MINUTES OF THE REGULAR MEETING
of the
ADMINISTRATIVE RULES REVIEW COMMITTEE

Time of Meeting: Tuesday and Wednesday, September 9 and 10, 1980.

Place of Meeting: Senate Committee Room 24, Statehouse, Des Moines, Iowa.

Members Present: Representative Laverne W. Schroeder, Chairman; Senator Berl Priebe, Vice Chairman; Senators Edgar H. Holden and Dale Tieden; Representatives Betty J. Clark and John E. Patchett.
Also present: Joseph Royce, Committee Staff.
Brice Oakley, Rules Coordinator (2:00 p.m.)

1:10 p.m. Chairman Schroeder called the meeting to order at 1:10 p.m. Patchett excused for the afternoon, having reported he would be representing a client in court.

AGRICULTURE

Bette Duncan, Legal Counsel for the Agriculture Department, was present for review of pesticide registration, 10.6, ARC 1292, IAB 8/20/80.

According to Duncan, the rule had been before the Committee previously. After a special meeting was called to discuss the terms relating to revocation and suspension of the pesticide registration, it was decided to publish the rule under emergency provisions simultaneously with the regular rulemaking process. The amendment corrects the inadvertent inclusion of a 12/31/80 termination date in the final rule which was adopted after Notice.

In answer to Tieden, Duncan referred to a case with Pennwalt Corporation where the Court is reviewing the administrative decision and actions.

HEALTH - Board of Medical Examiners

Mike Archibald, Investigator, discussed medical examiners' rules, grounds for discipline, 135.204(18), ARC 1259, IAB 8/20/80. Archibald indicated the proposed rule resulted from legislators being adamant that action was needed to control the indiscriminate and promiscuous prescribing of amphetamines for treatment of obesity. A public hearing was scheduled for September 10, 1980.

Archibald explained pharmaceutical companies have complained about methalphenidate(Ritalin). He anticipated pharmacology companies would oppose 135.204a(4). Clark thought the rule could place pharmacists in a "strange position." Archibald said that pharmacists had indicated they had no objection if that were removed, but he favored retention.

COMMERCE

Diane McIntyre, Assistant Commerce Counsel, reviewed 19.4(15) and 20.4(17), service supplied by utilities, ARC 1249, IAB 8/6/80.

COMMERCE Cont'd

The proposed rule addresses notice which must be given to customers prior to disconnections due to failure to comply with payment agreements. She continued there have been no rules on the procedure and the Department's staff has informally arbitrated between customers and utility companies.

The Commission has attempted to present a viable compromise between the position that no notice at all is required if someone failes to comply with the payment agreement and the view that 12 days' notice has to be given, which is the normal time allowed. Commerce thought a one-day notice to be sufficient and in colder weather, it must be posted on the premises the day before. Only four comments had been filed, and no public hearing had been requested.

In answer to Schroeder, McIntyre thought the notice had been sent to all municipal electrics.

Holden viewed the proposal as a reasonable approach.

McIntyre responded to question by Royce by indicating there were no new figures in as to additional cost borne by utility companies when power is not shut off.

No further questions.

INDUSTRIAL COMMISSIONER

Joe Bauer, Deputy Commissioner, and Mary Weibel, legal analyst, were present for review of the following:

INDUSTRIAL COMMISSIONER[500]
Contested cases, 4.28, 4.32-4.34 ARC 1281 ..N..... 8/20/80
Declaratory rulings, 5.1 ARC 1282 ..N..... 8/20/80
Weekly compensation benefits and voluntary payments, 8.6, 8.7 ARC 1283 .N..... 8/20/80

Bauer said no comments had been received on the rules which were drafted by the Iowa Workers' Compensation Advisory Committee. It is comprised of Iowa Manufacturers Association, large labor groups, insurers and members of claimants and defendant's bar.

4.28, 4.32-4.34

4.32-4.34 -- allow for more specificity and require parties appealing to state reasons why decisions should be overturned and the specific relief being sought. They are basically clean up in nature, and are unique in that medical evidence is submitted by request rather than by deposition and reports are sent on voluntary basis.

9-9-80

Priebe observed the Commissioner seemed to have much authority. Tieden asked if the 10-day limitation for appeal had been received and Bauer answered an addition to the statute provided "In the time and manner provided by rules."

5.1

Declaratory rulings. According to Bauer, existing rules were complex and revisions were intended to simplify them.

INDUSTRIAL COMMISSIONER Cont'd 5.1(2)

In answer to Schroeder, Bauer said an "exceptional circumstance" could occur when an agency employee was on vacation. Mailings have been held up and there are 1300 litigated files, some of which are misplaced. He thought the "may" language to be important to allow all issues to be resolved.

8.6, 8.7

Discussion of 8.6 and 8.7 dealing with computation of benefits and time during which voluntary payments can be made. Bauer cited §86.20, The Code, as allowing for voluntary payments and compensation while investigation is conducted.

In answer to Holden, Bauer responded a typical case would be an injury claim where medical evidence is in doubt. Pending investigation of the claim, they voluntarily pay claimant. In most cases, liability is admitted.

Holden recalled complaints from an individual who was unable to initiate "voluntary payments." Bauer emphasized this approach is purely voluntary on the part of the insurance company.

Weibel added that voluntary payments are made frequently.

In answer to Tieden, Department officials said most cases are resolved within six months. There has been a general increase in the number of reported injuries.

Schroeder thought use of the seven-day calendar week as opposed to 5-day work week would reduce benefits about 25%. Bauer knew of no complaints.

AUDITOR OF STATE

Proposed rule 7.1 of the Auditor of State, IAB 8/20/80, ARC 1285, was before the Committee. Pat McFarland, Assistant Attorney General, Consumer Protection Division, and a co-administrator of the Consumer Credit Code, was present for the very narrow purpose of answering questions as to authority, under the Consumer Credit Code, to issue credit cards, along with the authority to extend consumer loans.

No recommendations were offered.

