

MINUTES OF THE REGULAR MEETING
OF THE
ADMINISTRATIVE RULES REVIEW COMMITTEE

Time of Meeting

The regular meeting of the Administrative Rules Review Committee was held Tuesday and Wednesday, September 13 and 14, 1988, Committee Room 24, State Capitol, Des Moines, Iowa.

Members Present

Senator Berl E. Priebe, Chairman; Representative Edward G. Parker, Vice Chairman; Senators Donald V. Doyle and Dale L. Tieden; Representatives David M. Tabor and Betty Jean Clark. Staff present: Joseph A. Royce, Counsel; Phyllis Barry, Administrative Code Editor; Bonnie King, Administrative Assistant. Also present: Barbara Burnett, Governor's Administrative Rules Coordinator.

Convened

Chairman Priebe convened the Tuesday meeting at 10:08 a.m. He recognized Donovan Peeters, Director, Legislative Service Bureau, who called attention to nebulous

Special -
Child
Development
Coordinating
Council

legislation relative to the Child Development Coordinating Council, which was created by SF 2192. There was consensus that rules implementing the statute should be promulgated by the Department of Education. Also, clarifying legislation should be pursued.

REVENUE &
FINANCE
DEPARTMENT

Carl Castelda, Deputy Director, presented the following:

Mobile home tax, 74.1 to 74.4, 74.4(1), 74.4(6), 74.5, 74.8, 74.8(1), 74.8(2) ARC 9148	F	8 21 88
Administration, determination of a sale and sale price, 11.2, 16.3(3)"n" ARC 9161	N	8 21 88
Retailers newly liable for collection of sales tax, 11.11, 107.9"n" ARC 9149	N	8 21 88
Construction sales/local option, 19.2, 107.9(3)"n" ARC 9150	N	8 21 88
Vehicles subject to registration, 34.1(3), 34.5(10) ARC 9163	N	8 21 88
Offset of debts owed state agencies, ch 150 ARC 9162	N	8 21 88

Also present: Jerry Hadenfeldt, Meredith Corporation.

Ch 74

No recommendations were offered for amendments to Chapter 74, 11.2 or 15.3.

11.11
107.9

Castelda described amendments to 11.11 and 107.9 as rules implementing the "Iowa Bellas Hess bill--HF 2459." Approximately 12 states have drafted similar legislation which, in effect, creates "purposes of simplification and economic nexus." He said that copies of the proposed rules had been sent to approximately 5,000 mail order houses in the United States. The Department anticipates controversy over the legislation and rules. Iowa officials worked with California in drafting the rules which will notify retailers of their sales tax collection responsibilities.

Money generated must be kept in a special account and, after ample notice, the Department anticipates that their audit program will result in litigation. Castelda advised Doyle that the Department anticipates passage of "Bellas Hess" legislation by Congress in 1989, but chances in the Senate are doubtful. Tax receipts nationwide are estimated between \$18-20 million, assuming full compliance.

REVENUE &
FINANCE
Continued

Hadenfeldt spoke of Meredith's concern as to the impact on mail order advertising. He could foresee loss of revenue for Iowa-based companies as being "very damaging" and he questioned the constitutionality of the approach. Hadenfeldt wondered why Iowa should be a leader in this new, complex tax area. He urged Committee delay of the rules and further study of the legislation by the next General Assembly. He concluded that the issue should be resolved at the federal level.

Castelda emphasized that, as an agency, their responsibility was to administer the tax laws. Prior to the new legislation, in-state retailers were at a competitive disadvantage.

Chairman Priebe pointed out that the Committee would take no action on the proposed rules. There was review of Committee options for adopted rules.

19.2 No recommendations were offered for proposed amendments which implement local option tax provisions of HF 2463.

Ch 34 Discussion of amendments to Chapter 34 which will implement HF 2259 and HF 2460 relative to sales tax exemption for certain rebuilt vehicles. No action.

Ch 150 In review of Chapter 150, Castelda suspected that Job Services would be the first state agency to utilize the rules intended to implement 1987 Acts, Chapter 199. He cited an example: An income tax refund could be withheld by the Revenue Department and sent to Job Services as compensation for an overpayment of unemployment wages.

Castelda responded to question by Doyle that, in all cases, notice will be given to the taxpayer that the refund has been triggered for offset. State agencies have 30 days to respond to any requests. Castelda emphasized that the Revenue Department would not become involved in the resolution of a dispute. Tabor arrived.

CHILDREN, The Children, Youth and Families Division was represented
YOUTH & by Ann Thompson, Division Director; Gil Cerveney, Juvenile
FAMILIES Justice Specialist, and Eloise Lietzow. The agenda follows.

HUMAN RIGHTS DEPARTMENT (421) "umbrella"
Juvenile justice advisory council, ch 7, ARC 9125, also filed emergency ARC 9124..... N. *FE... 8/24/88

Priebe questioned the emergency adoption and Thompson responded that administration of the Juvenile Justice and Delinquency Prevention Act was transferred to their Division July 1, 1987. However, during the last session, it was questionable whether this would change. The Council now wants to cover the grant process with administrative rules. Thompson advised that the Council has 15 members at this time. ARRC members recommended that quorum requirements be specified in the rules.

CHILDREN,
YOUTH &
FAMILIES

Clark offered suggestions for restructuring the rules.
No formal action.

COMMUNITY
ACTION
AGENCIES
DIVISION

The Division was represented by James E. Smith, Administrator for the Community Action Agencies Department of Human Rights and the following amendments were considered:

HUMAN RIGHTS DEPARTMENT(421) "umbrella"
Community services block grant, 22.3(2), 22.3(4), 22.5(4), 22.7(5) ARC 9049 N R 10, 88

Smith reviewed allocation percentages and pointed out that a comprehensive local needs assessment study would be made at least once every three years. The study will identify causes and conditions of poverty in their service area and will be used to plan agency activities. No comments. Parker in the Chair.

