

MINUTES OF THE SPECIAL MEETING  
OF THE  
ADMINISTRATIVE RULES REVIEW COMMITTEE

Time of Meeting

The regular meeting of the Administrative Rules Review Committee was held Tuesday and Wednesday, December 13 and 14, 1988, Committee Room 22, State Capitol, Des Moines, Iowa.

Members Present

Senator Berl E. Priebe, Chairman; Senators Donald V. Doyle and Dale L. Tieden; Representatives Betty Jean Clark; and Emil S. Pavich, appointed to replace David Tabor who recently resigned; Representative David Schrader, [member-elect January 9, 1989]. Not present: Representative Edward G. Parker. Staff present: Joseph A. Royce, Legal Counsel; Vivian Haag, Executive Secretary; Bonnie King, Administrative Assistant. Phyllis Barry, Administrative Code Editor, not present due to emergency illness in the family. Also present: Barbara Burnett, Governor's Administrative Rules Coordinator.

Convened

Chairman Priebe convened the meeting at 10:15 a.m., December 13, with a quorum present.

RACING AND GAMING DIVISION

Jack Ketterer represented the Racing and Gaming Division for the following:

INSPECTIONS AND APPEALS DEPARTMENT (481) "umbrella"  
Rule making and declaratory rulings; public records and fair information practices, chs 2 and 3 ARC 9472 ... F ..... 11/30/88  
Practice and procedure before the racing commission and board of stewards; applications for track licenses and racing dates; greyhound racing; mutual departments, 4.10, 4.14, 5.14, 7.1, 7.2(9), 7.2(10)"b" and "c," 7.2(11), 7.2(13), 7.3(6), 7.3(9), 7.3(16), 7.3(18)"b," 7.3(21)"d," 7.5(6), 7.5(7), 7.6(16), 7.6(18), 7.8(2)"b," 7.8(4)"a" and "c," 7.8(6)"b" and "f," 7.8(7)"b," 7.9(4)"b," 7.10(1), 7.10(4), 7.10(9), 7.11(2), 7.13(9), 8.1, 8.2(4), 8.6, 8.9 ARC 9471 ..... F ..... 11/30/88  
Thoroughbred racing, ch 10 ARC 9470 ..... F ..... 11/30/88  
Application for tax credit by horse racing licensee, ch 11, ARC 9478 ... F ..... 11/30/88

Ketterer, who will leave Iowa in January 1989, expressed his appreciation to the Administrative Rules Review Committee for their cooperation. No questions re Chapters 2 and 3.

4.10

In re 4.10, refusal by stewards to approve license, Ketterer said a commission representative was needed to help screen applications for occupational licenses. Tieden was assured that the Commission was not broadening the rule.

4.14 &  
7.3(6)

Brief discussion of 4.14 and 7.3(6). No substantive questions.

7.2(11)

Responding to Tieden, Ketterer said that in 7.2(11), re fine, suspension or revocation, that the word "revocation" was quite harsh. If a greyhound is two pounds overweight, the dog is scratched from a race and revocation would be too harsh a penalty. Ketterer admitted to Doyle that both fine and suspension were possible but not general practice.

RACING AND  
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DIVISION  
(cont.)

Ketterer pointed out that a maximum fine of \$500 was set out by the Board of Stewards, and the statute provides that the Commission may impose a \$1000 fine. A license suspension for two weeks would be more severe than a fine because the individual would be out of work throughout the country. Doyle suggested consideration be given to a lesser suspension with inclusion of a fine. Doyle recommended use of "and" in place of "or." Ketterer was amenable.

- 4.10 Ketterer assured Doyle that the person is present at the time license is denied--4.10.
- 7.8(2)b Responding to Priebe, Ketterer cited 7.8(2)b for past performance certification of dogs scheduled to race, and the ARRC was reminded that 7.10(9) pertains to those tracks under the jurisdiction of the Iowa racing commission.
- 7.10(9)
- 7.13(9) Priebe called attention to 7.13(9) and the inconsistency in use of "judge" in lieu of "steward." He preferred consistency and questioned this action. Ketterer agreed to check the history and correction would be made, if necessary.
- 10.2(6)c(2) In subrule 10.2(6)c(2), Ketterer explained that the Commission compromised on the number of betting interests needed for trifecta wagering and changed "nine" to "eight."
- 10.3(13) He briefly explained subrule 10.3(13). No questions.
- 10.4(19)b Jim Woodward, HBPA, addressed their Association's concern that the jockey's mount fees were part of the Racing and Gaming Division rules. [10.4(19)b] He contended that jockeys were independent contractors who arbitrate between horsemen and the jockey guild. The Association does not object to fees but opposes the Racing Commission setting of them for jockeys. If the Commission is permitted to set jockey fees, then others can be set arbitrarily without consultation.
- Ketterer responded that the basis for these rules was established by the Association of Racing Commissioners International for Racing Jurisdictions. In 95 percent of America's racing jurisdictions, racing commissions do set the jockey fees.
- 10.4(14) Woodward also expressed opposition to 10.4(14), the alcohol and drug testing rule, and 10.6, medication and administration. The Association believes 10.4(14)b is ambiguous. There was discussion. Ketterer reminded that .10 percent figure was also from the uniform rules, and strongly supported the requirement for jockeys who have the condition of endangering several lives or horses and for racing officials who handle those horses. Royce concurred there was authority for jockeys in 10.4(14)a.
- 10.6

RACING AND  
GAMING  
DIVISION  
(Cont.)  
Motion  
Carried

After further discussion, Pavich moved to delay the effective date of 491 IAC 10.4(14), 10.4(19)b and 10.6 until January 9, 1989. Priebe reminded that the ARRC would be meeting January 3 and 4 [later changed to the 4th and 5th], and suggested resolution of the differences. Motion carried.

No questions re Chapter 11. No other action.

HISTORICAL  
DIVISION

David Crosson and Carol Ulch appeared for the Historical Division and the following was considered:

CULTURAL AFFAIRS DEPARTMENT (22) "Umbrella"  
Description of organization; programs and services, 13.6(6)"c," 19.11, ch 14; rescind 490--5.28 ARC 9486...*N*..... 11/30/88

Crosson reviewed rules for the administration of the Centennial Building in Iowa City, the awards program, the exhibition policies, and the historical markers program. Pavich was advised there is no group charge for the Iowa City facilities.

According to Crosson, there were several problems with the new historical building; because of high humidity, the dew point is 17 degrees and the condensation causes "raining" on hardwood floors. Crosson noted that a meeting with General Services Department had been scheduled in an attempt to resolve several problems.

Crosson advised Pavich that information on the Awards Program is circulated in their newsletter and through press releases. No formal action taken.

ECONOMIC  
DEVELOPMENT  
DEPARTMENT

Diane Foss and Fran Fleck represented the Economic Development Department for:

Satellite centers, 41.2, 41.16 ARC 9427 .....*F*..... 11/16/88  
Use of marketing logo, ch 55, ARC 9424, also filed emergency ARC 9428 ....*N.F.F.*..... 11/10/88

Ch 41

Chapter 41 implements the supplemental grant program mandated by 1988 Acts, S.F. 2328, which appropriated \$150,000 for the grant program. A public hearing was held October 11, and Foss explained changes since then. Modification was made in 41.16(2) which requests the applicant to assess the regional economic development coordination plan accomplishments.

In re 41.16(4), further clarification was made on what the Department will utilize to evaluate each supplemental funding proposal.