No Representative Called

There was general discussion as to whether or not to request agency appearance for any of the following:

CIVIL RIGHTS COMMISSION[240]
Commission review, final order, 1.15(3), 1.15(4) ARC 1266 ...N..... 8/20/80

CIVIL RIGHTS COMMISSION[240]
Contested case hearings, 1.9(5)"a" ARC 1265 N..... 8/20/80

HISTORICAL DEPARTMENT[490]
Election, 2.2 ARC 1284 .....N..... 8/20/80

LABOR, BUREAU OF[530]
Air contaminants, 10.1(2), 10.2(1), 10.2(3), 10.12(1), 10.12(2), 10.19 - 10.21 ARC 1287 ...F..... 8/20/80
Agriculture, safety and health standards, 25.1 ARC 1288 ...F..... 8/20/80

MENTAL HEALTH ADVISORY COUNCIL[566]
Alternative diagnostic facility, 2.1(1), 2.3, amended notice ARC 1250 N..... 8/6/80

NURSING, BOARD OF[590]
Registered nurse, licensure by re-examination, 3.1(5) ARC 1242...F..... 8/6/80
Practical nurse, licensure, 4.1(5), 4.1(7)"b"(1) ARC 1243.....F..... 8/6/80

No Representative Cont'd — Priebe queried about civil rights and it was noted Department officials were attending an out-of-city hearing, but had expressed a willingness to return if necessary for today's meeting. Priebe preferred to place 1.9(5)a on the agenda when it had been filed.

Recess / Reconvened — Committee in recess for 10 minutes. Committee reconvened at 1:55 p.m.

SECRETARY OF STATE — Louise Whitcome, Commissioner of Elections, was present for review of the following:

SECRETARY OF STATE[750]
Forms and instructions, ch 4 ARC 1260 ... N 8/20/80
Alternative voting systems, ch 10 ARC 1264 ... N 8/20/80

Schroeder commented that the rules re alternate voting systems had been broadened.

Whitcome responded the Board of Examiners had not approved the CES system, except for absentee voters and the rule would be applicable in Linn and Johnson Counties only. General discussion of the CES system. Schroeder thought the process could be awkward and Whitcome responded that was the reason the Board was hesitant to approve the system.

EMPLOYMENT SECURITY — Joe Bervid, Legal Counsel, and Paul Moran represented Job Service and reviewed the following:

EMPLOYMENT SECURITY[370]
Administration, ch 1 ARC 1267 ... F 8/20/80
Contribution and charges, 3.4, 3.31(6), 3.31(7)"b", 3.47(3), ARC 1268 ... F 8/20/80
Claims and benefits, 4.1(39), 4.2(1)"h", 4.12, 4.22(1)"r"(3), 4.23(15), 4.23(16), 4.23(18), 4.23(32), 4.24(8), 4.24(15), 4.52 - 4.55 ARC 1269 ... F 8/20/80
Fraud control special investigation unit, ch 5 ARC 1270 ... F 8/20/80
Appeals procedure, 6.1(1)"b", 6.2(1)"a"(5), 6.2(2)"d", 6.2(3)"b", "c", 6.2(4)"b"(3), 6.2(5)"g"(4), 6.2(6)"d", 6.2(6)"f" - 6.2(6)"h", 6.3(3)"b"(1), 6.4(1)"c", 6.4(1)"m", 6.4(1)"p", 6.4(2)"c", 6.4(3)"f", 6.4(5)"d", 6.4(7)"g"(2) and (3) ARC 1271 ... F 8/20/80
Job placement services, 7.1(22) - 7.1(24), 7.2(22), 7.2(23), 7.3(18), 7.4(16), 7.5(2), 7.5(5), 7.9, 7.14 ARC 1272 ... F 8/20/80
Forms, 10.2 - 10.6, 10.7(2) - 10.7(5), 10.7(8) - 10.7(11), 10.7(14), 10.8, 10.9 ARC 1273 ... F 8/20/80

ch 1 — Bervid said Chapter 1 was being updated. The fraud unit would be under the director of the entire agency. Formerly, it was under the job insurance unemployment section. A unified procedure for declaratory rulings was adopted.

3.47(3) — Holden qeustioned disposition of the fund in 3.47(3)---could it be preserved in the event an employer intends to return to business. Bervid reminded the Committee that on the first reading of the rules, the ARRC had suggested a provision for prior notification be included. If the employer indicates he is rebuilding, the law allows some discretion. The employer must respond to the notification, however.

Schroeder and Holden thought that requirement should be in the rules -- "Prior notice will also be given prior to termination. The employer must then ask for an extension base that he may be going back into business." Bervid concurred with them. Although this was their current procedure, he was willing to set it out in the IAC.

Tieden was willing to make the request in the form of a motion

EMPLOYMENT SECURITY Cont'd

and Schroeder commented it would be duly recorded without a formal motion. Amendments to chapter 4 were "clean up" in nature to conform with 68GA, SF 373.

4.1 Schroeder wanted assurance there were no problems with 4.1(39). Bervid conceded the language was incorrect and he indicated the "outstanding request" definition would be inserted by amendment with exception of eliminating the waiting period.

4.24(15)1 Oakley questioned 4.24(15)1. Bervid responded its purpose would be in an application of our law to a situation where a claimant from this state moved to another. "In situations where credits were earned from an Iowa Employer, we might have to make a determination in regard to his eligibility for unemployment benefits based upon his living in another state where they might indeed require him to join a union," Bervid added.

General discussion of the area of reciprocity regarding employment security law and programs. Schroeder favored deletion of the words "or resign" from 4.24(15)1.

Responding to Priebe, Bervid said there are certain areas where the federal minimum wage does not apply.

ch 5 Bervid explained briefly that 5.3(1)b would aid the fraud unit in internal auditing.

ch 6 No questions raised re chapter 6.

ch 7 Holden suggested that date certain should be included in 7.9--the executive order. Royce cited that as reasonable exemption but four other areas of reference to the Code of Federal Regulations did require dates. Bervid was amenable.

10.2 Brief discussion of amendments to forms. Bervid spoke of their policy of avoiding excessive waste by using old forms before new ones are printed

ENVIRONMENTAL QUALITY

Odell McGhee, Hearing Officer, Jim Wulff, and Joseph Ober were present for review of the following DEQ rules:

ENVIRONMENTAL QUALITY[400]
Emission standards for contaminants, 4.1(2)"aa" ARC 1277 ..... F 8/20/80
Ambient air quality standards, 10.1 ARC 1278 ..... F 8/20/80
ENVIRONMENTAL QUALITY[400]
Emission standards for contaminants, ch 4, ARC 0981 terminated. ARC 1275 .. N 8/20/80
Waste water construction, permits, 19.2(12) ARC 1276 .. N 8/20/80

ch 4 Re amendment to ch 4, Schroeder requested insertion of date certain after New Source Performance Standards (40 C.F.R. part 60, subpart GG). McGhee was amenable.

Holden requested addition of the year whenever reference is made to a House or Senate File.