COLLEGE AID
COMMISSION

Darlene Lawler, Director of Administrative Support, represented the Commission for the following:

EDUCATION DEPARTMENT(281) "umbrella"
Amend and transfer 245--chs 1 to 18 to 283--chs 1 to 26 ARC 9089 F 8/10/88
Default rate on ICAC - guaranteed loans, 10.79(1), 10.79(2)"1" ARC 9083 F 8/10/88
Iowa guaranteed student loan program, amendments to ch 10 ARC 9086 N 8/10/88
ICAC guarantee fee, 10.24 ARC 9084 N 8/10/88
Due diligence procedures and penalties, 10.34, 10.35 ARC 9086 N 8/10/88

Lawler described amendment to 10.79 as providing consistency with the federal default rate on commission guaranteed loans. When a school reaches the 20 percent default rate, the Commission will commence formal proceedings to limit, suspend, or terminate the eligibility of the school or lender. Prior to such action, the Commission works with the schools. Lawler mentioned extensive default reduction bills being considered by Congress which will place more restrictions on the schools.

Ch 10

Lawler explained that proposed amendment to Chapter 10 would satisfy a federal mandate to substitute "Iowa Stafford Loan Program" for "Iowa Guaranteed Student Loan Program" throughout the lengthy rules.

10.24

No recommendations re 10.24.

10.34
10.35

According to Lawler, amendments to 10.34 and 10.35 were in response to a U.S. Department of Education Bulletin relative to due diligence which lenders must follow in collection of a loan. Affected lenders have responded to the proposal.

DEPARTMENT
OF ECONOMIC
DEVELOPMENT

Economic Development was represented by Melanie Johnson, Jude Conway, Lew Boyd, and Mike Miller. Also present: Richard Welden, former legislator, and Clark McNeal, Iowa Falls. The following rules were considered:

Community economic betterment program, ch 22, ARC 9091, also filed emergency ARC 9090 N.Y. F.E. 8/10/88

Miller explained that the rules implement 1988 Acts, HF 2386, and will make assistance funds accessible to businesses under the CEBA Program.

Clark and Miller discussed selection criteria relative to local business involvement--22.7(1)c--and the various

ECONOMIC DEVELOPMENT Continued

means of financing which are not considered local effort-- 22.8(3)a. Clark questioned 22.9(1)a and was informed that "printing, finance or insurance" were only three examples of industry targeted within the state's strategic plan. She thought it would be preferable to omit examples if not all could be listed. Responding to further question by Clark re 22.9(1)b, "...economic activity is underrepresented...", Miller offered detailed explanation of how the determination is made.

McNeal referred to a document which he had provided to ARRC. He contended that certain criteria would limit the industries that might be considered for CEBA funds. McNeal urged a revision to exclude the words: "that meets the definition of subrule 22.9(1)" in the definition of "new business opportunity." He was doubtful that this limitation was legislative intent.

Royce reasoned "it is not a matter of what the bill said as much as what the bill did not say." Conway recalled that some of the proposed legislation was never introduced. The Department developed a definition to enable companies of over 500 employees to apply. Priebe resumed the Chair.

Priebe interjected that legislative intent was to create jobs where there was a surplus of people. Parker was supportive of Conway's position. The proposed legislation by the Department was never introduced. Parker recalled that the legislation was passed during the final hours of the session. No Committee action.

ELDER AFFAIRS DEPARTMENT

Elder Affairs Department was represented by Ron Beane who presented the following:

Nutrition services, 7.3(9)"b," 7.3(16)"e," ARC 9059, also filed emergency ARC 9058 N, F, E 8/10/88

Beane explained rescission of the provision which precluded leftover food from being sold or given away. Under the agency requirements on aging, procedures will be developed for the use of remaining food from congregate meal sites.

Royce inquired about liability if food poisoning were to occur. Beane was aware of that concern as well as the possibility of cooks preparing more food than would be needed. No recommendations.

EMPLOYMENT SERVICES DEPARTMENT

Joseph Bervid and Paul Moran, Chief of Job Insurance, were present for the following:

EMPLOYMENT SERVICES DEPARTMENT[341] Public records and fair information practices, 2.9(2)"f" ARC 9122 N 8/24/88
JOB SERVICE DIVISION[345] EMPLOYMENT SERVICES DEPARTMENT[341]"under-ella" Amendments to chs 3, 4, 5, 7, 8, 10 ARC 9128 N 8/24/88
Employer's contribution and charges, claims and benefits, 3.3(2)"h," 4.1(48), 4.2(1)"a"(1), 4.2(2)"e," 4.5(2)"h," 4.8(9), 4.19(2), 4.19(3), 4.22(1)"v"(2), 4.34(8), 4.37(1)"d"(2) ARC 9123 F 8/24/88

No recommendations re amendment to 341--2.9(2).

Job Service

Bervid summarized amendments to Chapter 3 et al. which were based on several court cases, in particular 3.43(4)--

JOB
SERVICE

supplemental employment. Subrule 3.43(8) addresses back-pay awards wherein the courts ruled that awards should be included in accumulating wage credits for requalification purposes.

3.43(4)

With respect to 3.43(4), Bervid said that eligibility for benefits will be based on full-time wage credits and will not be denied based upon "part-time quit."

3.3

Discussion of amendments to 3.3(2) et al. Bervid stated that revision of 4.34(8) re lockout and labor dispute was in response to the Alexander case.

Charles Gifford, United Auto Workers, expressed his opinion that the rule went beyond the Alexander case and was not needed. He recalled legislative nullification of the former lockout rule and he declared that the revision was an attempt to extend "something the legislature has not acted on." He suggested that the following would be adequate: "A lockout is not a labor dispute if the claimant is willing to continue working under the pre-existing terms and conditions of the expired collective bargaining agreement." Gifford noted that the word "certified" should be changed to "recognized" before "collective bargaining agent" in 4.34(8)b(2).

Moran took the position that the agency had interpreted the intent of the Supreme Court in all the rules.

Donald Hauser, Association of Business and Industry, spoke in support of the rule as being a fair approach to a "difficult area." Parker, of John Deere Company, concurred with Hauser.

Representative Parker opined that the legislature created the ambiguity by rescinding the former rule. He declared that the legislature should solve this problem.