In response to Tieden, Foss explained the Iowa Economic Development computerized network, which involves 7,000 Iowa businesses. Foss indicated that every region has a coordinating council with a regional economic development coordination plan.

Ch 55

Fleck commented on the marketing logo. One concern is the potential liability to the state if use of the logo

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DEPARTMENT  
(Cont.)

is state-authorized. Their Board had recommended temporary discontinuance of the logo program pending a review, and adoption of guidelines. An ad hoc committee to review the Iowa logo worked with the Attorney General. Subsequently, the decision was made to reestablish the logo program. Fleck admitted a statutory change was needed. She stressed the fact that the logo was intended to promote and market Iowa products. The rules include a "grandfather clause" for existing users of the marketing logo. A public hearing was held with no comments.

In responding to a question, Fleck assured the ARRC that companies could continue to use their existing supply of logos on packaging.

Doyle preferred specific language, e.g., providing Department authority to revoke the logo use, listing the conditions, and explanation of the notification process.

Doyle also questioned 55.3(3) and thought there should be an appeal process. Fleck agreed to refer the matter to their counsel. There was discussion re due process. According to Fleck, a company advises of the product on their application and attests that the product is manufactured or processed in Iowa. She distributed copies of the logo designed in the shape of the state of Iowa with the words, "A quality product from Iowa." No other action.

AGRICULTURE  
AND LAND  
STEWARDSHIP  
DEPARTMENT

Bill Greiner appeared for discussion of the Agricultural revitalization program amendments to Chapter 10, filed emergency, ARC 9474, 11/30/88 IAB.

Greiner said the word "Rural" had been substituted for "Agricultural" in the Revitalization Program. The rules set forth procedures for grant funds to public or private agencies or individuals in the promotion and marketing of Iowa-grown products to local and regional markets. There was brief discussion.

Priebe remarked that the ARRC was more interested in the list of projects and their workability. He requested a copy of the projects for the Committee. No other action.

VETERINARY  
MEDICINE  
BOARD

The Veterinary Medicine Board was represented by Lynette Donner, Assistant Attorney General, Dr. Walter Felkner, State Veterinarian, and Dr. Rex Wilhelm, Board member. The following agenda was before the ARRC:

Rescind 842--chs 1, 6 and 7; adopt 811--chs 1 to 6; transfer 842--chs 2 to 5, 8 and 9 to 811--chs 6 to 9, 11 and 12	
ARC 9449	11/10/88
Discipline, 8.8, ch 10 ARC 9451	11/10/88
Code of professional ethics, ch 13 ARC 9460	11/10/88

No questions re Chapters 1-9, 11 and 12.

VETERINARY  
MEDICINE  
BOARD

(Cont.)

8.8 and  
Ch 10

Tieden was told that 5.13(3), confidential records, was identical to Code Chapter 255A.

Donner explained that 8.8 and Chapter 10 were changed since the previous rule was very limited. This proposal follows disciplinary procedures of the Medical Examiners Board. It does not broaden the power of the Board. After further discussion, Donner explained that the Board is considering modification.

10.4(7)

In response to question by Tieden re 10.4(7), paragraph 2, Wilhelm cited embryo transfers as good example of a specialty. Priebe thought they were taking that decision out of the hands of those who purchase the service. Wilhelm remarked that the Board is really driven by complaints, and a decision would not be made unless there were a problem. He gave an example.

Responding to Priebe, Wilhelm said that because of the drugs and certain procedures, transplanting would have to be under the direct supervision of a veterinarian.

Ch 13

According to Donner, the adoption of Chapter 13 will implement the statutory mandate of Iowa Code section 169.13(7).

13.2(2)

Tieden asked about 13.2(2), "They should not solicit clients, nor announce fees and services in such a manner as to be misleading, fraudulent, or deceptive." Donner responded that the provision was targeted for deceptive advertising.

Royce questioned the legality of blanket prohibition against soliciting clients. Donner stated that the matter was under scrutiny by both the Board and the IBMA and may need rephrasing.

13.3(4)

With respect to "secret remedies" covered in 13.3(4), Wilhelm reasoned that it would be unwise for a veterinarian to use an unknown product.

13.3(2)

Tieden also asked about 13.3(2), second sentence, "When employed by the buyer to inspect an animal for soundness, it is unethical to accept a fee from the seller." Donner saw the question as "who are you truly employed by?"

13.3(1)

Doyle took the position that 13.3(1), 2nd paragraph, should be clarified as to testimony by a veterinarian in a court case or an out-of-court settlement against another veterinarian.

IOWA FINANCE  
AUTHORITY

Ted Chapler and Larry Tuel appeared for the following:

Homless shelter assistance program, ch 14 ARC 9469 ..... 11/30/88  
Housing assistance fund program, ch 16 ARC 9484 ..... 11/30/88

IOWA FINANCE  
AUTHORITY  
(Cont.)  
Ch 15

According to Chapler, Chapter 14 was unchanged from the Notice.

Brief discussion of Chapter 15. No recommendations.

LAW  
ENFORCEMENT  
ACADEMY

William Callaghan represented the Academy for the following:

LAW ENFORCEMENT ACADEMY[501]

Qualifications for attendance at short course, rescind 3.4(1) and renumber 3.4(2) and 3.4(3) ARC 9428. *N*..... 11/16/88

3.4(1)

Callaghan explained that rescission of 3.4(1) will update their rules to current practice.

Doyle asked about the current law and policy with respect to retraining and was informed that no retraining rule exists at the present time.

Minutes

Doyle moved the approval of the minutes of the November meeting. Carried. The Committee was recessed for lunch at 12:05 and reconvened by Chairman Priebe at 1:33 p.m.

PUBLIC  
HEALTH  
DEPARTMENT

Ken Choquette, Bill Permar, Michael Magnant, Keith Rankin, Mary W. Vavrock, and Susan Osmann represented the Department for the following:

Residential water treatment, ch 14 ARC 9458

State plumbing code, ch 25 ARC 9457

*N*..... 11/16/88  
*N*..... 11/16/88

Also present: Mark Kuyowa, Water Quality Association; Dirk Bloemendaal, Amway Corporation, Michigan; Jim Boyt, Des Moines; Mary Ann DeVries, Iowa Association of Municipal Utilities; Pete Henter, Iowa Retail Federation; Representative David Osterberg, Mt. Vernon.

Ch 14

Choquette described proposed Chapter 14 as consumer protection. The rules will apply to the advertisement of any treatment system or unit for which a health claim is made. State approval will be required for the testing procedures for each model advertised. Also, the state must approve the third party agency. Choquette estimated an economic impact of \$63,000.

Tieden questioned authority to collect fees and Choquette thought that the only reasonable way to collect fees would be through registration of the models.

Tieden was told there had been comments from seven manufacturer sales and one from a private individual.

Choquette took the position that the two issues of concern were with the statute not the rules. The statute requires the consumer information pamphlet and manufacturer's performance data be provided to prospective buyers of water treatment systems.

With respect to the second issue--third party testing, Choquette contended that the law meant "independent testing."

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HEALTH  
DEPARTMENT  
(Cont.)

Clark had a problem with the third party testing in that, many times when mandated, laboratories cannot keep up with demand and the process is slowed. Choquette reminded that the law would be effective July 1990.

Tieden referenced the various fees, ranging from \$30 to \$400. Choquette remarked that there were time limits for them. The initial registration fee will be \$30.00 and a permanent registration fee will be provided. Due dates will differ for the various fees.

