and involve the public in changes taking place in agency administration.

Proposed Rulemakings

• INFO TECHNOLOGY SCHOLARSHIPS

The ILLINOIS STUDENT ASSISTANCE COMMISSION proposed a new Part titled Illinois Graduate and Retain Our Workforce (iGROW) Tech Scholarship Program (23 IAC 2750; 47 Ill Reg 14754) implementing Public Act 103-519. The Act and this rulemaking establish the iGROW scholarship program for students pursuing associate or bachelor's degrees in computer science or information technology-related fields. For students enrolled at public institutions, the scholarship will cover tuition and fees, plus room and board at the standard undergraduate rates, that are not covered by other financial aid available to the student. Recipients enrolled at private institutions will receive no more than the maximum amount that would be payable to a student enrolled in the most expensive comparable program at a public institution. In return, the student must agree to work in Illinois

at a qualifying job in the computer science or information technology field for at least one year for each year of scholarship assistance received (minimum 2 years). To qualify for this scholarship, an applicant must: be an Illinois resident who graduated from high school or completed a high school diploma with at least a 2.5 grade point average on a 4.0 scale; enroll at least

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half-time at an ISAC-approved institution in a course of study in computer or information science or technology, computer systems networking, telecommunications, information systems security/assurance, or management information systems; maintain a GPA of at least 2.5; and maintain satisfactory progress toward completing a degree. Priority will be

given to applicants who demonstrate financial need; those who demonstrate academic excellence; minority applicants; and renewal applicants who continue to meet eligibility criteria. Recipients must reapply for the scholarship annually and submit their applications by the deadline established by ISAC and posted on its website. Late applications will not be processed unless funding for scholarships remains available. Scholarship funds will be approved for a maximum of 8 semesters or 12 quarters of full-time equivalent enrollment. Recipients must begin working at a qualifying job within 1 year after completing their degree. If the recipient fails to fulfill the requirement to work at a qualifying job, any remaining funds for which the work obligation was not fulfilled will convert to a loan at 5% interest. The work requirement may be suspended temporarily if the reci-

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ADOPTED RULES: Rules adopted by agencies this week. **EMERGENCY RULES:** Temporary rules adopted for no more than 150 days.
PROPOSED RULEMAKINGS: Rules proposed by agencies this week, commencing a First Notice public comment period of at least 45 days.
PEREMPTORY RULES: Rules adopted without prior public notice or JCAR review as authorized by 5 ILCS 100/5-50.
▪ - Designates rules of special interest to small businesses, small municipalities and/or non-profit organizations. Agencies must consider comments from these groups and attempt to minimize regulatory burdens on them.
QUESTIONS/COMMENTS: Submit mail, e-mail or phone calls to the agency personnel listed below each summary.
RULE TEXT: First Notice proposed text, emergency rule and peremptory rule text is available at the Secretary of State website (<https://www.ilsos.gov/departments/index/register/home.html>) or at the Illinois General Assembly website (<http://www.ilga.gov>) under "Illinois Register". Second Notice text for proposed rulemakings (original version with any changes made by the agency during First Notice included) is available at the JCAR website.

Proposed Rulemakings

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ipient is enrolled in a graduate program, serving in the Armed Forces, temporarily disabled, or is actively seeking but has been unable to obtain a qualifying job. Those affected by this rulemaking include students in information technology programs and employers of recent graduates of these programs.

STUDENT ASSISTANCE

ISAC also proposed amendments to Illinois Veteran Grant (IVG) Program (23 IAC 2733; 47 Ill Reg 14748), Human Services Professional Loan Repayment Program (23 IAC 2752; 47 Ill Reg 14761), Minority Teachers of Illinois (MTI) Scholarship Program (23 IAC 2763; 47 Ill Reg 14768), Golden Apple Scholars of Illinois Program (23 IAC 2764; 47 Ill Reg 14776), Illinois Special Education Teacher Tuition Waiver (SETTW) Program (23 IAC 2765; 47 Ill Reg 14784), and AIM HIGH Grant Pilot Program (23 IAC 2766; 47 Ill Reg 14792). The Part 2733 rulemaking clarifies that institutions must report, for each IVG recipient, all credit hours for which payment is requested even if only part of the cost of a course is being paid by ISAC because the student withdrew from that course. Amendments to Part 2752 implement PA 103-31, which removes a 4-year limit on repayment assistance, clarifies program eligibility for persons employed by human service agencies that receive funding from the State (currently, that contract with or are grant funded by a State agency), and allows preference to be given to recipients in financial need and to renewal applicants. Amendments to Parts 2763, 2764 and 2765 implement PA 103-448 by allowing scholarship recipients who have already begun a