Motion to
Delay

Parker moved to delay subrule 4.34(8), paragraph b, subparagraphs 1 to 3, into the next General Assembly. Chairman Priebe called for the vote on the Parker motion and it failed by a voice vote. The Committee concurred with Gifford's suggestion to change the word "certified" to "recognized." Clark pointed out that lack of a formal delay would not preclude the Legislature from reviewing the rule in question.

CORRECTIONS
DEPARTMENT

Fred Scaletta and Harry Cannon appeared for the review of rule 37.3, direct purchasing, filed emergency after Notice as ARC 9077, 8/10/88 IAB. This rule is intended to implement 1988 Acts, HF 2263, which provides for direct purchases from vendors of raw materials and capital items used for the manufacturing processes of Iowa state industries. No Committee action.

Recess
Reconvened

The meeting was recessed for lunch at 11:55 a.m. Chairman Priebe reconvened the meeting at 1:40 p.m. with quorum present.

BOARD OF REGENTS

The following agenda was presented by Charles Wright, Director of Personnel and Employee Relations, and Linda King Kading.

Policy on competition with private enterprise, 9.4, filed emergency ARC 9095 F 8/24/88
 Combined charitable campaign, 12.7(3), 13.7(3), 14.2, 16.8(1), 16.9 ARC 9088 AJ 8/10/88

Kading stated that rules were approved by their Board at the July meeting to be filed emergency. It was understood that there would be a review of all goods and services which are sold at institutions and that final rules would be before the Board at their January meeting when the normal process would be followed.

ARRC members voiced opposition to the emergency filing which precluded input of those affected by the rules. Royce recalled that legislative intent was to provide opportunity for some sort of debate as to what extent Regents could be exempted from competition with private enterprise. He advised that the only Committee option would be to object to the emergency filing which would terminate the rule in six months. Kading emphasized that the emergency rules merely reiterate the legislation and add an appeal process. Regents intends to allow for input when detailed rules are developed.

9.4(2)

David Brasher, National Federation of Independent Business, voiced opposition to reference only of the enumerated activities in 9.4(2). Chairman Priebe defended the Board in that respect and stressed that the statute should not be repeated in rules.

The Committee urged the Board to pursue the Notice process on the rules. No formal action. No recommendations for amendments to 12.7(3) et al.

NATURAL RESOURCES

Rules of the Natural Resources Department were before the Committee as follows:

- ENVIRONMENTAL PROTECTION COMMISSION[567]
- NATURAL RESOURCES DEPARTMENT[561] "umbrella" F 8/10/88
- Controlling pollution, 22.1(2)"d" ARC 9073 F 8/10/88
- Water supply, 40.2, 41.3(2), 41.4(4)"d" to "f," 41.4(6) to 41.4(17), 41.5(1)"c," 41.6(2)"b," 41.6(4), 41.6(5)"c," 41.12(10), 41.15, 41.16 ARC 9072 F 8/10/88
- Floodplain development, 70.4(2)"b" ARC 9070 F 8/10/88
- Public records and fair information practices, ch 2 ARC 9071 N 8/10/88
- Contracts for public improvements and professional services, ch 8 ARC 9074 N 8/10/88
- Agricultural drainage wells, 51.8, filed emergency ARC 9069 F 8/10/88
- NATURAL RESOURCES DEPARTMENT[561]
- Contracts for public improvements and professional services, ch 8 ARC 9075 F 8/10/88
- NATURAL RESOURCE COMMISSION[571]
- NATURAL RESOURCES DEPARTMENT[561] "umbrella" F 8/24/88
- Boating speed and distance zoning, 40.29, 40.30 ARC 9143 F 8/24/88
- Boat motor regulations, 45.4(2)"b" ARC 9147 F 8/24/88
- Forfeited property — disposition of weapons, 8.6 ARC 9145 N 8/24/88
- Boat motor regulations — Swan Lake, 45.4(2)"b" ARC 9146 N 8/24/88
- Endangered or threatened plant and animal species, ch 77 ARC 9140 N 8/24/88
- Fishing regulations, 81.2(4), 81.2(6)"d" ARC 9141 N 8/24/88
- Fishing tournaments, ch 88 ARC 9142 N 8/24/88

ENVIRONMENTAL PROTECTION

Those in attendance included Rex Walker, Randy Clark, Diana Hansen, Dennis Alt, Victor Kennedy, Jim Mayhew, and Mike Carrier.

22.1

Re 567--22.1(2), Walker stated that the amendment would clarify the exemption from air permits for equipment used on farms and ranches. No comments or changes.

ENVIRON-
MENTAL
PROTECTION
Continued

Hansen provided the ARRC with a summary of changes from Notice for 40.2 et al. They had received comments from Environmental Protection Agency and the Iowa Association of Municipal Utilities.

- 70.4 According to Randy Clark, the amendment to 70.4(2) will provide more latitude to applicants for floodplain development permits. No questions.
- Ch 2 No comments re Chapter 2.
- Ch 8 Brief discussion of Chapter 8 which adopts by reference rules of DNR (ARC 9075 8/10/88 IAB) and provides the framework for public improvement and professional services contracts. Royce questioned Kennedy as to their policy on set aside for minority groups. Kennedy stated that although there is some question in this regard, they are trying to utilize the two percent set aside.
- 51.8 Randy Clark commented that amendment to 51.8 would reconcile their rules with the 1988 legislative amendment which extended the deadline for registering agricultural drainage wells to September 30, 1988. Priebe reiterated his opposition to the form which, in his opinion, contained questions which exceed agency authority. Representative Clark was interested in knowing if those who fail to register would be penalized. Randy Clark explained that registration was a prerequisite for economic help.
- NATURAL
RESOURCES
DEPT
Economic
Impact
Statement
Ch 39 No questions re 561--Chapter 8, contracts for public improvements and professional services.
- Chairman Priebe recognized Ted Yanacek, Iowa Farm Bureau, who commented on the Economic Impact Statement for proposed Chapter 39 pertaining to plugging abandoned wells. Yanacek was uncomfortable with Department estimates since there were so many intangibles. He estimated that 35,000 wells would need to be plugged in the next six months, involving millions of dollars. Yanacek thought there should be Agriculture rules on cost-sharing and he observed that "sanctions preceded the program."
- NATURAL
RESOURCE
COMMISSION
45.4 Amendments to 40.29 and 40.30 were explained by Mayhew. No action.
- Amendment to 45.4(2)b will allow unrestricted horsepower at no-wake speed on Lake McBride from September 8 to May 20. Priebe reported that he had received calls from opponents to this change and suggested possible referral to the General Assembly.
- Motion to
refer - GA
45.4 Doyle moved that Royce send copies of 45.4(2)b to the Natural Resources Committees in the House and Senate as a general referral. Motion carried.