14.4(1)f

In response to Tieden's questioning of 14.4(1)f, Choquette said it was not a test but approval of the protocol. There is a one time cost of \$200 for approving the industry's testing standard presented to the laboratory. Choquette continued that the National Sanitation Foundation (NSF) is the primary agency with standards for testing the performance protocol. However, any university laboratory or other labs could be used. Choquette informed Pavich that the main criteria for laboratories would be EPA approval.

Kuyowa addressed third party testing and consummation of sales and contended the laboratory capacity was a very important question. While it has been proven there are laboratories which can do the analytical analysis, there is only one, the National Sanitation Foundation, which has all the supplemental equipment necessary to provide and develop an adequate testing system. He added that consumers would face increased costs from \$5000 to \$10,000 per individual device. It was his opinion that consummation of sale would unfairly restrict catalog sales in Iowa because so much information and data would need to be provided to the consumer before delivery of the water treatment.

Choquette agreed that some of the manufacturer's data could be used in lieu of third party testing but that would necessitate audits of those industry's laboratories.

Bloemendaal recalled four or five advisory committee meetings that dealt with the complicated "third party" issue. He expressed concern as a manufacturer and a distributor re the limitation claims [for removal of contaminants] that are going to accrue on short- and long-term Iowa consumers. Bloemendaal noted that the National Sanitation Foundation, a pre-eminent testing organization, has the ability to test for only approximately 20 contaminants. He contended that the ability of the National Sanitation Foundation laboratory does not match that of manufacturers to make substantiated and valid scientific claims. Third party testing has not caught up. Bloemendaal continued that by midyear 1989, USEPA will add approximately 83 new contaminants to the National Primary Drinking Water Regulations.

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DEPARTMENT  
(Cont.)

The ability, third partywise, to test for these other contaminants is simply not there. Bloemendaal urged more study of the matter and pointed out that the law allows the State Hygienic Laboratory to set approved methods of performance testing. This Laboratory has indicated a willingness to review manufacturer's test data.

In response to Doyle, Bloemendaal said that California was the first state to enact a law on the certification of water treatment devices. After two years, they have still not finalized regulations. A final draft does allow for the use of manufacturer's test data to give that needed flexibility to deal with present and future groundwater protection contamination problems. Last year, the state of New York passed a law setting out guidelines for sale of the product but made no provision for product registration or certification.

Osterberg clarified that the law does not cover water softeners, but relates to those who are making claims that they can remove certain contaminants. He labeled the legislation as "a poor man's bill"--quality must be proven before sale.

Osterberg reasoned that the consummation of sales could be handled in a number of ways and would not preclude mail orders. He mentioned a meeting later today to discuss possible changes in the law.

Kuyowa thought that water softeners could be covered by this bill if a manufacturer elected to make a health-related contaminants claim.

Bloemendaal emphasized that his opposition was not to the legislative intent. Amway concurs that illegitimate manufacturers and sellers should be penalized but he urged Committee consideration of the points raised here today.

Pavich and Osterberg discussed the difference between a water treatment center and a water softener. Osterberg cited an example: If a water softener firm promoted its product with claims that it would remove radium, this would have to be substantiated. Boyt supported the goal "to make Iowa a tough state to sell fraudulent water treatment products, especially where it is health-related." Henter had no problem with the concept of the law, but suspected that it would have a greater impact on catalog sales as opposed to the individual. Henter assured Clark that a prospective buyer on door-to-door sales has 72 hours to rescind a proposed purchase. Kuyowa reiterated that Water Quality Association members do support the verification of claims for reduction of health-related contaminants.



PUBLIC  
HEALTH  
DEPARTMENT  
(Cont.)

Doyle was advised by Choquette that the estimated \$63,000 was to cover cost of a technician and office expense.

Priebe mentioned possible request of an Economic Impact Statement and Choquette replied that for it to be meaningful, there should be a breakdown on the cost per model and per model sold and he did not believe the information would be readily available. Henter agreed to request this information from Sears Roebuck.

Economic  
Impact  
Statement  
Ch 14

After further discussion, Tieden moved that ARRC request an economic impact statement on 641--Chapter 14. Motion carried.

No questions re Chapter 25, state plumbing code.  
No other Committee action.

PROFESSIONAL  
LICENSURE  
DIVISION

The Professional Licensure Division was represented by Susan Osmann, Michael Magnant, Keith Rankin, and Mary Vavroch. The agenda follows:

PUBLIC HEALTH DEPARTMENT (641) "umbrella"	11/16/88
Dietetic examiners, 80.4(6) ARC 9438	11/16/88
Optometry examiners, 180.6(3) to 180.6(6), 180.12 ARC 9438	11/16/88
Physical and occupational therapy examiners, chs 200 and 201; rescind 470 - chs 197 and 198 ARC 9437	11/16/88

80.4(5)

No questions re 80.4(5), amendments to Chapters 180, 200, and 201.

MEDICAL  
EXAMINERS  
BOARD

Dennis Carr, William Vanderpool, and Cheryl Brinkman appeared on behalf of the Medical Examiners Board for the following:

PUBLIC HEALTH DEPARTMENT (641) "umbrella"	11/16/88
Hearings, 12.50(23) ARC 9446	11/16/88
Physician assistant supervision, ch 21 ARC 9447	11/16/88

12.50(23)

Carr noted that 12.50(23) was changed so that a hearing could be conducted before a panel of less than three members. No questions.

Ch 21

Carr reported there would be meetings tomorrow and Thursday concerning Chapter 21.

Clark had knowledge, in re 21.4(1), of physicians who keep a valid license, but who are not actively engaged in the practice of medicine. Carr assured her that this would not affect that situation.

Clark was disturbed with the vagueness in several rules. She challenged use of "sufficient experience" in 21.4(3), and "sufficient geographic proximity" in 21.4(4). Clark stressed the fact that the statute directed detailed rules and these did not comply. Clark felt that issues in 21.4(7) should be spelled out.

Carr admitted that 21.4(7) was not specific but noted that the Board wanted to permit a physician disciplined in the past, the opportunity to supervise a physician's assistant. Clark opined that the rules were most

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BOARD  
(Cont.)

permissive for the medical examiners. Carr sought to incorporate the constructive comments and would work with the members of the Physician's Assistants Board. Carr indicated that he would refer Clark's comments to the Executive Committee.

HUMAN SERVICES  
DEPARTMENT

Chairman Priebe called up for special review Human Services rules pertaining to case management Chapters 24 and 25 which were filed December 12 for publication December 28. The Department was represented by Mary Ann Walker, Sally Cunningham, and Margaret Ward. Also present: Paul Coates, John B. Fischer, and Mary Whitman, Iowa State Association of Counties; Martha Willits, Polk County Board of Supervisors; Mary Etta Lane, ARC/Iowa.

Chs 24 & 25  
Case  
Management

Cunningham shared that the legislature had required the Mental Health, Mental Retardation Commission to adopt case management standards and service coordination rules. [1988 Iowa Acts, Ch 1245] The process began last summer, and rules were submitted and re-Noticed.

Fischer presented material in APPENDIX A, containing the Iowa State Association of Counties' specific opposition to the proposal. It was their contention that Iowa Code section 225C.28--the bill of rights of persons with mental illness, mental retardation, or developmental disabilities has not become effective because a fair and equitable funding formula has not been established. He referenced APPENDIX C of ISAC's proposal for rule modification necessary to protect the counties. The appendices are on file in the office of the Administrative Code Editor.