repayment program to reduce their repayment obligation if they begin teaching at a school which meets the scholarship program criteria within 5 years after beginning repayment. Finally, the Part 2766 rulemaking implements PA 103-516, which makes the AIM HIGH program permanent, by removing “Pilot” from the name of the Part; sets the financial eligibility ceiling for students at 8 times (currently, 6 times) the Federal Poverty Level; and sets the base level of financial aid that must be provided by public universities to Illinois resident students at the amount provided in the 2017-18 academic year or the 2021-22 academic year, whichever is less (currently, 2017-18 is the sole base year). Universities may, at their discretion, also allow qualified part-time undergraduate students in their final semester to apply for AIM HIGH grant funds.

Questions/requests for copies/comments on the 7 ISAC rulemakings through 12/4/23: Jackie Eckley, ISAC, 500 West Monroe St., 3rd Floor, Springfield IL 62704, 217-782-5161, jackie.eckley@illinois.gov

COMMUNITY COLLEGES

The ILLINOIS COMMUNITY COLLEGE BOARD proposed amendments to the Part titled Administration of the Illinois Public Community College Act (23 IAC 1501; 47 Ill Reg 14632) implementing the Developmental Education Reform Act [110 ILCS 175], which requires that all community colleges consider multiple measures, rather than a single test or other single assessment measure, for determining a student’s placement in introductory English and mathematics courses. The Act and this rulemaking further require community colleges to submit institutional plans for scaling developmental education (formerly, “remedial education”) reform to maximize the probability that

students in need of additional courses to achieve the level of competency required for college level instruction will be placed in and successfully complete these introductory courses. The rulemaking replaces “remedial” with “developmental”, defines multiple measures placement, and lists different assessment measures to be used for English and mathematics course placement, including: cumulative high school grade point average, standardized test scores, successful completion of a high school transition or introductory college-level class at another institution, or any other measures the community college deems appropriate. Any changes in the recommendations of the Illinois Council of Community College Presidents concerning developmental education and placement in introductory courses must be implemented by community colleges within one year after the changes are made. The rulemaking also requires colleges to annually submit their scaling evidence-based developmental education plan to ICCB by 12/30; the plan must include a description of developmental education models being used, baseline data and benchmarks for progress (e.g., rate of successful completion of introductory college-level English or mathematics courses), and plans for improving outcomes for all students, including details regarding outcomes for Black students.

Questions/requests for copies/comments through 12/4/23: Matt Berry, ICCB, 401 E. Capitol Ave., Springfield IL 62701-1711, 217-785-7411, fax 217-524-4981, Matt.Berry@illinois.gov

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Proposed Rulemakings

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HIGHER ED TRAVEL

The HIGHER EDUCATION TRAVEL CONTROL BOARD proposed amendments to the Part titled Higher Education Travel (80 IAC 2900; 47 Ill Reg 14652) reflecting statutory provisions that replace State-established reimbursement rates for lodging and meals and per diem rates with federal rates published by the General Services Administration. The rulemaking also clarifies how to document upgrades in air travel bookings from coach class to business class when necessary due to seat availability or other reasons.

Questions/requests for copies/comments through 12/4/23: Aaron Carter, AVP-PS Chair, HETCB, 506 S. Wright St., Rm. 238, Urbana IL 61801, 217-333-2464, procurementservices@uillinois.edu

SALES TAXES

The DEPARTMENT OF REVENUE proposed an amendment to Retailers' Occupation Tax (86 IAC 130; 47 Ill Reg 14688) implementing the First District Appellate Court's decision in *Kishwaukee Auto Corral, Inc. v. Department of Revenue* (2021 IL App (1st) 200236). The amendment clarifies that if a cash basis retailer cannot deduct a bad debt on its federal income tax return, the retailer is entitled to claim a refund from DOR for sales tax it paid on that portion of an installment contract that is later found to be uncollectable. The amendment provides new guidance for the calculation of a bad debt, including examples, as well as additional guidance regarding procedural requirements and record

ISP Public Hearing

ASSAULT WEAPONS REGISTRATION

The ILLINOIS STATE POLICE will hold a public hearing on proposed amendments to Firearm Owner's Identification Card Act (20 IAC 1230; 47 Ill Reg 13846) on **Thursday, Nov. 2, at 9:30 a.m.** in **Room D-1, Stratton Bldg., 401 S. Spring St. Springfield.**

The hearing will be live streamed via WebEx at: <https://illinois.webex.com/illinois/j.php?MTID=m92efde0ddc54f674c2674789f974829f>. The password for access to this stream is **TmXUtWsn232**.