NATURAL
RESOURCE
COMMISSION
Continued

According to Kennedy, amendment to 8.6 will allow the Director of the Department to transfer illegal or legal weapons to the Department of Public Safety for disposal. Clark favored placing all the responsibility for weapons with the Public Safety Department. Kennedy pointed out that the statute provides for DNR to have an annual sale.

Motion to Refer - GA 8.6

Clark moved that 8.6 be referred to the General Assembly with the recommendation that the law be clarified. Robert Anderson, Iowa Sportsmen Federation, spoke in support of allowing this new flexibility to the DNR.

Vote

Clark motion carried.

45.4(2)
et al.

No recommendations re 45.4(2), Swan Lake, Chapter 77, 81.2 or Chapter 88.

Job Services Recon- sidered

Chairman Priebe recognized Tabor who moved to reconsider the vote by which the Parker motion to delay Job Services rule 4.34(8)b(3) failed. Brief discussion of parliamentary procedure. (See page 3943)

Vote

4.34(8)b(3)

The Tabor motion failed on a voice vote. Parker requested a record roll call which was as follows: Parker, Doyle and Tabor, aye; Priebe, Tieden and Clark, no. Priebe explained that he favored referral of the issue to the General Assembly. No other action.

INSPECTIONS
& APPEALS

The Department was represented by Xenda Lindel-Prine, Robert Haxton, and Mary Oliver who explained the following:

Food establishments, 30.2 to 30.4, 30.6 to 30.8, 30.10, 30.12, 31.1, 32.1, 33.2 ARC 9116	.....	F	8/21/88
Home food establishments, ch 34 ARC 9116	.....	F	8/24/88
Iowa targeted small business procurement program, amend and transfer 261—ch 54 to 481—ch 25, filed emergency ARC 9087	.....	FF	8/10/88
Administration of insulin in care facilities, 57.1, 57.19(3) ^c , 62.1, 62.16(3) ^d , 63.1, 63.19(3) ^c ARC 9117	.....	N	8/24/88
Infection control in health care facilities, 57.11(3), 57.11(5), 57.11(10) to 57.11(12), 57.12(3) ^c and "d," 58.10(3), 58.10(5), 58.10(8) to 58.10(10), 58.11(1) ^c and "d," 58.38(3), 59.10(3), 59.12(10), 59.12(11), 59.13(1) ^c and "d," 59.43(3), 62.9(2), 62.19(4), 62.19(5), 63.9(3), 63.9(5), 63.9(10) to 63.9(12), 63.11(1) ^c and "d," 64.12(13), 64.12(4), 64.13(5), 64.13(12), 64.13(16), 64.18(4), 64.26(8) ^d ARC 9121	.....	N	8/21/88
Professional management of resident's care — hospice program, 58.14(1), 58.17(8), 64.19(9) ARC 9119	.....	N	8/24/88
Alzheimer's disease and related disorders, 58.54 ARC 9120	.....	N	8/24/88
Demonstration waiver project, 63.47, 63.47(1) ^f ARC 9118	.....	N	8/24/88

Ch 30
Ch 25

Lindel-Prine said that the only change in Chapter 34 since the Notice was substitution of "shall" for "may" in 34.1(12). She reviewed changes from Noticed rules 30.2 et al.

No recommendations re Chapter 25.

57.1 et al.

Oliver stated that rules governing the administration of insulin had been clarified by stating that a residential care facility resident may self-administer insulin when a physician gives written certification. A hearing on the rules had been scheduled.

57.11

No recommendations re amendments to 57.11 et al. Lindel-

58.14 et al.

Prine said that amendments to 58.14 et al. are intended to resolve the conflict between state and federal law and to divide the responsibility for care of the terminally ill. No Committee action.

58.54

Lindel-Prine and Oliver explained proposed new rule 58.54 which will set standards for licensing special units in

INSPECTIONS
& APPEALS
Continued

ICFs for care of residents with Alzheimer's disease or related disorders. Oliver informed Doyle that ratio of staff to residents would be the same as required for the ICFs. No Committee action re 63.47.

Recess

The Committee was in recess for 10 minutes.

AGRICULTURE
& LAND
STEWARDSHIP

Senator Doyle took the Chair and called up the following Agriculture rules which were under a 70-day delay:

Infectious and contagious diseases--pseudorabies disease, 16.147(2), 16.147(3), 16.147(5), 16.147(9), 16.147(12), 16.148 to 16.163 ARC 8852 70-DAY DELAY R. 9/15/88

The Department was represented by Dr. Walter Felker, State Veterinarian, Ronald Rowland, Lowell A. Anderson.

Rowland stated that an emergency rule would be filed to withdraw those rules under delay and to reinstate the former version. Compromise rules were being drafted which would provide protection for counties in the eradication program. The new vaccine would also be addressed. Priebe resumed the Chair and voiced support of this action. He suspected that many of the problems were a result of misunderstanding. Priebe interjected that Representatives Dan Fogerty and Josephine Gruhn wanted to be on record as having supported the present rule.

Tabor voiced opposition to the proposal outlined by Department officials. It was his contention that, with all of the controversy surrounding the rules, an emergency filing was unwise. Priebe and Doyle excused. Parker took the Chair.

Tabor and Felker discussed deadlines for compliance which would be removed from the rules. No formal action taken.