10.1 McGhee advised the Committee that rule 10.1 addresses the state implementation plan (SIP) revision as required by the United States

ENVIRONMENTAL QUALITY Cont'd

Clean Air Act. Also, it concerns primary and secondary ambient air quality standards for lead--an EPA standard being adopted by reference.

ch 4

The Iowa Coal Sales Company, according to McGhee, had petitioned for rulemaking to modify sulphur dioxide standards for air quality. DEQ decided against modification but will research the issue, thus, the Notice termination.

Schroeder was of the opinion terminating the rule was an "easy way out of a situation." He preferred more facts from DEQ. Priebe concurred that the reply to Iowa Coal Sales was not specific. Wulff cited reason for the termination was that the emission limitations proposed by Iowa Coal Sales Company were inadequate and would not be approved by the EPA. Schroeder preferred documentation, as did Priebe.

In answer to Tieden, Wulff said they hope to begin rulemaking and the Committee should see Notices the first part of 1981. DEQ plans a continual process with completion in June, July or August of 1981.

19.2(12)

McGhee said amendment to 19.2(12) regulates the construction grant program and reorganizes the chapter to a certain extent. The goal is simplicity and understanding. The rule proposes awards during the first stage of development of the sewage treatment plant rather than during the third phase -- a very important basic procedure because it provides funds for small communities at an earlier date than previously allowed.

Schroeder contended, in the clean water Act, streams inland are "treated differently" than rivers.

Tieden inquired whether or not, in the Code or the Federal Water Act, there is DEQ control defined. McGhee said a section of the rules modify every stream classification. Wulff said the definitions of the control of waters of the state are broad.

Wulff said the standards are the same but size of bodies of water is different.

Tieden inquired about conflicts of authority among the Conservation Department, Soil Conservation, DEQ and Corps of Engineers. McGhee assured him they work together for clean water.

Tieden spoke of the refusal of DEQ failing to obtain matching funds for interceptor pipes for a major project in the Des Moines area. Ober commented the project is about to be implemented in the Des Moines area. The question has been to determine priorities which could qualify for funding. Some pipes

ENVIRONMENTAL QUALITY Cont'd

do very little -- and do not serve to lessen pollution into the river. Tieden queried whether or not the entire project might be delayed because of that and Ober did not believe so.

In answer to Priebe, McGhee said the state is interested in alleviating pollution problems in Des Moines, but the controversy may be beyond the scope of the Department's funding.

PLANNING AND PROGRAMMING

Sven Sterner, Director, Governor's Highway Safety Office, was present for discussion of chapter 12 amendments, ARC 1263, IAB 8/20/80.

Schroeder inquired if there were problems between DOT and OPP re crossfunding. Sterner replied in the negative and indicated that "safety" had been inserted following "highway" in 12.3(4) and 12.4.

In response to Holden, Sterner said the director of OPP had been selected as safety program manager rather than someone from DOT by the governor. He cited the fact that OPP is involved with funding as a possible reason.

12.4(1)

Holden asked for guidelines with which local subdivisions must comply before funds are allocated. Sterner commented the funds could not be used for capital improvement construction, etc.

Holden recalled problems with agencies' distribution of funds without adequate rules. Sterner commented a portion of the money is set aside by federal mandate and cannot be spent without federal direction--seat belt campaigns, 55 mph enforcement, e.g. Sterner continued that there is federal authority prioritization of counties by fatality rate and injury rate. Nineteen Iowa counties are eligible for funding under that authority. Half of the fatalities occur in these counties.

Priebe contended no small rural counties were included.

12.4(2)

Holden inquired as to state requirements and noted they were not spelled out.

In answer to Tieden as to overview of plans by any department or the ARRC, Sterner said DOT receives the plans, but Schroeder pointed out DOT could not make a ruling.

Sterner explained if an agreement can be reached between the governor and federal authorities, programs will be funded.

Holden raised question as to information pertaining to reimbursement of costs incurred in implementing the project. Sterner directed attention to 12.4(3) and reference to the Policy and Procedures manual.

OPP Cont'd

ARRC voiced opposition to "as amended" in 12.4(3) and advised against "open-end amending." Sterner said the manual had been adopted prior to passage of the APA in 1975.

Schroeder requested Sterner to send a copy of the districts to Committee members.

Holden asked for a copy of the Policy Manual and requested inclusion of a date certain in the reference.

Tieden and Holden sought advice from Royce concerning possible violation of 17A if manual is not published. Royce conceded this was a real problem in that every agency has manuals of some kind -- some larger than the entire system of rules. As a matter of law, theoretically, each one should be reviewed by the Committee. However, to do so would be prohibitive.

Holden was concerned as to safeguards to ensure that this policy even follows the existing rules. According to Royce, there are none. General discussion of the matter.

Tieden requested that the record show his interpretation to be correct that the entire federal funding for this particular program would be spent in those 19 counties. Sterner commented, "As far as local participation, yes. As far as cities and counties being involved, yes. Now, you may find the 55 mph enforcement by the highway patrol across the state and it may not be restricted to those 19 counties -- or there may be programs re driver education or school bus driver training which will not be restricted to those 19 counties, because those are state programs that are spread statewide."

PUBLIC INSTRUCTION

Dwight Carlson, Director of School Transportation and Safety Edcuation Division, explained the basic reason for the change in 22.20, bus driver, hearing requirements, ARC 1256, IAB 8/20/80, was to permit the use of hearing aids to meet the hearing level requirements for school bus drivers. The rule was a result of the petition for change and subsequent investigation of the issue.

Schroeder questioned the validity of the requirement which applied only to school bus drivers. Sterner referred to interstate commerce commission rules. Clark thought the requirement should apply for chauffeur's license also and she recommended legislation be sought.

Royce searched the Code and pointed to 285.8(3) and 285.8(6)f as authority for the rule.

BOARD OF REGENTS

Don Volm, Director, Board of Regents Merit System, was present for review of the following proposed rules:

REGENTS, BOARD OF[720]

Pay plan, 3.39(1"b"	ARC 1232	N 8/6/80
Project appointment, 3.85	ARC 1233	N 8/6/80
Promotions, 3.10(5)	ARC 1229	N 8/6/80
Appeals on position classification, 3.127	ARC 1230	N 8/6/80
Appeals on application, examination, and certification procedures, 3.128	ARC 1231	N 8/6/80

BOARD OF REGENTS Cont'd

Volm explained that 3.39 was clarified re timing of merit increases but there was no change in practice. Volm advised Royce that same provisions exist in rules of state merit employment department. They require, before giving approval, that the institutions have advertised, recruited, etc. He continued the procedure is not contained in the rule.