Fischer also called attention to his letter to ARRC outlining ISAC's opposition to the proposed administrative rules. ISAC, county representatives on the oversight committee, the Mental Health/Mental Retardation Commission, and the Department of Human Services Council have continued to change the proposed rules. He added that ISAC's legal council was concerned that some of the proposal might be construed to implement the Bill of Rights, which has been delayed by the legislature.

Due to these factors, Fischer, on behalf of ISAC, requested that ARRC object to certain portions of the administrative rules regarding standards for individual case management services. He recalled that the fiscal note projected in 1985 for the "Bill of Rights," was \$147 million.

Cunningham responded that the Commission had listened to ISAC comments and had addressed the issue of entitlements. She stressed that it was not DHS intent to implement the Bill of Rights or the right to entitlement and had been included to that effect.

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DEPARTMENT  
(Cont.)

Cunningham responded to Clark that she felt both factions were very concerned--the rules will become effective January 1, 1989. Counties have until January 31, 1989, to submit case management plans for fiscal years 1989 and 1990. The matter has been up for public comment twice. There was further discussion of possible objection to the rules.

Fischer viewed the rules as having potential to increase Iowa property taxes immensely. He continued, "We request an ARRC objection and then if litigation occurs, the burden of proof is on the Department."

Time frame of emergency filing was discussed and Priebe was advised that federal funding of approximately \$3 million would be available January 1.

Fischer indicated ISAC was confident that H.F. 2447 had protection needed to prevent the Bill of Rights from being implemented. However, the rules contain Bill of Rights language with insufficient disclaimers.

Responding to Clark, Whitman replied that ISAC was concerned mainly about interpretation and, of course, litigation. She added, "the Department has defined case management with the Bill of Rights concept, and we object to this."

24.5

Cunningham cited areas with the specific disclaimer language one being the last sentence in 24.5, first paragraph reading "Nothing in these subrules shall be construed to create an entitlement to services or to be an implementation of Iowa Code sections 225C.25 to 225C.28." That same language is repeated elsewhere in the rules as well.

24.6(3)a

Clark questioned language in 24.6(3)a, "or achieve a higher level of functioning." It was her opinion that counties would be required to accomplish all of those things. Priebe concurred. General discussion.

Priebe wondered what would happen if a judge were to rule that this higher level of functioning had not been achieved. According to Fischer, counties still have an unlimited tax levy for services.

Martha Willits, Polk County Supervisor, expressed opposition.

Mary Etta Lane said that the wording was accepted nationally and the standards govern development of services throughout the country. She thought services should respond to an individual's need for growth and development. She concluded that a 10 percent annual increase would support delivery of services.

Cunningham indicated counties spend less than \$130 million from property taxes and reminded that the

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DEPARTMENT  
(Cont.)

Bill of Rights focused on the chronically mentally ill. Approximately \$900,000 of the \$3 million will go for case management. That \$3 million is for remaining FY 1989. She concurred that a projected \$200 million would be a good estimate.

Fischer commented that if secondary road construction costs were removed from county budgets, the mental health and mental retardation expenditures would be the highest budget item in county government. He repeated his request for specific objection to the rules.

Royce advised Tieden that an objection could be filed on any rule at any time. Discussion of the fact that an objection would not delay the effective date.

Clark could foresee that the grounds for an objection could make a difference and she would not support "beyond statutory authority" in this instance.

According to Priebe, his county supervisors complain whenever additional costs are imposed on counties. Clark and Priebe disagreed on possible grounds for an ARRC objection.

Doyle and Royce discussed the severability of case management rules. Schrader observed that the rules contained language found in the Acts. Fischer reminded ARRC that he supports case management concept but counties do not want to be forced into doing more than was intended.

Coates expressed the fact that counties wanted "fall-back position."

Priebe reminded that the art of legislation was the ability to compromise and he thought there should be a compromise "in here some place." He pointed out that an objection could be lifted when the rules have been modified to the satisfaction of the counties. Tieden was inclined to move an objection. Walker suspected that it would be difficult to draft rules which would be acceptable to counties.

Motion  
Carried

Doyle moved to defer discussion of case management until Wednesday. Motion carried. Royce was directed to research the issue.

PUBLIC  
SAFETY  
DEPARTMENT

The Public Safety Department was represented by Wilbur Johnson, Fire Marshal, and Don Appell, Deputy Building Code Commissioner. Also present: Jim Towler, Midwest Energy; Charles Wasker, Tom Gratius, Keith Denner, Don Beal, Home Builders Association of Iowa; Jim Johnson, Iowa Association of Building Officials, City of Des Moines, and Lee Bundy, City of West Des Moines; Lloyd Clark, building developer. Priebe excused. Doyle in chair.

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SAFETY  
DEPARTMENT  
(Cont.)

The following amendments were before the Committee:

State of Iowa building code, 16.2(1)"b," 16.110(1), 16.110(3), 16.120(2) to 16.120(5), 16.121(3), 16.130(14), 16.131(2) to 16.131(4), 16.132, 16.140(1), 16.300(1), 16.400(1), 16.500(1), 16.610(2)"e," 16.610(3), 16.610(7), 16.610(8)"b," 16.610(19) to 16.610(21), 16.620(4), 16.620(6), 16.621(2)"d," 16.622, 16.622(1)"d," 16.622(3), 16.623(1), 16.623(5), 16.626, 16.628, 16.700, 16.701, 16.702(1), 16.702(4)"c," 16.703(1), 16.703(3), 16.703(4), 16.704(5), 16.705, 16.705(1) to 16.705(6), 16.705(8), 16.705(12), Table 705A, notes 2 and 3, figure 2a AHC 0429 ..... 11/16/88

Royce explained that an updated building code contains language that would require sprinklers, common in most commercial buildings, to be installed in apartment complexes of three stories and more or containing 15 units.

Johnson was aware of the opposition to the provision. However, Iowa Code requires Public Safety to adopt the Uniform Building Code whenever update is necessary. Wasker viewed the problem as one of economics. He spoke of the height factor and contended there were no deaths which could have been averted had there been sprinkler systems in this particular type of building. He referenced rising construction costs and contended there would be increased rent for apartment dwellers with adoption of the rules. The Home Builders Association would prefer use of smoke detectors, well marked exits, and properly installed emergency lighting in hallways and stairwells.

Denner estimated \$10 to \$12 per month increase in rent if a sprinkler system is mandated. This would tend to raise equity capital for developers to about 25 percent. He estimated 3 to 4 percent additional cost per complex. Denner discussed potential hazard of flooding of units when sprinkler systems are in place.

Johnson and Wasker strongly disagreed about the life-saving features of sprinkler systems in this type of building construction.

Johnson explained the operation of a sprinkler system. He declared that it was asinine to deny that there have been deaths in apartment fires.

Wasker introduced Lloyd Clark, a building developer here and in South Dakota. Clark told the Committee that he was also Chairman of the Board of the Iowa Finance Authority. His companies have produced 10,000 housing units in the state and several surrounding states. He continued that the same issue was being discussed by many cities and states across the country and the rule is being adopted by building officials. Lloyd Clark contended that no supporting data was introduced in any hearings as to whether or not there would be fewer deaths with sprinkler systems in low rise structures.

In fact, the data proved that there was no demonstrable effect on the saving of lives with sprinklers. Lloyd Clark added that sprinkler systems are installed to save property. With the combined insurance and construction cost increases, he envisioned rent increases of \$15-20 per month. Lloyd Clark concluded, "If young

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DEPARTMENT  
(Cont.)

people (who are the major apartment dwellers and who will have to pay the increased rent because of this issue) continue to leave Iowa, then Iowa will continue on its path of becoming poorer, less populated, and older."