SOIL CON-
SERVATION
DEPT

No recommendations were offered for the following presented by Ken Tow:

Nonpoint source pollution control practices, 5.58 ARC 9055 N. 8/10/88

Parker recessed the meeting at 3:20 p.m.

Wednesday
September 14

Chairman Priebe reconvened the meeting Wednesday, September 14, 1988, at 9:15 a.m. Tabor and Parker absent.

HEALTH
DATA
COMMISSION

Priebe recognized Pierce Wilson and Rose Vasquez who were present to review the following:

Uniform hospital billing form, submission of data, 5.1, 5.4, 6.1, 6.3(G) ARC 9081 N. 8/10/88

Interested persons also in attendance included Ray Crabtree, Senior Vice President, The Principal Financial Group; Dave Neil, UAW International; Dr. N. L. Saxton, Iowa Lutheran Hospital; Keith Larson, Pioneer Hibred International, Inc.; S. Kay Montgomery, Iowa Methodist Medical Center; Dave Stockman, Manager, Fisher Controls International, Inc.; H. Mel Willits, Hospital Association of

9-14-88

HEALTH
DATA
COMMISSION
Continued

Des Moines; Dr. Bruce Trimble, Iowa Medical Society; Perry Meyer, Iowa Hospital Association; Donald R. Margenthaler, John Deere Company; Jeanine Freeman, Iowa Hospital Association; Donald G. Hauser, Association of Business and Industry; Donald Rowen, Iowa Federation of Labor, AFL-CIO; Carmela Brown, Mercy Hospital, Des Moines; and Norman Pawlewski, Iowa Osteopathic Medical Association.

The proposed amendments will require hospitals with 100 or more licensed beds to use a computerized system approved by the Commission to generate patient severity codes. The coding system will provide information for the Commission to adjust hospital claims data for review and comparison of cost, utilization and quality of health services. The rules will be the first step in implementing the Commission's mandate to study quality of care issues. A public hearing held August 30 generated extensive comments, both pro and con, on the rules. A summary had been provided to ARRC members.

In response to Tieden, Wilson stated that consumer awareness will be increased resulting in informed decisions by the public.

Trimble emphasized that the Iowa Medical Society did not oppose accountability and assessment of quality of medical services but questioned the manner being proposed to achieve this. Trimble noted the lack of a track record within other states. He recalled that Pennsylvania passed similar rules two years ago and Colorado recently rejected rules on the issue. Trimble urged further study.

Priebe pointed out that the rules were proposals only, but added, "We have to start someplace." He continued that "One main worry of people in the United States today is the dramatic increase in medical costs."

Crabtree spoke of the need to control health care costs. He viewed the initiative of the Health Data Commission as an important step in this regard and offered support and endorsement of the rules by the Principal Financial Group.

Margenthaler commented that John Deere was probably the largest purchaser of health care in Iowa and they were very supportive of the rules.

Neil recognized the need for caution in developing a system to control health care costs. He added that in a competitive environment, it is important to know the cost-effective providers. Neil endorsed Crabtree's statement. Priebe added that private enterprise is certainly needed, doctors need to continue as they have, but it is important to start collecting data.

Hauser and Rowan concurred with proponents of the rules.

9-14-88

HEALTH
DATA
COMMISSION
Continued

Willits stressed that the Des Moines hospitals were well aware of the need for a severity coding system. Two years ago, arrangements were made for them to participate in and use a widely known system on a test basis. Five Des Moines hospitals participated not only in a cost study, but also in one that would apply the severity codes to the top 50 diagnosed illnesses treated in the hospitals. That information was shared with the Health Data Commission. Willits mentioned inconsistencies and the need for further study of systems.

Priebe commented on the cooperation of the hospitals when the legislation was drafted.

Meyer voiced opposition to the July 1, 1989, mandate for hospitals. He declared that a \$5 million expenditure for a hospital was inappropriate at this time and inquired as to who would bear the cost.

Freeman stated that the Iowa Hospital Association had worked with the Health Data Commission on the complex issue and would continue to do so. She spoke of "an untested system" and the uncertainty as to the value of severity ratings.

Priebe requested that Freeman provide information as to the average hospital cost increases over the last 5 years for identical treatment.

Larson expressed concern for escalating health care costs and supported the rules. He reasoned that Iowa offers good health care "because we are progressive and the rules would help in this commitment." Pioneer has over 2000 employees in Iowa, many from rural areas, and health care costs are very high--over \$6 million annually. Larson offered written recommendations which, in his judgment, would make the crucial rules even more effective.

Stockman urged implementation of the rules. Brown took the position that severity of illness index systems available today are, at best, only indicators of the patient's condition during hospitalization. The data cannot indicate whether the quality of care was appropriate. For that reason, Mercy Hospital opposed the rules, but would consider participation in any future pilot project. Brown estimated initial costs of installation of one of the systems to be \$209,000 for Mercy.

In arguing against "premature" implementation of the rules, Pawlewski relied on several studies on the issue. He concluded that these rules would be implemented to "contain costs," not for the improvement of services.

Montgomery reported opposition by Iowa Methodist Medical Center based on their belief that the Commission lacks authority to mandate a computerized severity system.

HEALTH
DATA
COMMISSION

She continued that the statute addresses collection of of data already available. The collection of a severity system must be a joint effort between the hospital and its medical staff.

Saxton told the Committee that Lutheran Hospital had allocated \$90,000 for a system which was never purchased because they were fearful it would not meet Commission requirements. He expressed his frustration, as medical director, in the resulting delay in their data collection. Saxton was concerned about potential misuse of information. He stressed the need for skilled personnel to collect the data. Saxton could foresee removal of nurses from the care system to work on data, thus creating a technical skill shortage. He cautioned against erroneous conclusions being drawn from uncertain information.

Priebe reiterated that the Committee would take no formal action on the rules today. Clark urged caution to avoid a costly system which does not work. In her opinion, the Certificate of Need Program is an example. No Committee action. Priebe thanked everyone for their interest and participation.