Tieden thought the items could be used in arbitration and queried why they were not included. Volm reiterated this had been in the rules prior to collective bargaining--it is a matter of steps.

3.85 Rule 3.85 was clarified by adding language contained in the state merit employment department rules.

3.101(5) According to Volm, the change in 3.101(5) was made after recommendation by the federal office of personnel management.

3.127 Discussion of 3.127 with Clark asking if appeal procedures were set out. Volm said the procedures are in the merit rules per se, have been adopted by the Board of Regents and appear in their minutes.

Royce could not understand why the procedures were not included in the rules and Volm was amenable if Committee thought it necessary.

No formal action taken.

3.128 Upon recommendation by Clark, Volm agreed to modify sentence structure of 3.128.

Barry recommended that the 3 amendments to chapter 3 be condensed into one document before they are adopted and filed.

REVENUE Carl Castelda, Deputy Director, reviewed the following rules:

REVENUE DEPARTMENT[730]
Hearing on appeal, suspension or alterations of rules, 2.9, 2.20 ARC 1245 ...N.....8/6/80
Practice and procedure before the department, 7.2, 7.11(2), 7.17(2)"b" ARC 1246 N.....8/6/80
Forms, cigarette and tobacco tax, 8.1(6)"b" ARC 1244 .N.....8/6/80

REVENUE DEPARTMENT[730]
Taxable and exempt sales, tangible personal property, 18.31; sales and use tax, automobile repair, 26.5 ARC 1289..... 8/20/80
Assessors, continuing education courses, 124.6 ARC 1290 .F..... 8/20/80

2.9,2.20 No recommendations were offered re 2.9 and 2.20 which were recommended by the state Board of Tax Review.

7.2,7.11(2) 7.17(2)b Amendments to chapter 7 were correction and clarification of existing rules re chain store tax repeal, addition of hotel, motel tax and changes in Code references.

In answer to Schroeder, Castelda said the Department desires to reserve the right to have the opportunity to dismiss a protest.

Discussion of amending 7.17(2). Holden questioned the limitation of costs to sheriff or constable. Castelda pointed out the statute allows payment to sheriffs for serving subpoenas. The nonutilized provision for serving them by certified mail was found to be beyond

REVENUE Cont'd — statutory authority and will be withdrawn. Holden commented that attorneys have complained that they can be reimbursed only if they have the sheriff serve the subpoena. Castelda said Revenue relies on sections 622.81 and 622.84. Royce pointed to 622.64 as basis for the rule.

8.1(6)b — Castelda said 8.1(6)b was completely revised to reflect major changes in the cigarette and tobacco tax. New forms will aid in efficiently administering the tax.

18.31(2) — Priebe interpreted change in 18.31(2), last paragraph, of "or" to "and" would create a double tax. Castelda replied that was not the intent. The example was inserted hoping people would list materials, labor and parts. Priebe thought they had exceeded their authority. Castelda said the statute requires taxation of auto body repairs--the transaction is the sale of a service, auto repair.

Castelda reported a committee of industry representatives had studied the problem for one year.

Priebe suggested striking "even though" and inserting "unless the" in 18.31(2). Castelda was amenable, with insertion of the separately invoiced requirement. Priebe agreed.

124.6 — Schroeder took the position the 70-hour courses for assessors were excessive and Castelda agreed to research the matter.

No further Committee questions.

Wall Street Journal — In a matter not officially before the Committee, Priebe raised question concerning what he considered to be an unfair exemption on printer's ink used by the New Wall Street Journal. Castelda explained two different issues were involved. The editorials originate in Chicago and do not fall under Iowa law. The term "for publication in this state" is not defined by law. There are several attorney general opinions on the subject, some of which rule that "printing" is not necessarily "publication."

Priebe requested Royce to apprise the appropriate legislative standing committees of the printer's ink issue. Priebe thought it to be unfair to citizens of Iowa.

COMMITTEE BUSINESS — There was discussion of meeting date for the October meeting. Members agreed upon October 7 and 8, one week earlier than the statutory date, beginning at 9:00 a.m.

Recess — Schroeder recessed the meeting at 3:50 p.m. until Wednesday, September 10, 1980, 9:00 a.m. Clark asked to be excused Wednesday.

Reconvened — Chairman Schroeder reconvened the meeting at 9:10 a.m. Wednesday, September 10, 1980. Four members were present; Patchett arrived 9:20 a.m. and Clark was excused for the day.

TRANSPORTATION DEPARTMENT — Julie Fitzgerald, Office of Financial Operation Analysis, Lowell Richardson, Secondary Roads, and Candace Bakke, Office of Operating Authority, were present for the following:

TRANSPORTATION, DEPARTMENT OF[820]
Administrative rules, (01,B) 1.1, 1.2(1), 1.2(2), 1.2(3)"b", 1.2(4)"a" - 1.2(4)"d", 1.2(4)"i"(1), 1.2(5)"b"(2), 1.2(5)"c", 1.3(1), 1.4(1), 1.4(4)"b", 1.4(6), 1.4(8) ARC 1274 ..... N 8 20 80
Allocation of farm-to-market road funds, (06,Q) ch 16 ARC 1262 ... N 8 20 80
Interstate registration and operation of vehicles, (07,F) 1.3(1)"a", 1.3(1)"d", 1.3(1)"e", 1.3(2), 1.3(2)"d", 1.3(3)"a", 1.3(4)"a", 1.3(4)"a"(2), 1.3(5)"a", 1.3(5)"a"(2), 1.3(5)"b"(2), 1.3(5)"c", 1.3(6), 1.4(1), 1.6, 1.7, 1.9, 1.11, 1.12, 1.16 ARC 1253 ... N 8 20 80
Truck operators and contract carriers, (07,F) 3.1(5), 3.2(1), 3.2(2)"b", 3.2(3)"b", 3.2(5), 3.2(6), 3.2(9), 3.3(2), 3.3(3), 3.4(9), 3.5(1) ARC 1254 .... N 8 20 80
Interstate commerce commission authority of motor carriers, (07,F) 5.2, 5.3 ARC 1261 .. N 8 20 80
Liquid transport carriers, (07,F) 13.8 ARC 1280 .... N 8 20 80

Fitzgerald explained amendments to chapter 1. No recommendations were offered.

ch 16 — Richardson reviewed the proposed substitute for [06,Q]ch 16. He commented that the allocation did provide for counties to obligate ahead of their actual allocation of farm-to-market funds; arrangements had to be made between two specific counties.

SF 2281, 68GA, ch 1099 permits DOT to handle farm-to-market funds on a cash flow basis. Counties which have projects ready can obligate their funds up to three years.