This hearing concerns proposed amendments published in the 9/29/23 *Illinois Register* that implement the Protect Illinois Communities Act (PICA) portion of PA 102-1116 (SAFE-T Act), requiring Illinois residents who legally possessed, prior to 1/10/23, firearms now classified as assault weapons to register these firearms with ISP no later than 1/1/24. These provisions were also enacted in an identical emergency rule effective 9/15/23.

Requests to speak at the hearing (in person), submit written comments, or provide disability accommodations must be e-mailed to ISP.Legal.PublicComments@illinois.gov no later than 9:30 a.m. Tuesday, Oct. 31 for requests to submit written comment; no later than 12:30 p.m. Wednesday, Nov. 1, for requests to speak at the hearing; and as soon as possible for disability support requests. The e-mail subject line should be "Request to Provide Public/Written Comment (or Request for Disability Support) for ISP's PICA Rulemaking Public Hearing".

Questions regarding the rulemaking or the public hearing: Kelly Griffith, ISP, 801 S. Seventh St., Suite 1001-S, Springfield IL 62704.

keeping. Other changes institute gender neutral pronoun references to retailers and taxpayers.

TAX PENALTIES

DOR also proposed an amendment to the Part titled Uniform Penalty and Interest Act (86 IAC 700; 47 Ill Reg 14714) implementing PA 103-98, which provides that for State tax returns filed on and after 1/1/24, any additional State income tax liability resulting from a change to the taxpayer's federal income tax return that must be reported to DOR must be paid no later than the due date for filing the federal amended return in order to avoid State tax penalties.

Questions/requests for copies/comments on the 2 DOR rulemakings through 12/4/23: Part 130, Thomas Grudichak; Part 700, Brian Fliflet; DOR, 101 W. Jefferson St., Springfield IL 62794, 217-782-2844, REV.GCO@illinois.gov

TANF BENEFITS

The DEPARTMENT OF HUMAN SERVICES proposed an amendment to Temporary Assistance for Needy Families (89 IAC 112; 47 Ill Reg 14666) implementing PA 102-1115, providing that all child support payments made to a household receiving TANF are disregarded when determining that household's financial eligibility.

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Proposed Rulemakings

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Questions/requests for copies/comments through 12/4/23: Tracie Drew, DHS, 100 S. Grand Ave. East, 3rd Fl., Springfield IL 62762, 217-785-9772, DHS.Administrative.Rules@illinois.gov

ILRB PUBLIC INFORMATION

The ILLINOIS LABOR RELATIONS BOARD proposed amendments to the Part titled Access to Records of the Illinois Labor Relations Board (2 IAC 2501; 47 Ill Reg 14683) that add a Chicago address for sending Freedom of Information Act (FOIA) requests, update the Springfield address for FOIA requests, update the Board's

web address and remove the fax number formerly used for FOIA requests.

Questions/requests for copies/comments through 12/4/23: Anna Hamburg-Gal, ILRB, 160 N. LaSalle St., Ste. 400, Chicago IL 60601, 312-793-6380, Anna.Hamburg-Gal@Illinois.gov

JCAR Meeting Action

At its 10/17/23 meeting, the Joint Committee on Administrative Rules approved the following actions. Proposed rulemakings from this agenda that are not listed below received No Objection and may be adopted by their agencies. Emergency rules not acted upon at this meeting may be reconsidered at later meetings.

OBJECTION

JCAR objects to the Department of Children and Family Services rulemaking titled Licensing Standards for Day Care Centers (89 IAC 407; 47 Ill Reg 8052) because this rulemaking does not meet the criteria for review established by 1 Ill Adm Code 220.900(a)(2)(A) and (a)(3)(E), which requires an agency to provide adequate justification and rationale for the proposed rulemaking. The Department has not presented adequate justification and rationale for considering only work experience acquired in licensed day care centers and license exempt locations in determining whether an assistant is qualified to supervise children under age 2. Licensed day care centers have relied heavily on assistant supervision of infants and toddlers for more than 3 years and frequently hire assistants with child care experience in other environments such as in day care homes and as professional nannies. The Committee strongly encourages the Department to genuinely engage with stakeholders on this topic and to find a comprehensive solution for day care staffing issues.