LOTTERY
DIVISION

Nichola Schissel, Steve King, Division Chief and Financial Officer, and Sherie Barnett, Justice Department, presented the following:

REVENUE AND FINANCE DEPARTMENT 1701 "umbrella"
Rescind chs 1 to 6 and 8 to 12, adopt chs 1 to 4, 8, 10 to 12 ARC 9046 8/10/88

1.14

Schissel described the proposals as general reorganization and cleanup and she discussed 1.14--claiming prizes. Schissel stated that the state will withhold its share of taxes and the federal share from the holder of the winning number ticket.

King reviewed format of the federal forms. In the case of large winnings, individuals are encouraged to form trusts. Payment can be made to only one, even though there may be multiple purchasers of one ticket. According to Barnett, the IRS will expect to see a withholding amount for each of the multiple winners. For example, if five people each win \$10,000, those five will be taxed for \$10,000 income on their return at the applicable rate. It will not affect their ultimate taxable income, based on the way they physically pay the prize.

Priebe did not interpret the rule in that manner. Schissel pointed out that under the rules, a ticket is a bearer instrument. The Lottery must pay the person who endorses the ticket. Priebe referred to 1.14(3) which stated that by submitting a claim, the player also agrees to allow his or her name to be used for publicity purposes by the Lottery. He wondered if that were lawful. Schissel assured him that it was but Lottery would honor a winner's request that no pictures be taken. She continued that when the winner signs the ticket, it becomes public record. There was discussion re privacy for winners with Priebe expressing concern for protection of individual rights. No Committee action.

BOARD OF NURSING

The Nursing Board agenda was reviewed by Lorinda Inman.

PUBLIC HEALTH DEPARTMENT(641)"umbrella"		
Administrative and regulatory authority, 1.3(6)"b" to "d" ARC 9104	.....	F. 8/24/88
Nursing education programs, 2.3(2)"d", 2.6(2)"e" ARC 9105	.....	F. 8/24/88
Licensure to practice - RN/LPN, 3.2(2)"c" ARC 9108	.....	F. 8/24/88
English language proficiency exams, 3.4(6)"a"(2), 3.5(2)"d" and "e" ARC 9108	.....	F. 8/24/88
Continuing education, 5.3(3)"b" ARC 9107	.....	F. 8/24/88
Licensure to practice - RN/LPN, 3.4(2)"d" and "e," 3.4(3)"a"(2) and (3), 3.4(3)"b" and "c," 3.4(6)"a"(1), 3.5(2)"a"(1) ARC 9109	.....	N. 8/24/88

- 1.3 No recommendations re amendments to 1.3, 2.3 or 2.6.
- 2.3 Discussion focused on new language in 3.2(2)c relative to
- 2.6 emergency services as part of a disaster team. Doyle sug-
- 3.2 gested expansion of the provision to include options in addition to Red Cross. Royce advised that "law enforcement disaster relief" could be substituted for "Red Cross." No recommendations re amendments to Chapters 3 and 5.

PHARMACY EXAMINERS BOARD

Pharmacy Examiners Board was represented by Lloyd Jessen who presented the following:

PUBLIC HEALTH DEPARTMENT(641)"umbrella"		
Discipline, 9.1(4)"v" ARC 9134	.....	F. 8/24/88
Licensure examination dates, 2.1 ARC 9138	.....	N. 8/24/88
Minimum standards for evaluating practical experience, 4.3 ARC 9139	.....	N. 8/24/88
Temporarily absent pharmacists, 6.9(3), 6.9, 6.11, 8.17 ARC 9136	.....	N. 8/24/88
Controlled substances, 10.20(1) to 10.20(4), filed emergency ARC 9138	.....	FE. 8/24/88
Nuclear pharmacy, 8.8, ch 16 ARC 9135	.....	N. 8/24/88

- 9.1(4) According to Jessen, amendment to 9.1(4)v was intended to reduce the number of pharmacists who habitually fail to renew their licenses on time.
- 2.1 Under 2.1, the period for application for licensure will be extended from 10 to 15 days.
- 4.3 Discussion of 4.3, which will provide that no more than 250 hours of internship can be earned outside the traditional pharmacy setting.
- 6.9 et al. Amendments to 6.9, 6.11 and 8.17 address requirements for transfer of prescriptions between pharmacies and procedures to follow when a pharmacist is temporarily absent from the prescriptions department. Amendment to 10.20 will bring Iowa into conformance with federal drug laws.
- 10.20

Jessen explained that nuclear pharmacy will be renumbered to become a new Chapter 16.

PROFES- SIONAL LICENSURE

Division representatives in attendance were Ronald Eckhoff, Grace West, Carol J. Barnhill, Reba Reed and James Hartzell. The agenda follows:

Respiratory care practitioners; public records and fair information practices, chs 260, 269 ARC 9057	.....	F. 8/10/88
Speech pathology and audiology examiners, amend and transfer 470—chs 155 and 157 to 645—chs 300 and 302 ARC 9099	.....	F. 8/24/88
Barber examiners, 20.101(1), 20.101(2)"b," 20.110(2)"d"(6), 20.214(8), 20.214(9) ARC 9098	.....	N. 8/24/88
Dietetic examiners, 80.4(5) ARC 9131	.....	N. 8/24/88
Optometry examiners, 180.5(3) to 180.5(6), 180.12 ARC 9114	.....	N. 8/24/88

After brief discussion, there were no recommendations.

PUBLIC HEALTH DEPARTMENT

Susan Osmann, Mike Guely, Don Flater, and Phyllis Blood appeared for review of the following rules of the Department:

Health facilities construction review program, rescind ch 201 ARC 9051	.....	F. 8/10/88
Financial assistance to eligible acquired immune deficiency patients, title, 11.1, 11.4(4), 11.5(6), 11.10(1), 11.16 to 11.31, 11.35 ARC 9048	.....	N. 8/10/88
Radon certification, minimum requirements for radon testing and analysis, 38.13(8), ch 43 ARC 9045	.....	N. 8/10/88
Hospitals - emergency services, 51.28; transfer 470 - ch 51 to 641 - ch 51 ARC 9076	.....	N. 8/10/88
Maternal and child health program, ch 76 ARC 9052	.....	N. 8/10/88

Ch 201

No comment re Chapter 201. Guely stated that amendments to Chapter 11 combine the AIDS related rules to be

PUBLIC
HEALTH
DEPARTMENT
Continued

commensurate with legislative mandate [SF2294]. The rules are for laboratories which perform HIV testing services and establish a two-hour training program for certain selected groups that were legislatively identified to receive AIDS training.