In answer to Tieden, there would be no net effect on the allocation.

Royce submitted a question on behalf of Representative Clark, re 16.1(1)--Why not give out the questionnaires upon request and did the procedure tend to promote requests?

Richardson said normal procedure was to send a questionnaire to each county asking about proposed projects. That would be a part of or addendum to a current questionnaire.

Holden was interested in method of coverage when funds might not be available. Richardson indicated DOT predicts anticipated income and demands are screened.

9:20 a.m. — Patchett arrived.

Ch 1 — Bakke explained to Schroeder that the legislature granted authority to institute a "one-check payment" for International Registration Plan (IRP), a registration agreement for trucking companies which travel interstate. The base state would handle everything for the trucking firm and DOT would bill the 24 participating states. Schroeder took the position that cash should be acceptable. Royce contended that to do otherwise would be in violation of federal law. The consensus of the Committee was to allow cash.

TRANSPORTATION Cont'd — Bakke reported DOT would make the change which Schroeder had requested pertaining to tariffs. He could see no reason for power of attorney--3.2(2)"b".

Ch 5 — No recommendations were offered for amendments to Chapter 5.

13.8 — Bakke stated Rule 13.8 was a result of petition of the Feed and Chemical Association to allow exception for use of older tanks for anhydrous ammonia.

RAILWAY FINANCE AUTHORITY
ARC 1252
8/20/80 IAB — Fitzgerald explained rules of the Railway Finance Authority. Priebe was told that the quorum requirement was included in the statute.

Oakley had approved emergency filing of the rules but indicated meetings will be held before bonding, etc. will be addressed.

1.5(7)b — Holden favored an exception in 1.5(7)b. Fitzgerald referred to a 30-minute forum following each meeting which should answer his concern.
He suggested adding "or by the board." Oakley noted that 24 hours before a meeting, an agenda item can be posted. They have encouraged development of uniformity as to public participation.

1.5(7)e — Priebe questioned use of "shall" in 1.5(7)e. This was used in the event someone tried to contact an individual who might be present at the hearing, according to Fitzgerald.

Holden took issue with use of "facility" in 1.5(7)f. Fitzgerald said their powers were broad and Oakley added the word was defined in that statute.

Upon questioning by Priebe, Oakley stated he had reviewed the rules after the initial draft.
Holden could envision irrelevant complaints being raised.
Oakley contended it was appropriate to allow flexibility in defining the agenda.
Holden preferred "railway related issues" over present langauge.
However, Oakley wanted to avoid questions of railway operation.

No formal action taken.

REAL ESTATE COMMISSION — Gene Johnson, Director, Real Estate Commission, appeared for review of the following:

Licensees, unethical conduct, 1.31 ARC 1257 ..N..... 8/20/80
Continuing education, 3.6(5) ARC 1258 ...N..... 8/20/80

Also present were Ken Smith, Administrative Assistant for the Commission and representatives from the Attorney General's Anti-trust Division: Mark Schantz, Bill Raisch and John Adams.

REAL ESTATE Cont'd

Johnson explained the Attorney General had petitioned for Rule 1.31 and paragraphs f and g were Commission recomendations. Schantz provided background information on the rule. Basically, their concern was the competition aspect and they wanted to prevent one realtor from "locking out" another.
Schantz continued that under the new competition law [Ch 553] the "list fact" would be illegal and the rule addresses this. An example: A real estate licensee owns development lots which are for sale. A builder makes an offer on the lots and the licensee agrees to sell only on condition that he be awarded listing of the finished houses.

Responding to Oakley, Schantz indicated the matter had not been adjudicated in Iowa. However, there were cases from other jurisdictions.

Priebe commented that as far as contract, if you buy or own land and decide to develop it, it could be done if it were part of a contract.
Schantz said the AG has taken the position you cannot make it part of the contract.
Priebe declared if an individual had foresight to buy land for speculation that was part of the free enterprise system.
Schantz agreed, to some extent, a person is entitled to profit from his land but under their theory, he cannot use that leverage to gain competitive advantage in the market for real estate services. Typically, the large broker who owns much land, would have an unfair advantage in getting listings.

Oakley asked if there were conditions which amount to exemptions --is this more of a fact question than a legal one in a sense of being able to assure competent construction, maintenance of an area, orderly development, etc?

Schantz said most "tying" arrangements are not illegal. Generally it must be shown that a person has substantial market power in the process. The theory that the AG and a number of courts has adopted is that land is unique--particularly, for homebuilding Tying arrangement in this context would be illegal.

Oakley thought by creating a corporate structure which was not a licensee, this would be avoided.
He pointed out that a hearing was scheduled in October re the rule

As to whether the problem was prevalent, Schantz said that would be an overstatement. They received some complaints and began investigation.

Patchett opined the rule did not address landowners rights to sell land or realize a profit on the sale but only the competition aspect.

REAL ESTATE Cont'd

Schantz cited §117.9 as their general rulemaking authority and it was their opinion the practice in question was "harmful or detrimental to the public"--by virtue of Chapter 553.

Discussion of the impact on lending institutions. Schantz emphasized they merely want to regulate agreements between licensee and a financial institution--to prevent loan being conditioned upon engaging a specific broker.

Schantz commented that previously, they would have sued under the competition law, a person who was engaging in illegal practice. However, it came to their attention that the Wisconsin AG had sought administrative enforcement through the licensing board. They decided this might aid litigation. The approach apprises the community of the AG position and is inexpensive approach which does not single out one or two firms.

Holden voiced opposition to using a "little licensing board" if there is a violation of antitrust laws. Further, he was disturbed by the "misleading" Newsletter that was circulating. Recipients of the material might believe they had a copy of the new law since no mention was made of the hearing, etc. Johnson admitted there had been some misunderstanding.

Royce observed that under certain circumstances tying arrangements would probably be illegal under the competition law. However, prosecution under these rules would be placing the license in jeopardy not the business. Under the competition law, although penalties can be severe, it involves money as opposed to the right to earn money in the future, Royce said.

Schantz maintained the rules would be fairer from the industry standpoint. Further, trying to codify case law in the Administrative Code would be helpful in his opinion.

Royce questioned whether it was fair to say the rules codify common law in the area of anticompetition in tying. He referred to examples by Priebe of the smaller realtor who could not have much impact on the market, per se, but at the same time, a tying arrangement would be unethical.

Schantz reiterated his theory that land is unique.

Holden contended the Commission's role should be one of warning rather than one of trying to "write law to make it easy to prosecute someone."

It was pointed out the rules were under Notice.