RECOMMENDATION

With regard to the Illinois State Police emergency rulemaking titled Firearm Owner's Identification Card Act (20 IAC 1230; 47 Ill Reg 14038) JCAR recommends that the Illinois State Police add clarifying detail to the rulemaking, including: the definitions of "assault weapon" and "assault weapon attachment"; when an individual's weapons may be returned to them upon reinstatement of a FOID card; the duration and location of affidavit exempt activities; and any other commenter concerns. Further, the Committee recommends that ISP hold 3 public hearings on this topic and answer questions of the Committee and public commenters in writing within 60 days, and update the

Committee on its progress at the Committee's November meeting.

EXTENSIONS

JCAR, with the concurrence of the respective agencies, extended the Second Notice periods for the following rulemakings an additional 45 days. These rulemakings will be considered again at the Nov. 7 JCAR meeting.

Department of Financial and Professional Regulation, Credit Union Community Reinvestment (38 IAC 185; 46 Ill Reg 19726), Bank Community Reinvestment (38 IAC 345; 46 Ill Reg 19794), Rules Governing the Request for Reconsideration of Examination Findings (38 IAC 385; 46 Ill Reg 19856), and Mortgage Community Reinvestment (38 IAC 1055; 46 Ill Reg 19861).

Department of Human Services, Provider Requirements, Type Services, and Rates of Payment (89 IAC 686; 47 Ill Reg 7038)

Department of Natural Resources, White-Tailed Deer Hunting by Use of Bow and Arrow (17 IAC 670; 47 Ill Reg 10849)

POSTPONEMENTS

JCAR postponed action on the following proposed rulemakings, which are currently on extended Second Notice, until the Nov. 7 meeting:

Capital Development Board, Illinois Energy Conservation Code (71 IAC 600; 47 Ill Reg 7177)

Elevator Safety Review Board, Illinois Elevator Safety Rules (41 IAC 1000; 47 Ill Reg 6388)

Office of the State Fire Marshal, Fire Sprinkler Contractor Licensing Rules (41 IAC 109; 47 Ill Reg 6614)

Adopted Rules

DUAL CREDIT CLASSES

The ILLINOIS COMMUNITY COLLEGE BOARD adopted an amendment to the Part titled Administration of the Illinois Public Community College Act (23 IAC 1501; 47 Ill Reg 1) effective 10/6/23, implementing Public Act 102-1077. The Act and this rulemaking allow high school students who may not otherwise meet a community college district's academic eligibility requirements to enroll in a dual credit course taught at the high school, for high school credit only. The rulemaking also implements, effective 1/1/23, the following requirements for high school instructors seeking credentials to teach dual credit classes: the instructor must have a master's degree in any subject and have earned at least 9 graduate credit hours in a subject the instructor is currently teaching, or expects to teach; or if the instructor teaches career and technical education (CTE) classes, the instructor must have completed at least half of the institution's requirements for faculty in the subject to be taught. In either case, the instructor must have a professional development plan, approved by the college, for achieving the credentials needed for college level instruction.

Questions/requests for copies: Matt Berry, ICCB, 401 E. Capitol Ave., Springfield IL 62701-1711, 217/785-7411, fax: 217-524-4981, Matt.Berry@illinois.gov

AIR POLLUTION

The POLLUTION CONTROL BOARD adopted amendments to Air Quality Standards (35 IAC 243; 47 Ill Reg

11412) effective 10/5/23 that update Illinois ambient air quality requirements to align with recent amendments to the federal National Ambient Air Quality Standards (NAAQS) adopted by the U.S. Environmental Protection Agency. These amendments include a notation of the Chicago area's "moderate nonattainment" status under NAAQS and an updated incorporation of USEPA's List of Designated Reference and Equivalent Methods for testing air quality.

Questions/requests for copies: Don A. Brown, PCB, 60 E. Van Buren Street, Suite 630, Chicago IL 60605, 312/814-3461, don.brown@illinois.gov. Please reference Docket R23-15. Copies of the Board's opinion and order can be requested at 312/814-3620 or downloaded at <http://www.pcb.illinois.gov>.