Guely said that written comments on the rules focused on HIV testing. Guely indicated that the application fees would be modified before the rules were adopted--11.23.

38.13
Ch 43

Flater informed the Committee that 38.13(8) and Chapter 43 were intended to implement 1988 Acts, HF 2354. The Iowa State University Radon Project representatives had asked for clarification in three areas. Also, the basic radiological health training requirement for technicians will be deleted.

Priebe was interested in regulation of sales for radon testing equipment. Flater responded that prior approval would be required from the U.S. Environmental Protection Agency.

43.8

Doyle raised question re exemptions in 43.8 which would include persons who test for radon/radon decay products in buildings which they own. Flater advised that certification would not be required in this situation. The Department will provide an information package on testing which should be performed in winter and summer to determine an average level. Radon levels are based on outside air and will be higher in cold weather when buildings are closed. Main living areas should be checked first and 7 days should be allowed for this process. If tests reveal between 20 - 100 picocuries/liter of radon gas, an expert should be consulted.

In response to Doyle, Flater said that a suction system or device to blow the air out of a basement would be helpful. Homes located on porous or loose soil will be subject to higher levels of radon.

Flater advised Priebe that radon measurement specialists must be at least 18 years old, be college graduates, and have one year of experience in radiation. The rules require "...college graduate or equivalent." Clark recommended grammatical change in 43.3(6)c. No other comments.

Ch 51

Osmann stated that amendments to Chapter 51 reflect current practices.

Ch 76

In review of Chapter 76, Blood said that "social worker" would be defined in the final rules. Clark referred to 76.8--eligibility criteria--and observed that copies were available from the bureau chief. Blood agreed to include significant excerpts from the six pages of criteria in the adopted rules. In re 76.6(3), Blood informed Doyle that the legal resident definition wasn't used since foreign students are served under the program.

9-14-88

Minutes Tieden moved approval of the minutes of the August meeting. Motion carried.

CRIME COMMISSION Barry requested permission to remove from the Iowa Administrative Code, the rules of the Crime Commission. The Commission had been repealed by 1982 Acts, Chapter 1181, section 7. It was agreed that the rules should be deleted under authority of 1988 Acts, Senate File 2238, section 2. Doyle so moved. Carried.

FAIR BOARD The Fair Board rules as follows were presented by Jerry Coughlon:

Liability insurance, 1.7 ARC 9100 F... 8/21/88
Public records and fair information practices, ch 9 ARC 9101 F... 8/21/88

There was brief discussion; no formal action.

RACING & GAMING DIV. Mick Lura represented the Division for the following:

INSPECTIONS AND APPEALS DEPARTMENT (ARI) "umbrella"
Thoroughbred racing, ch 10; renumber 491—ch 10 as 491—ch 11 ARC 9068 N... 8/10/88

Ch 10 Lura explained to Clark that 10.4(9)b-d was being rewritten to conform to the child labor laws. He also told Clark that the Commission had jurisdiction only "...within the association grounds..." --10.4(15)b"3".

Recessed Chairman Priebe recessed the meeting at 11:55 a.m. and Reconvened reconvened it at 1:30 p.m.

RAILWAY FINANCE AUTHORITY Railway Finance Authority was represented by Craig Severance, Financial Manager, Rail and Water Division, Department of Transportation. Severance presented the following:

Financial assistance to rail lines, 1.1, 3.1(1), 3.1(2), 3.1(3), 4.1, 4.3(1)"e," "f," and "g," 4.3(2)"g," filed emergency
ARC 9056 FE... 8/10/88

1.1 et al The emergency amendments were intended to implement 1988 Acts, HF 2269, which provided new sources of funding, established some bonding abilities, and set certain requirements for project applicants. Priebe questioned the loan maturity of 40 years in 3.1(1) and Severance recalled legislation which provided in part "...30 years after receipt of payment..." Payments extend over a period of 10 years. Severance clarified that the Boone Scenic Railroad could not qualify for this bonding money because of a restriction which limits funding to agricultural branch lines. However, Boone could qualify for other available money.

TRANSPORTATION DEPARTMENT The following rules were before the Committee:

Aircraft registration, ch 750 ARC 9094 F... 8/21/88
Signing on primary roads, 131.1, filed emergency ARC 9047 FE... 8/10/88
Traffic safety improvement program, ch 164 ARC 9054 N... 8/10/88

TRANSPOR-
TATION
DEPARTMENT
Ch 750

Kathy Robinson, Program Administrator, stated that revised Chapter 750 would establish registration procedures for aircraft similar to those used for vehicles. Priebe asked about the 5% penalty per month on delinquent registrations and Robinson replied that the penalty would accumulate until payment was made.

131.1

Lee Smithson, Maintenance Engineer, explained that emergency amendment to 131.1 would liberalize the restrictions on destination signing at the junctions of primary and secondary roads.

Ch 164

Gene Jones, Transportation Programmer, said that proposed Chapter 164 would provide funding for traffic safety improvement projects. No Committee recommendations re DOT amendments.

SUBSTANCE
ABUSE
DIVISION

Janet Zwick, Division Director, explained the following:

Licensure standards for substance abuse treatment programs, 3.1, 3.18, 3.22(5)"m," 3.22(11)"h," 3.22(12)"c"(5), 3.22(16), 3.22(20) to 3.22(24), 3.24(14)"d," 3.24(15); 3.26 ARC 9082 N.. 8/10/88

Zwick summarized the proposed amendments, some of which were suggested by the Attorney General. Qualifications for personnel will be further clarified.

In answer to question by Priebe, Zwick said that they have approximately 35 inspectors. She anticipated an increase to 45-50. No further discussion.