REAL ESTATE Cont'd

Oakley thought it useful for licensing boards to include in their rules the types of conduct which would be cause for revocation or suspension. With this information available, a person wanting to enter into an arrangement could request a declaratory ruling from the licensing authority to learn what would be subject to discipline. He was concerned as to confidentiality aspects review and records availability to the Attorney General--at the time when a complaint is made and before the board or commission has opportunity to deal with it.

Schantz doubted it would be proper to cede responsibility for enforcement of Chapter 553 to the Real Estate Commission--they were reserving the right in a very flagrant case to seek an alternative. Oakley thought they already had that right. Schantz was willing to study the matter.

Tieden was concerned as to the affect on smaller communities with only one realtor who, in many instances, is the banker. Schantz indicated this would not be a problem.

No formal action taken by the Committee

3.6(5)

Discussion of proposed amendment to 3.6(5) to increase continuing education contact hour requirement from 7 hours to 12 hours per year effective with license renewal January 1, 1982.

Tieden expressed opposition to the increase.
Johnson cited §258A.2(1) as authority for the rule. He stated it was the position of the Commission that, with fast-changing role in financing, 7 hours was not sufficient for the 18,000 licensees to maintain a level of knowledge required.

Oakley lamented that continuing education had "become a growth industry of sizeable proportion with marginal benefit to the public but with considerable benefit to those making presentations for pay."

Johnson said the Commision had no specific courses to be included in the extra five hours but instead hoped to create a broad spectrum. As to who initiated the change, Johnson responded it was as a result of the conversion to three-year licensing as part of the Governor's Economy Report to abolish apprenticeship programs.

With respect to the fiscal impact, Johnson said the Commission was a provider and the additional five hours should have little impact on the budget.

Holden declared many of the "fears" legislators had re CE were coming "home to roost." He could see an element of "trying to eliminate competition."

No formal action taken. However, they urged careful review.

Recess — Chairman called for a five minute recess at 10:45 a.m.

SOIL CONSERVATION — The following amendments of the Soil Conservation Department were before the Committee:

Iowa Till and wind erosion control incentive programs, 7.24, 7.27, 7.29, 7.32 - 7.34, 7.37, 7.40 ARC 1286 ..F..... 8.20.80

Leon Foderberg briefly explained the purpose of the amendments. Tieden called attention to duplication of words in 7.27, 4. He asked about availability of information to farmers and Foderberg said local newspapers would carry articles distributed by soil conservation districts.

No formal action by Committee.

PROFESSIONAL AND OCCUPATIONAL REGULATION COMMISSION — Jean Comstock, Planning Aide for the Commission, explained the reason for termination of Notice to amend 5.2(2) of their rules pertaining to evaluation, law and shorthand reporters, being ARC 1234, published 8/6/80 IAB.

The Supreme Court had taken the position that they had exclusive jurisdiction in this area.
Royce disagreed.
Holden asked how extensive the Commission was in their probes and questions concerning continuing education--were they, in any way, based on the number of complaints, disciplinary problems, license revocation, etc.
Comstock indicated they made detailed studies. She cited an example with barbers and cosmetologists where the Commission was not satisfied with the subcommittee report and ordered further study by another subcommittee.

Tieden recalled complaints re a CE program in Cedar Rapids where union members were not assessed a fee.

At Holden's request, Comstock agreed to convey Committee concerns re continuing education to the Commission.

SOCIAL SERVICES — Representing the Department of Social Services were: Judith Welp, Rules and Manual Specialist; Sue Tipton, Program Coordinator; Cris Perkins, Management Analyst; and Harold Poore, Program Manager. The following rules were reviewed:

ADC, assignment of support payments, 41.2(7)"d" ARC 1239 ...N.....8/6/80
ADC, basic needs and income-in-kind, 41.8(2) ARC 1241 ...N.....8/6/80
Supplementary assistance, facility participation, 54.3(11)"h"(4), 54.3(11)"j", 54.3(12), 54.5 ARC 1238 ..N.....8/6/80
Medical assistance, dental X-rays, 78.4(1)"b"(3), 78.4(1)"e"(2), 78.4(1)"f"(5) ARC 1237 ...N.....8/6/80
Foster family homes, license, 106.3(1), 106.3(7), ARC 0845 terminated, ARC 1235 ...N.F.....8/6/80
Family day care homes, standards, 110.5(5), ARC 0846 terminated, ARC 1236 ...N.F.....8/6/80
Resources, eligibility, 130.3(1)"e" ARC 1240 ..N.....8/6/80
Adoption information, 139.13 ARC 1279 ..N.....8/20/80

Child day care services, 132.1(7), 132.1(8), 132.4(3), 132.5 - 132.8 ARC 1251 ..F.....8.6.80

41.2(7)d — No recommendations were offered.

41.8(2) — Welp indicated that Oakley had suggested holding a public hearing on 41.8 at a later date. The Council had voted to defer the proposed 6 per cent increase

SOCIAL SERVICES Cont'd

No recommendations were offered for amendments to Chapters 54 and 78.

Amendments to Chapters 106 and 110 pertaining to family foster care and family day care homes were terminated. According to Welp, the new licensing law would supersede the rules and was less restrictive.

130.3(1)c Welp told the Committee that the Department was considering lowering income eligibility amounts for all services which would affect 130.3(1)c.

Ch 132 Discussion of amendments re child day care.

Welp responded to Patchett's question as to whether this would be a substantial policy shift by saying the rules have the requirements that are set out in the extensive individual education and training program.

Poore added it was not a substantial change in policy but would make the program consistent with another program operated by DSS.

General discussion as to eligibility. Poore said the case worker was responsible for making the determination and they coordinate efforts with the WIN unit. He said the decisions have to apply toward a national goal which is employment.

It seemed to Patchett that service varied from area to area and was arbitrary. Welp commented appeal and service review evaluation would point out any problems and the rules could be revised.

Poore indicated there were units in every district but there were no recent appeals. Also, everyone is informed of the right to appea

It was noted the rules were effective today.

Priebe challenged use of "adult" in 132.4(3) since it would seem to preclude assistance to persons under 18 who where responsible for younger children. He recommended substituting "person" for "adult."

Patchett was not sure the rule followed the statute with respect to vocational training.

Welp agreed to apprise the Council of Committee concerns.

139.13 Discussion of 139.13--information from adoption records. Patchett observed that 139.13(2) seemed to be deficient in that the law also allows for research. Tipton mentioned this was covered in another rule. Patchett read from 600.16(2), The Code, and wondered about the exclusion in 139.13(3).