Wasker requested Committee delay of the controversial provision into the next General Assembly.

Appell asked to clarify some untrue statements. He stressed that sprinklers save lives and this fact can be documented. Appell indicated that the Department was unaware of the specific argument until this meeting. Two public hearings had been held and not one person voiced objection to the rules. Appell said the requirement for sprinklers was included because of review by many other committees and decision was made on a national basis--1700 cities in the country use this code. One hundred Iowa cities will adopt this same code and he reminded that the state building code applies only in those cities. Appell maintained that insurance companies "give a benefit" for sprinkler systems since sprinklers do save lives. Appell noted that 85 percent of fire deaths occur in single family dwellings. Deaths do occur in apartments; therefore, they need to be built for safety. With respect to people having to pay higher rent, his own experience is that rent is whatever the traffic will bear. It was his opinion that a sprinkler system in an apartment would attract renters.

Appell also mentioned the fact that the residential quick response sprinkler heads will be used and they are triggered at 135 degrees, much quicker than a normal sprinkler head at 165 degrees. Most apartments built in this state are much smaller than 15 dwellings in a three-story building. They are usually four units to avoid the handicapped accessibility requirement.

Jim Johnson stressed the number of deaths which occur in low rise and multi-family dwellings. He added that the National Fire Protection Association is in the process of writing NFPA 13R which will address sprinkler installations in multi-family dwellings. The Fire Chief's Association emphasized that this would save lives.

Wasker requested the Committee to delay subrule 16.120(2) into the next General ASsembly. It was agreed that rather than delay the subrule, it would be expedient to delay section 3802"h" of the 1988 Building Code.

Motion Doyle asked if anyone cared to move a session delay. Tieden so moved to delay section 3802"h" of the 1988 Building Code and advise the Lieutenant Governor and Speaker of the House to refer the matter to the appropriate committees. Motion carried.

Recess Pavich moved the Committee recess at 4:15 p.m. Carried.

12-14-88

Reconvened

Chairman Priebe reconvened the meeting at 9:16 a.m., Wednesday, December 14, 1988, Committee Room 22. Parker not present.

HUMAN  
SERVICES  
DEPARTMENT

The Human Services Department was represented by Mary Ann Walker, Margaret Ward, Sally Cunningham, Mary Helen Cogley, Heidi Rosenbaum, Jan Walters, Dan McKeever, and Candy Morgan, Assistant Attorney General. The agenda follows.

Administration, 65.3, 65.28(12)"b" ARC 9482 ..... 11/16/88  
Conditions of eligibility; intermediate care facilities, 75.1(28), 81.6(16)"e" ARC 9436 ..... 11/16/88  
Medically needy, 86.1, 86.8(5), 86.10(1), 86.10(2), 86.14(2), 86.14(5) ARC 9433 ..... 11/16/88  
Family development and self-sufficiency program, ch 165 ARC 9431 ..... 11/16/88  
Dependent adult abuse, 176.16, filed emergency after notice ARC 9434 ..... 11/16/88  
Recoupment, 46.1, 46.4(3)"b," 46.5, 46.5(3), 46.5(4)"a," 46.7(1) to 46.7(3), 46.7(6) ARC 9430 ..... 11/16/88  
Conditions of eligibility, 75.1(21), filed emergency ARC 9486 ..... 11/30/88  
Medicaid-certified substance abuse units and psychiatric units, 79.1(5)"b"(1) and (3), 79.1(5)"e"(3) and (4) ARC 9462 ..... 11/16/88  
Hospital payment calculation, 79.1(5)"d"(3), 79.1(5)"e"(1) and (2), ARC 9443, also filed emergency ARC 9442 ..... 11/16/88  
Payment to out-of-state hospitals, certification of special units, limitations on payment, 79.1(5)"a," "c," "d," and "u" ARC 9444 ..... 11/16/88

Also present: Paul Coates, Iowa State Association of Counties, and Mary Etta Lane, ARC/Iowa.

65.3 et al.  
75.1

No questions re 65.3, 65.28(12)"b" or 81.6(16)"e". In re 75.1(28)"a", Walker concurred with Priebe that "nonfarm" should be deleted.

Ch 86

According to Walker, Chapter 86 revises the length of certification period for the medically needy eligible without a spenddown, adds caretaker relatives for parents to the eligible coverage group and increases the resource limit--all were mandated by the General Assembly. Also, medical expenses paid by a public program other than Medicaid within the certification period shall be considered toward spenddown.

86.14

Priebe inquired about the change in 86.14(2) re third party payments. Walters responded that the Department was clarifying that if the medical expenses were paid by a public program other than Medicaid, such as Soldiers Relief, that would be treated as a patient payment. However, other bills paid by a friend or third party health insurance would be deducted from the bill. Doyle requested additional information concerning Veterans Administration Hospitals now handling third party payments.

86.8(5)

Responding to Tieden, in re 86.8(5), Walters said that there are some situations where both parents are in the home but they have no established work history. They would not be eligible for ADC and are not eligible for Medicaid under caretaker relatives. Priebe wondered when they are ineligible for ADC, how could they be eligible for Medicaid. Walker responded that was the whole purpose of the medically needy program; individuals spend down to a certain amount and then are eligible for Medicaid. Other areas in the rules have limits on resources. Priebe had serious problems with this issue as well as 86.14(2), the third party payer.

Ch 165 etc.

No questions re Chapter 165, 46.1 et al., 176.16, 75.1(21), and amendments to Chapter 79.

HUMAN  
SERVICES  
Continued

Amendments to 79.1(5) restrict payment in out-of-state hospital substance abuse treatment units to detoxification services only. It provides payment for out-of-state psychiatric treatment units to be made if a unit qualifies as exempt under Medicare. Also, existing federal regulations concerning payment limitations for inpatient hospital services are clarified. Clark wanted to know at what point in treatment that an out-of-state hospital might not receive reimbursement for the rehabilitation portion of substance abuse treatment.

Rosenbaum said it would be where detoxification and rehabilitation begin. Clark noted that sometimes those services are combined but in some parts of the state, the rehabilitation portion of substance abuse is unavailable. However, availability may be just over the borders. She had problems with this subrule and Rosenbaum mentioned that a rule was in process to extend a "buffer zone" to include hospitals within a 20-mile radius of Iowa borders. Doyle concurred with Clark's comment. Walker agreed to investigate activity by other states but cautioned that not all participate in a diagnosis related group (DRG) payment system. No other action.

January  
Meeting

The January meeting was rescheduled from January 3 and 4, 1989, to January 4 and 5, 1989.

HUMAN  
SERVICES  
Special  
Review  
441--Chs  
24, 25,  
32.2

Chairman Priebe announced that consideration of special review of Case Management rules would be resumed. [ARRC worked with draft which would be submitted for publication in the 12/28/88 Iowa Administrative Code] The matter had been deferred at yesterday's meeting.

Royce explained that the program identifies the needs of clients with various forms of mental retardation. Counties, particularly, are terrified of the possibility that the existence of the "bill of rights" language will result in a court decision for mandated service of the "bill of rights." Yesterday, counties requested the Committee to impose an objection on these specific rules, basically saying that the Department was ignoring the statutory mandate that the rules not implement the "bill of rights." Royce has determined that counties prefer language to ensure no misinterpretation of the Case Management Program. He suggested a possible interpretive objection, not to the concept in the rules, nor to the text of the rules, but to the possibility that certain rules might be misinterpreted to apply the patient's bill of rights. Basically, this would place the ARRC on record in the form of an objection.