HUMAN
SERVICES
DEPARTMENT

The Human Services agenda was presented by Mary Ann Walker.

Food stamp employment and training policies and procedures, 65.28(3), 65.28(6)"b" and "c," 65.28(7) to 65.28(9), 65.28(11), 65.28(12), 65.28(14) ARC 9110 F.. 8/24/88
 Conditions of eligibility, nonassistance child support recovery program, 75.1(2)"d," 75.1(11), 75.1(11)"d" and "f," 75.1(14)"c" and "f," 75.1(15)"e," 75.1(19), 75.1(21), 75.1(26), 75.14, 96.1, 96.2, 96.4, 96.10, 96.12 ARC 9111 F.. 8/24/88
 Conditions of eligibility, intermediate care facilities, 75.1(28), 81.6(16)"e" ARC 9102 N.. 8/24/88
 Options for curtailing Medicaid expenditures, possible amendments to chs 75, 77, 78, 79 ARC 9078 N.. 8/10/88
 Skilled nursing facility care, 78.12 notice ARC 9014 terminated ARC 9092 N.T. 8/10/88
 Medically needy, 86.1, 86.8(6), 86.10(1), 86.10(2), 86.14(2), 86.14(5) ARC 9103 N.. 8/24/88
 Day care program administration, 110.10, 164.3(3), 164.7, 170.2(3)"f," 170.7 ARC 9080 N.. 8/10/88
 Options for curtailing foster care expenditures, possible amendments to chs 150, 202 ARC 9079 N.. 8/10/88

Ch 65

No recommendations re 65.28 et al.

75.1 et al.

Walker pointed out that 96.12 was modified as requested by the ARRC. Cash or personal checks will now be accepted for fees.

75.1(28)

Two mandates by the General Assembly will be implemented in amendments to 75.1(28) and 81.6(16)e. Priebe observed that the maximum reimbursement rate for ICFs had been changed from 64 to 74 percentile. Gary Gesaman explained the inflation factor which is adjusted every six months. This is based on the percent of change in the weighted average reported cost for nursing homes from one six-month period to the next. He anticipated that when new cost reports are processed, ICFs would have a retroactive increase to July 1.

Gaseman informed Doyle that Title XVIII is the Medicare Program and it does not pay for ICF care in any state. Beginning January 1, there will be approximately 150 facilities with skilled nursing care covered by Medicare.

HUM. SERV. Cont. There were no recommendations for the remaining agenda items.

SECRETARY OF STATE
Ch 30 Allen Welsh appeared on behalf of the Secretary of State and briefly described revised rules re the Uniform Commercial Code, Noticed in 8/24/88 IAB as Chapter 30, ARC 9132. Legislation to increase the filing fees for UCC financing statements will be implemented. Other minor corrections were made and outdated references were deleted.

EDUCATION DEPARTMENT Education Department was represented by John J. Freilinger and Terry Voy, School Transportation Consultant who explained the following:

Special education, 670-12.3, 12.5(1)"a" and "b," 12.8(1), 12.8(3) to 12.8(6), 12.10(9), 12.17(1)"b," 12.17(2), 12.17(4), 12.20(2)"b," 12.21, 12.25(3)"a," 12.31(7), 12.32 ARC 9050 F 8/10/88
School buses, ch 44; rescind 670—ch 23 ARC 9053 F 8/10/88

12.3 et al. Freilinger reported on changes from the Notice in 12.3 et al.

Ch 23 Voy stated that revised school bus rules update the minimum construction standards to conform with the national recommended minimum standards. Additional safety-related changes were also recommended by the Department's Construction Standards Advisory Committee. No questions or comments by ARRC.

NO AGENCY REPS There were no recommendations for the following:

CREDIT UNION DIVISION[189]
COMMERCE DEPARTMENT[181]"umbrella"
Public records and fair information practices, ch 26 ARC 9154 F 8/24/88
ENGINEERING AND LAND SURVEYING EXAMINING BOARD[193C]
Professional Licensing and Regulation Division[193]
COMMERCE DEPARTMENT[181]"umbrella"
Professional development, 3.2, 3.4 Notice ARC 8637 terminated ARC 9063 NT 8/10/88
GENERAL SERVICES DEPARTMENT[450]
Cost of publication— sample ballot, 5.20 ARC 9096 F 8/24/88
Use of buildings and grounds — capitol complex, 1.6(15), notice ARC 8899 terminated ARC 9097 NT 8/24/88
PROFESSIONAL LICENSURE DIVISION[645]
PUBLIC HEALTH DEPARTMENT[641]"umbrella"
Nursing home administrators examiners, amend and transfer 600—chs 1 to 3 to 645—chs 140 to 142 ARC 9129 F 8/24/88
Psychology examiners, amend and transfer 470—ch 140 to 645—ch 240 ARC 9126 F 8/24/88
PUBLIC BROADCASTING DIVISION[225]
CULTURAL AFFAIRS DEPARTMENT[221]"umbrella"
Rescind 340—chs 1 to 10, 16 and 645—ch 1; adopt 225—chs 1 to 3 ARC 9064 F 8/10/88
SECRETARY OF STATE[721]
Central counting procedures for electronic voting systems, 22.6 ARC 9093 F 8/10/88
UTILITIES DIVISION[199]
COMMERCE DEPARTMENT[181]"umbrella"
Directory listings, 22.3(2)"f" ARC 9060 F 8/10/88
Telephone outages, rescind 22.6(1)"b" ARC 9062 F 8/10/88
Telephone rates — shared tenant service, 22.17(1)"b" ARC 9112 F 8/24/88
Declaratory rulings, 2.2(6), ch 4 ARC 9113 N 8/24/88

Adjournment The meeting was adjourned at 2:30 p.m.

Next Meeting The next regular meeting was scheduled for Tuesday and Wednesday, October 11 and 12. The November meeting was moved back one week to November 15 and 16 because of the general election.

Respectfully submitted,

APPROVED:

Phyllis Barry
Phyllis Barry, Secretary
Vivian Haag, Executive Administrator
Bonnie King, Administrative Assist.

CHAIRMAN