SOCIAL SERVICES Cont'd

Holden wanted assurance the rule would not make it impossible to get a passport. Tipton could see no problem.

Schroeder thought it should be possible for an adopted person to obtain a certification of their birthdate. Welp noted the question would require legislation. Oakley declared the entire area of adoption records should be reviewed by the legislature.

Welp reported on fluoride treatment which costs approximately $47,000 a year and estimated it would reduce tooth decay one tooth per recipient to realize a maximum saving of $96,000.

Welp also informed the Committee that Department officials are meeting with the Iowa State Association of Counties in developing jail standards which may be finished by the end of this year or early in 1981.

Special Review Juvenile Detention

Schroeder asked Patchett to take the chair while the Committee engaged in special review of questions raised by Linn County officials as to interpretation of §232.141 concerning reimbursement to counties for juvenile detention and shelter care.

Present for the review were Craig Kelinson, Assistant County Attorney, Bill McCarty, Director, and Jean Oxley, Linn County Shelter Homes and Joe Rinas, Board of Supervisors, Linn County.

McCarty explained that juvenile shelter detention homes provide 24-hour interim care for children on emergency and temporary basis. The homes function as alternatives to jails and state institutions while children are in the court process.

Facilities are licensed by DSS and must meet certain standards. There are 15 shelter homes and 3 detention homes within the state. Detention homes are secure facilities; shelter homes are open and unlocked--more family-type settings. Linn County serves 200 children in shelter homes and 500 per year in detention homes. Generally, they stay less than 30 days.

Kelinson gave background on their dispute with DSS and emphasized they had not come to air grievances with the Department, but they were hopeful of a resolution to the reimbursement problem. They have received funding from the Department for a number of years. However, since 1978, misunderstanding developed in the funding mechanism. Previously, there were service agreements with the Department, but during the last fiscal year, DSS suggested that the county fund their juvenile detention and shelter program under §232.141 which provides for base cost reimbursement whereby certain services to juveniles over and above the case would be reimbursed by the state. After lengthy discussions, Linn County thought the procedure had been established. Linn County exhausted the base cost and submitted a bill to the state for reimbursement.

Special Review Cont'd

They received a memo from Mr. Anderson, Bureau of Children Services, advising the claim was not viable under 232.141. That memo was also included along with a general memo to all county auditors, concerning juvenile justice expenses. Linn County has worked out and settled their dispute for the past billing period and there is a new purchase agreement in the process of negotiation. It was Linn County's contention that 232.141 provides for payment of the services to the county. At one time, the Department concurred but now they have changed their position. According to Kelinson, this would seem to be contrary to requirements of chapter 17A, The Code.

Oxley could forsee the Linn County problem becoming statewide. The county had initiated a grant to expand facilities to better serve the entire judicial district but abandoned the plan because of inconsistencies in directives from DSS. Oxley referred to the employees' manual where emergency centers are defined as including facilities -- shelter and detention. It was her understanding there was a rule proposed to separate those functions. Oxley opined that facilities should be shared by several counties as opposed to operations in each county.

Rinas commented the thrust of the problem was that counties involved with juvenile offenders have increased costs. He favored including input by counties as to procedure and urged the Committee to petition DSS to adopt rules outlining specifically what the County can rely on in terms of financial impact.

Perkins of the Department admitted the responsibility for implementation had been passed from person to person and she had recently inherited that responsibility. She said the Department intends to seek clarification of legislative intent. They had negotiated with Linn County and the shelter portion will be paid as an emergency under the purchase service agreement as emergency foster care. However, the Department has no plan to reimburse for detention. Perkins contended they did agree, at the time of negoiations, to make a good faith effort with the legislature to increase the amount of available aid under §232.141(2).

Discussion of impact of the "budget crunch."

Holden wondered if DSS effort to adopt rules might be incentive for legislative action, and Welp indicated they could probably start some type of rules through the process. Priebe thought timing was important.

It was pointed out Linn County budgets are finalized in the middle of March.

Lunch

Chairman Schroeder recessed the Committee for lunch at 12:15 p.m. to reconvene at 1:30 p.m.

Reconvened

HEALTH DEPARTMENT Nonpublic Water Wells

Chairman Schroeder called the meeting to order at 1:35 p.m. and briefly commented on the purpose of special review of Health Department standards for nonpublic water wells, being ch 45, IAB 6/11/80, ARC 1105.

The following persons were present for the discussion: Kenneth Choquette, Personal and Family Health Division, Health Department; Fred Henry, Well Drilling Business, Oakland; Bill Magie, public health sanitarian, formerly with the Department of Health; Jim Voight, Public Relations Firm; Howard White, Well Driller, Des Moines; Jim Hubbs, President, Iowa Waterwell Association; Jack Johnson, Iowa Waterwell Association; Ed Winslow, Winslow Drilling, Walcott; and E. J. Morton, Morton Pumps.

Schroeder said it was his understanding some problem areas remain unresolved. He called on Henry to make his presentation as to problems he could forsee as they related to southwestern Iowa.

Schroeder mention Committee options re the rules prior to their October 1 effective date--possible 70-day delay to allow time for further study or a delay into the general assembly.

Henry spoke of his past experience in the drilling business and indicated he was not "comfortable" with several aspects of the rules.

45.3

Requirement for issuance of permits in 45.3 would impose hardship on the taxpaying public, and the administrative authority would need an increase in personnel. Also, extra personnel would be required to comply with the requirement of well logs for nonpublic wells and would be an added expense passed on to the consumer.

Choquette wanted to respond to each comment. However, Chairman Schroeder suggested letting Henry complete his presentation before rebuttals.

45.6(2)

With respect to frost pits--45.6(2), Henry stated that in his area, 65% of the drilled holes are dry. The 30-inch bored holes are popular, averaging 50 feet in depth. Limestone outcroppings must be considered. Most people are not prepared for the additional expense required to go deeper than 16 or 18 feet. There are no (rural) water districts--the only alternative is for water wells to be less than 20 feet in depth.

45.6(3)

Henry referred to 45.6(3) and commented, in southwest Iowa, it was common practice to place a manhole or frost pit over every well. The pump installed in the pit provides for simple maintenance. He invited interested individuals to examine a frost pit which was displayed on a truck in the parking lot.

For maintenance of old wells, Henry removes the top 2 feet of bricks and inserts a precase concrete manhole with cover. Under

HEALTH Cont'd

the new rule, that procedure would be prohibited and compliance would result in a substantial increase in cost. If a pit would be needed in close proximity to the well, that could also increase the cost. He estimated it would cost $1500 to bring the well up to standard.