Priebe commented that if the ARRC moves an interpretive objection, sometime between now and January 5, possibly the counties and the Department could resolve their differences. If so, ARRC could then lift their objection.



HUMAN  
SERVICES  
Special  
Review  
Continued

Cunningham reiterated that the Department, the Commission, and the Governor's office clearly did not intend to implement the "bill of rights." An AG's opinion will be requested for clarification and the Commission will be asked to clarify their intent not to implement the "bill of rights."

Doyle asked that the following proposed language be recorded in these minutes:

PROPOSED LANGUAGE TO BE INSERTED:

PAGE 11, 441-24.1 after the word "Definitions" Nothing in this chapter shall be construed to create an entitlement to case management services or to be an implementation of Iowa Code sections 225C.25 to 225C.28 referred to as the "Bill of Rights of Persons with Mental Retardation, Developmental Disabilities, or Chronic Mental Illness".

Page 16, 441-24.3 after the word "Administration. Nothing in this chapter shall be construed to create an entitlement to case management services of to be an implementation of Iowa Code sections 225C.25 to 225C.28 referred to as the "Bill of Rights of Persons with Mental Retardation, Developmental Disabilities, or Chronic Mental Illness".

NOTE THIS LANGUAGE IS CURRENTLY IN THE PREAMBLE AND IN THE GENERAL AND SPECIFIC REQUIREMENTS SECTIONS. IT IS NOT RELEVANT FOR OTHER SECTIONS (I.E. GOVERNANCE, APPLICATION FOR APPROVAL, ASSESSMENT FOR COMPLIANCE ETC.)

Cunningham reminded that ISAC would prefer an objection. Priebe noted that the rules would become effective January 1, 1989. Morgan questioned the strategy of using an objection in an attempt to clarify an interpretation.

Royce contended, for clarification, one problem which arises when there is litigation is that all judges and attorneys have to work with are manuals and rules. He envisioned an objection in place that would provide documentation as to legislative concerns, i. e., that it is clear the patient's "bill of rights" should not be implemented.

Clark thought four clear and distinct statements in the rules were sufficient. She theorized, "If we place an objection and lift it at the next meeting, and the Department makes two changes, are we still going to have counties claiming that it is not enough?" She did not support an objection. Priebe was disturbed by the unlimited levy.

Motion to  
Object

Doyle moved that ARRC object to Case Management rules, Chapters 24 and 25. Motion failed on voice vote. Parker and Pavich not present, Clark voted "no."

COMMUNITY  
ACTION  
AGENCIES  
DIVISION

Susan Downey appeared on behalf of the Community Action Agencies Division to review the following:

HUMAN RIGHTS DEPARTMENT (421) "umbrella"  
Low-income home energy assistance program, 10.2(2), 10.2(3), 10.8(4)"L" and "c," 10.9(5) to 10.3(7), notice ARC 7893 terminated ARC 9469 ..... 11/16/88  
Energy assistance crisis program, 10.3(5) to 10.9(10), notice ARC 8499 terminated ARC 9460 ..... 11/16/88

Downey briefed the Committee on proposed amendments to expand the services of the Energy Assistance Crisis Program. No questions.

EDUCATION  
DEPARTMENT

Orrin Nearhoof and Charlie Moench presented the following:

Postsecondary enrollment options, ch 22 ARC 9420 ..F..... 11/16/88  
 Standards for teacher education programs, 77.10"6," 77.12"3" and "4," 77.14(6)"a," "c," "f," and "j"(1), (7) and (8),  
 77.14(7), 77.16 ARC 9476 .....N..... 11/30/88

Ch 22 No questions re Chapter 22.

Ch 77 According to Nearhoof, Chapter 77 implements 1988 Acts, SF 2193, which requires the State Board of Education to adopt rules to require a minimum of 50 hours of field experiences; 12 semester hours of student teaching; teacher education faculty involvement of at least 40 hours during a five-year period in activities in elementary, middle, or secondary schools, etc. Fifteen institutions have contacted the Department concerning the legislation and public hearing was scheduled for 1-4-89. Many are concerned about implementation of 12 weeks of student teaching.

Tieden had knowledge that many secondary education institutions were reluctant to accept student teachers. Nearhoof was aware of that situation. General discussion. No action taken.

INSURANCE  
DIVISION

Martha Crist and Susan Barnes were present to review:

COMMERCIAL DEPARTMENT (111) "umbrella"  
 Health maintenance organizations, 40.5(3) ARC 9426 .....F..... 11/16/88  
 Broker-dealer applications and renewals, 50.1 ARC 9466 .....N..... 11/16/88  
 Workers' compensation self-insurance for individual employers, 57.3(1), 57.4(2), 57.9(1) ARC 9478 .....N..... 11/30/88

40.5(3) Crist reported there had been no changes in 40.5(3) since the Notice.

Motion to Refer to GA Clark questioned deletion of "...board certified and board eligible." Crist stated that it made the requirement less restrictive. Clark had problems with what she considered to be vague language: "These personnel shall be no less qualified in their respective profession than the current level of qualification, which is maintained in their community" and thought the subrule should be referred to the Legislature and so moved. She continued that the subrule previously required HMOs to provide assurance that all physicians are licensed and that specialists are "board certified" or "board eligible." Motion carried.

50.1 No comments or questions re 50.1.

Ch 57 Crist explained the proposed amendments to workers' compensation self-insurance for individual employers, Chapter 57. A public hearing was scheduled for Tuesday, December 20, and the Department anticipated there would be some changes. Doyle was advised that "negotiable securities as agreeable" in 57.3(1) meant approval.

REAL ESTATE K. Marie Thayer and Kenneth Smith appeared on behalf of  
 COMMISSION the Real Estate Commission to review payment of commission to unlicensed corporation, 1.36, ARC 9440, Notice, IAB 11/6/88. Also present: Jerry Neugent, Attorney, Iowa Association of Realtors.

12-14-88

REAL ESTATE  
COMMISSION  
Continued

According to Smith, brokers will be permitted to pay commissions earned by a salesperson or broker associate to a corporation owned by the employed licensee. This allows employed licensees to take advantage of tax code provisions which might be favorable to the licensees if commissions could be assigned to their corporations. In answer to Priebe, Smith said the Iowa Association of Realtors had sought this change. It was Priebe's opinion that a statutory change would be necessary.

Neugent opined that Iowa Code chapter 117 was unclear and the rule clarifies whether or not a broker or sales associate or sales person can be a corporation for the purposes of receiving commissions. Doyle suggested that a bill be drafted on this issue and directed to the appropriate committees. Royce commented that small businesses would now have corporate protection and he would prefer a law change. The proposal is a rule attempting to clarify the provisions of 193E--1.36 and Iowa Code section 117.34, subsections 5 and 9.

Motion to  
refer to GA  
Vote

Tieden moved to refer rule 193--1.36(117) to the Lt. Governor and Speaker of the House with the recommendation that the issue be referred to the Commerce Committees of the General Assembly. Motion carried.

Recess

Committee in recess 10 minutes.