AUDIT PILOT PROGRAM

The DEPARTMENT OF REVENUE adopted a new Part titled Local Government Recapture Act and Certified Audit Pilot Program (86 IAC 850; 47 Ill Reg 7387) effective 10/4/23, implementing PA 101-628, which governs the Local Government Revenue Recapture Act and the Certified Audit Pilot Project. The PA and this rulemaking establish a process by which municipalities or counties that receive a disbursement of tax proceeds from DOR may contract with third parties to ensure that the municipality or county receives the correct tax disbursements from the Department. They also create a Certified Audit Pilot Program (effective 1/1/21 through 12/31/25) that allows taxpayers to

engage a qualified practitioner (i.e., a CPA who has completed a training course for this program) to perform a certified audit, based on an actionable referral by a municipality, county, or registered third party. These audits may investigate whether a taxpayer has reported receipts in the proper jurisdiction; whether tangible personal property purchases used or consumed by the taxpayer were properly taxed; evaluate sales reported as tax-exempt; determine whether the proper tax rate was charged, or whether a tax was properly reported as sales or use tax; and any other factor that may affect how DOR allocates tax disbursements to a unit of local government. This program provides for a waiver of penalties due on any tax liabilities revealed by a certified audit. The rulemaking sets forth requirements for municipalities, third parties, qualified practitioners, and DOR to participate in the program, including confidentiality, registration, training, and grounds for approval or rejection of participation by taxpayers. Other provisions address requirements for conducting certified audits, review of agreed-upon procedures, DOR's role in reviewing certified audits conducted by qualified practitioners, and provisions for taxpayers to obtain informal and formal review of certified audit results. Those affected by this rulemaking include municipalities, counties, small businesses, and qualified practitioners who may be engaged to perform certified audits.

Questions/requests for copies: Alexis Overstreet, DOR, 101 W. Jefferson St., Springfield IL 62794, 217/782-2844, REV.GCO@illinois.gov

Second Notices

The following rulemakings were moved to Second Notice this week by the agencies listed below, commencing the JCAR review period. The DCFS rulemaking was considered at the October 17, 2023 meeting; the remaining rulemakings will be considered at the November 7, 2023 meeting in Springfield. Other items not published in the *Illinois Register* or The Flinn Report may also be considered. Further comments concerning these rulemakings should be addressed to JCAR at jcar@ilga.gov.

DEPT OF CHILDREN AND FAMILY SERVICES

Licensing Standards for Day Care Centers (89 IAC 407; 47 Ill Reg 8052) proposed 6/16/23

DEPT OF FINANCIAL AND PROFESSIONAL REGULATION

Rules for Administration of the Compassionate Use of Medical Cannabis Pilot Program (68 IAC 1290; 47 Ill Reg 11980) proposed 8/11/23

DEPT OF HEALTHCARE AND FAMILY SERVICES

Medical Payment (89 IAC 140; 47 Ill Reg 12212) proposed 8/18/23

Specialized Health Care Delivery Systems (89 IAC 146; 47 Ill Reg 12239) proposed 8/18/23

Long Term Care Reimbursement Changes (89 IAC 153; 47 Ill Reg 12282) proposed 8/18/23

DEPT OF PUBLIC HEALTH

Sexual Assault Survivors Emergency Treatment Code (77 IAC 545; 47 Ill Reg 7830) proposed 6/9/23

Vision Screening (77 IAC 685; 47 Ill Reg 9158) proposed 7/7/23

Next JCAR Meeting: Tues. Nov. 7, 10:30 a.m.

Room D-1, Stratton Bldg., 401 S. Spring St., Springfield

Meeting will be live streamed on the JCAR website

Joint Committee on Administrative Rules

Senator Bill Cunningham, Co-Chair
Senator Cristina Castro
Senator Donald DeWitte
Senator Dale Fowler
Senator Kimberly Lightford
Senator Sue Rezin

Representative Ryan Spain, Co-Chair
Representative Eva-Dina Delgado
Representative Jackie Haas
Representative Steven Reick
Representative Curtis Tarver, II
Representative Dave Vella

Kim Schultz, Executive Director ■ Kevin Kulavic, Deputy Director
700 Stratton Office Building, Springfield IL 62706
217-785-2254 ■ jcar@ilga.gov