45.6(4) Henry thought the 4" requirement to be excessive, in addition to the new requirement for a floor drain.

45.7(1)a In re 45.7(1)a, Henry discussed the drilling of wells in unconsolidated formations, explaining that in SW Iowa, there are drilled wells. He said the method of drilling and sealing wells results in very little contamination.

45.7(2) He could forsee problems with terminating casings 10 feet below ground. In re 45.7(2)b(1), Henry took exception to the Health Department requiring written authority. In his area, most wells are shallow. The rules will prohibit sandpoint wells and would be limiting in nature.

45.9 According to Henry, the pumphouse design would be very expensive and he disagreed with the fact that the rules would be applicable to all wells, including irrigation and pasture. He continued adding $1000 or $1500 to the cost of wells would price drillers out of the market.

45.6(9) He contended plumbness and alignment were out of the realm of health and "over into the Ralph Nader consumer advocate area." He was sure every driller recognizes "a good straight hole and a good product."

Choquette pressed Henry to supply more specifics and made the point that he was concerned about forcing a pump into a poorly aligned casing.
Holden doubted this was a concern of the Department.

Priebe took the position that straight opening had no bearing on clean water and an incompetent would soon be out of business.

Hubbs commented on out of alignment and augered wells.

Choquette said two pieces of concrete, under pressure, would not provide a seal in the upper zone where contamination would occur. He reiterated his preference for responding to each rule individually.

Voight spoke of his experience "in water since 1966." He had recommended Henry come to Des Moines to discuss the rules and exhibit a "pit."

Magie stressed the importance of sanitary water and took the

HEALTH Cont'd

position that more stringent legislation was needed.

White spoke in support of the rules and reasoned it was difficult to place a "price" on clean water.

Schroeder was not totally opposed to the standards, per se, but was concerned as to implementation contrary to customary practice of a particular area. He doubted there were sufficient statistics.

According to Choquette, 50 percent of the wells in southwest Iowa would contain an incidence of contamination. He maintained that costs would not be increased more than 2 percent. He defended the Department's requirement for 10 feet of grout and 20 feet of casing saying that concrete casing has seams which allow seepage,

Schroeder presumed there would be an H-gasket to prohibit seepage. In Choquette's opinion, it would not be reliable.

Choquette declared if the facts were studied, costs could not be an argument and he urged that the Department be given a year to work with the standards.

Holden asked for evidence of health problems contending the rules should be based on some specific need. Choquette replied there is little information because of long term health effects.

Johnson attributed 99 percent of well problems to use of pits. He had testified in court against a well driller. He supported the rules and pointed out the current Code definition of a well is a "hole in the ground with water."

Holden and Schroeder reiterated that the driller could be depended upon to advise against improper construction.

Winslow disagreed. In his opinion, rules were needed, and he concurred with proponets of the rule.

Tieden questioned Choquette concerning hearings around the state. He viewed the Committee as being "caught in a bind" in that there was information after the fact.

Since conditions are so vaiable, Holden thought area standards might be advisable. Choquette remarked that standards are flexible.

Johnson added the state had been divided into 9 ares for gathering information and conducting public hearings--7 meetings had been held in the last two weeks. There was a great deal of support for uniform standards.

General discussion of the Association's role in formulating the rules and whether, technically, the provisions of the IAPA had been bypassed.

HEALTH DEPARTMENT Cont'd

The Association made a mailing to 450 contractors, including nonmembers, in the state. Discussion of licensing, with Holden expressing his dissatisfaction with that possibility.

Choquette pointed out the Health Department had initiated the rulemaking--not the Association and mailings had been sent to the supervisors.

Tieden thought the rules should provide for variance. He could not see the necessity for pasture wells or irrigation standards. Choquette, in re pasture wells, thought the emphasis must be on drinking water.

Choquette said they were going to allow wells to terminate in pits, but there was opposition because it would be wasteful. He could see no problem with the 48" pit.

Further discussion of pumps, pits, etc. and related problems.

Priebe conceded there was good argument for the pit. However, he maintained it should be "sold" by the well diggers rather than being mandated by the state.

White reiterated they were trying to protect their ground water.

Morton observed there had been no problem legislating re sewage and he considered this area to be more important.

Priebe discussed possibility of delaying the rules into the next general assembly. Schroeder indicated a willingness to support a minimum standards bill. In his opinion, pits should not be barred.

Choquette requested an opportunity to educate contractors re this vital area. Schroeder pointed out that the public must be convinced.

45.6(4) Priebe reitereated his concern in 45.6(4) as to requirement of 6-in reinforced concrete for frost pit walls as well as concrete for the floors. He thought sand or gravel, to allow for seepage, would be sufficient.

Choquette said the point was well taken and contractors shared Priebe's opinion.

Schroeder favored delay of the rules into the general assembly--the Department should keep working and a modification could be submitted.

45.12 Priebe questioned reason for 15 lbs. pressure in 45.12. Choquette said there should be a positive pressure and the state plumbing

HEALTH DEPARTMENT Cont'd

code stipulates 20 lbs. However, he was amenable to 10 lbs. pressure.

Choquette alluded to the problem of losing three-fourths of his staff to comply with the governor's 3.6 percent budget reduction.

There was general discussion of the appropriate Committee action concerning the nonpublic water wells. Choquette said if the rules were delayed into the general assembly, they would support promotion of a licensing program.

Royce pointed out this would require statutory change.

There was general Committee opposition to licensing.

Choquette expressed concern about funding of the program.

Tieden noted there have been tremendous problems in his area. However, he did not favor licensing either and did not see how it would be funded. He concurred with Choquette that definite health problems are created by lack of enforcement.

Choquette urged the Committee to review problems with licensing and not to categorize every program. The Department has a plan for licensing which they believe would be workable.

Patchett recommended a 70-day delay to allow further study by the Committee. The Department could complete their meetings and return to the ARRC meeting in October or November for further review. If an acceptable compromise is made, the delay could be withdrawn and the rules could go into effect.

70-DAY DELAY MOTION

Priebe so moved the 70-day delay from October 1, 1980. Motion was adopted viva voce. Clark absent and not voting.

Minutes July & Aug

Priebe moved to accept the minutes of the July and August meetings as submitted. Carried viva voce.

Adjourned

Chairman Schroeder adjourned the meeting to Tuesday, October 7 and Wednesday, October 8 in lieu of the regular meeting.

Respectfully submitted,

Phyllis Barry

Phyllis Barry, Secretary
Assistance of Vivian L. Haag

APPROVED Laverne Schroeder Chairman