EMPLOYMENT  
APPEAL BOARD

William Whitten, Attorney for the Board, appeared for the following:

INSPECTIONS AND APPEALS DEPARTMENT(481) "umbrella"

Organization; definitions; unemployment insurance appeals; rules of procedure for OSIA appeals; personnel, action; peace officer and capital security appeals; construction contractor registration appeals. 1.1 to 1.3, ch 2, 3.1(1), 3.1(2), 3.1(4), 3.1(5), 3.1(7) to 3.1(12), 3.1(14), 3.1(16), 3.1(17), 3.2(1) to 3.2(4), 3.3(1), 3.3(2), 3.3(4) to 3.3(9), 3.4(2), 3.4(3)"a" and "c," 3.4(4) to 3.4(6), 3.7(2)"a," 3.7(3) to 3.7(7), 3.8, 4.1, 4.7(7), 4.7(9), 4.7(10), 4.8(1), 4.11(1), 4.11(2), 4.21(3), 4.66, 4.67, 4.70(4), 4.71(2), 4.71(3), 4.72, 4.74(1), 4.76, 4.77(1), 4.77(2), 4.90, 4.90(2), 4.101(2), 4.102, 4.110(1), 4.110(4), 5.1(1), 5.1(4), 5.1(5), 5.1(7), 5.1(8), 6.1, ch 7 ARC 9401 ..... 11/16/88

Whitten said rules implement Iowa Code section 10A.601(2). He pointed out that reference to "17A.10" in 3.4(6) should be changed to "17A.19."

5.1(8)

In re 5.1(8), Clark recommended the paragraph be written with two sentences. She also thought the third paragraph needed clarification. No other comments.

INSPECTIONS  
AND APPEALS  
DEPARTMENT

The Department was represented by Xenda Lindel-Prine who appeared for the following:

Health care facility audits, 22.1 ARC 9483 ..... 11/30/88  
Minimum physical standards for residential care facilities, 60.10, 60.11(1)"a" and "c," 60.11(4)"c," 60.11(4)"f"(4) and (5) ARC 9445 ..... 11/16/88

No recommendations for 22.1.

60.11

Priebe wondered why soft copper was specified in 60.11(4)c since plastic piping was more common today. Clark suggested including "or plastic" if it meets specifications. Lindel-Prine agreed to pursue the matter.

REVENUE &  
FINANCE

Carl Castelda, Deputy Director, and Nickola Schissel and Steve King, Lottery Division, appeared for the following:

REVENUE AND  
FINANCE  
LOTTERY  
DIVISION

## REVENUE AND FINANCE DEPARTMENT[701]

Practice and procedure before the department of revenue and finance, 7.1, 7.2, 7.7, 7.11(1), 7.11(2), 7.12, 7.17,

7.17(6), 7.25, 7.26 ARC 9468 ..... 11/16/88

Offset of debts owed state agencies, ch 160 ARC 9462 ..... 11/16/88

Determination of net income; assessments and refunds; withholding, 40.8, 43.7(2), 43.7(8), 43.7(9), 43.7(7),  
46.1(1)"d"(1) ARC 9477 ..... 11/30/88

## LOTTERY DIVISION[705]

REVENUE AND FINANCE DEPARTMENT[701] "umbrella"

Revised chs 1 to 6 and 8 to 12; adopt chs 1 to 4, 8, 10 to 12 ARC 9464 ..... 11/30/88

Castelda reported that he had seen a preliminary copy of the Attorney General opinion on whether or not domestic fowl should be included in the definition of "livestock" [701--17.9(1)] applicable to Department of Revenue subrule 18.48(2)e. According to the opinion, with the inclusion of poultry in the definition of livestock, the rule would likely be upheld. Discussion of the fact that an ARRC objection was imposed on 18.48(2)e at the October 12, 1988, meeting. Castelda suspected that the Department would change the rule to follow the Attorney General's interpretation. The matter will be discussed at the January ARRC meeting where the objection may be lifted. No comments regarding amendments to Chapter 7.

150.8

Castelda described additional language from the Notice of 150.8 pertaining to reimbursement for offsetting liabilities. If federal law becomes paramount to state law, Revenue will follow the federal law.

Chs 40, 43,  
46

Castelda highlighted amendments to Chapters 40, 43 and 46 which include provision that interest from Regents revenue bonds be exempt from the state individual income tax; changes relevant to processing of capital gain refund claims--they are finding a high error rate. It was clarified that winnings on tickets from the Multistate Lottery purchased in Iowa by an Iowa resident are subject to Iowa state income tax. Castelda stated that these taxes are withheld from each check; 20 percent goes to the Internal Revenue Service and 5 percent for state tax.

With respect to lottery receipts, Castelda and Schissel said that the net is sent directly to the treasurer's office where it is invested in an annuity and becomes part of the "Iowa Plan" which is administered by the Department of Economic Development.

43.7

Castelda discussed 43.7(3). He said that the individual's right to a refund would be jeopardized if the return is not filed by October 31, or if filed late without an extension, or if the tax is not paid with the return. He added that the statute is written for the taxpayer's calendar year, on which 99.9 percent pay.

Responding to question by Priebe as to disposition of lottery funds, Schissel cited an example of a \$5 million annuity for which the state pays \$2.5 million. The company keeps that money over a 20-year period and pays the Lottery Division in annual installments. The company

REVENUE &  
FINANCE  
LOTTERY  
DIVISION

has the benefit of the \$2.5 million which they invest over the 20 years. King added that the remainder of the money goes for lottery expenses, Iowa Plan, sales tax, and gamblers assistance. Priebe reasoned that the state should go into the "investment business."

705--Ch 1  
et al.

Schissel reviewed the adopted amendments to Chapters 1 to 6 and 8 to 12. No Committee recommendations.

TRANSPOR-  
TATION  
DEPARTMENT

Those in attendance for the Department were Julie Fitzgerald, Lee Hammer, Craig Marvick, Ruth Skluzacek, and Gordon Sweitzer. The following was considered:

Miscellaneous amendments, 4.6, 13.6 to 13.8, 13.10, 20.3(3)"i," 20.4(1)"a," 20.4(3)"n" and "o," 20.4(6)"b" to "f," 20.8, 421.2(2), 460.1(7), 451.2(2), 602.12(1)"a," 616.22, 616.38, 620.4, 640.2, 610.4(1)"e" (6), 910.9 ARC 9487 ..... 11/30/88  
Rise program, 163.1, 163.2, 163.3(3), 163.3(4), 163.4(2)"a," "b," "e" and "f," 163.7(1)"a," 163.7(2)"t," 163.8(1)"a," 163.9(2)"c" to "e," 163.8(3), 163.8(6)"d," 163.8(7)"a," 163.9(1)"a," 163.9(2)"c" to "e," 163.9(3), 163.9(6)"a" and "b," 163.9(7)"a," 163.10(1)"d," 163.10(2)"a," 163.11(1), 163.11(2) ARC 9422 ..... 11/16/88  
Motor vehicle dealers, manufacturers and distributors, 420.1, 420.2(4), 420.3(2), 420.7(2)"a" (4), 420.7(2)"b" (4) and (6), 420.12 ARC 9465 ..... 11/30/88  
Dealer plates, demonstration permits and testing permits, 420.4, 420.4(3)"e," 420.4(4) ARC 9466 ..... 11/30/88  
Designated highway system, 610.4(1)"b" ARC 9468 ..... 11/30/88

Fitzgerald reviewed miscellaneous amendments. Tieden was informed that tie bids have been received. Hammer indicated that the Iowa bidder would be selected over one from out of state. In the case of two Iowa bidders, previous contract and satisfactory performance would be considered. Sometimes, there is a drawing by lot.

Ch 163

According to Marvick, the majority of changes in Chapter 163 were made in response to 1988 Acts, HF 2386, and 1987 Acts, HF 472.

Ch 420

Skluzacek summarized principal changes from the Notice on amendments to Chapter 420. The definition of "fair" was clarified; "regular business hours" was redefined; the minimum size of the repair area was reduced to 14' by 24'; new motor home dealers will have the same display area as the used motor vehicle dealers and truck dealers, which is 18' by 30' outside area. Subrule 420.4(4) established a testing permit to allow dealers to use dealer plates for testing load capabilities of trucks and truck tractors. No other comment.

NATURAL  
RESOURCE  
COMMISSION

The following agenda was presented by Richard A. Bishop, Nancy Exline, Lowell Joslin, Daryl Howell and Vic Kennedy:

NATURAL RESOURCES DEPARTMENT (601) "umbrella"  
Endangered or threatened plant and animal species, 77.1 to 77.4 ARC 9479 ..... 11/30/88  
Wild turkey spring hunting, ch 98 ARC 9482 ..... 11/30/88  
Concession contracts, Title II, 14.1, 14.2(1)"d" (3), 14.2(2)"a" and "c," 14.3, 14.6 to 14.7 ARC 9481 ..... 11/30/88  
Salvage of fish and game, ch 80 ARC 9480 ..... 11/30/88

Ch 77

No questions regarding Chapter 77.

Ch 98

According to Bishop, there were few changes from the Notice on spring turkey hunting. Application dates were moved ahead 10 days, and provision for two license applications on the same form was deleted. No Committee recommendations.

Ch 14

Exline reported that a public hearing on amendments to Chapter 14 was scheduled for December 21. The rules

NATURAL  
RESOURCE  
COMMISSION  
Continued  
Ch 80

are intended to implement 1988 Acts, Chapter 1192, which eliminated Executive Council approval of concession contracts.

Joslin stated that new Chapter 80 sets out procedures for the salvage of accidentally killed fish and game seized by the Department of Natural Resources or designee. A public hearing had been set for December 20.

80.2(4)a

Priebe referenced 80.2(4)a with respect to valid salvage tags. He was concerned that an authorized person might not be readily available in remote areas. Joslin advised that state patrolmen and deputy sheriffs will be designees of the Department. Priebe thought 90 days was excessive for salvage tags to be valid--80.2(4)b. He took the position that the new concept should be referred to the General Assembly for review.

Motion to  
refer to GA  
Vote

Pavich moved that Chapter 80 be referred to the Speaker of the House and the Lt. Governor with recommendation that it be studied by the Natural Resources Committees in each house. Motion carried.

80.2(4)d

Doyle quoted 80.2(4)d, "It is unlawful to sell or trade any part of the carcass except as provided by law" and questioned intent of "except as provided by law." Joslin responded that the law provides for the sale of legally acquired skins and hides, plumage of legally taken game, and antlers.

Responding to question by Schrader, Joslin explained that Natural Resources had been operating under an old Conservation Commission policy and a tagging system under Iowa Code section 109.11. Primarily, only larger animals--deer and an occasional turkey--were tagged. In many cases, a patrolman provided a temporary tag. No formal action.

ENVIRON-  
MENTAL  
PROTECTION  
COMMISSION

Mark Landa, Tom Blewett and Vic Kennedy represented the Commission for the following:

NATURAL RESOURCES DEPARTMENT (all "umbrella"  
Prevention, abatement and control of air pollution, 20.2, 22.4, 22.4(4), 22.5(1)"k," 22.5(6), 26.2(2)"a"(2) and (3),  
28.2(2)"b"(2) and (3), 26.2(2)"c"(2) and (3), 28.1 ARC 9464 ..... 11/16/88  
Grants for solid waste comprehensive planning, ch 210 ARC 9465 ..... 11/16/88  
Underground storage tanks, ch 135, filed emergency ARC 9426 ..... 11/16/88

No Committee recommendations for amendments to 20.2 et al. or Chapter 210.

Ch 135

Landa stated that the Department has basically adopted the federal regulations pertaining to the underground storage tanks, except for those anomalies that are found in the Code with respect to notification and regulation of farm and residential tanks.

Clark stressed the need for consistency in instructions from the Department. She was concerned that people had

ENVIRON-  
MENTAL  
PROTECTION  
COMMISSION

not been informed of special equipment to track the problem and it was her opinion that the whole matter had been mishandled. Landa emphasized that the Department does not certify consultants. He defended the emergency adoption of the rules to be consistent with federal regulations. The Department's general rules have been rescinded.

In a matter not before the Committee, Priebe asked Landa to pursue the possibility of using agricultural lime to fill abandoned water wells.

PUBLIC  
HEALTH  
Special  
Review  
AIDS

Mike Guely, Cheryl Christie, Carolyn Caquelin, and Patricia Young appeared before the Committee for special review of drafts of rules addressing communicable disease control of dead bodies.

Guely commented that Department officials met with funeral directors on September 8 for the first meeting. A second meeting was held October 18 with the directors and a representative from the Iowa Hospital Association in attendance. The Department received eight written comments as a result of the first draft and thought universal precautions should be taken. On the other hand, the funeral directors were saying, "No, you ought to say that blanket tagging of all bodies does not constitute satisfying this notification requirement." A middle-of-the-road approach was followed with the second draft in an attempt for mutual agreement.

Initially, all of the AIDS legislation was going to be placed in one Code chapter and the Department wanted to follow suit with the administrative rules by adding these rules to Chapter 11. It was decided that Chapter 1 of Public Health rules would be the appropriate place since all contagious and infectious diseases were addressed, including AIDS. The November 30 draft generated two comments.

At a December 9 meeting, funeral directors were favorable to the third draft. "Blanket tagging" language has been eliminated making the rules more palatable to hospitals, health care facilities, etc.

Priebe wondered if doctors would continue to "red tag" every dead body. He voiced opposition to use of tags when death was attributed to cause other than infectious disease. It was his opinion that the hospitals would be liable for law suits if they continue this practice. Guely was hopeful that the rules could be finalized by December 28.

Priebe was as concerned about EMTs as the he was the funeral directors. Guely spoke of the "emotional" meeting when they lost their quorum and formal recommendations could not be made.

PUBLIC  
HEALTH  
Special  
Review

One recommendation was to modify language in HF 2294 but until this happens, the Department has a responsibility to implement the law as written. Guely recalled emergency workers from Cedar Rapids had expressed their views that emergency workers were entitled to this information as well as funeral directors. He added that the Iowa Bar Association, Iowa Hospital Association, and the Iowa Medical Society recognize the thin line between infringing on a person's right to privacy versus the valid public health issue. Consensus was that everyone should be using universal precautions against contagious disease to the greatest extent possible.

Guely saw a need to "educate" the public on the issue of AIDS and "we need to look at everything to attack this problem." No Committee action.

NO AGENCY  
REPS

No agency representatives were requested to appear for the following:

CITY FINANCE COMMITTEE[545]  
MANAGEMENT DEPARTMENT[641] "umbrella"  
Rescind 230—chs 1 to 6; adopt 545—chs 1 to 7, 9 and 10 ARC 9468 .F..... 11/30/88

DENTAL EXAMINERS BOARD[650]  
PUBLIC HEALTH DEPARTMENT[641] "umbrella"  
Grounds for discipline, 30.4"13" ARC 9421 .F..... 11/16/88

EMPLOYMENT SERVICES DEPARTMENT[341]  
Public records and fair information practices, 2.9(2)"f" ARC 9441 .F..... 11/16/88

JOB SERVICE DIVISION[345]  
EMPLOYMENT SERVICES DEPARTMENT[341] "umbrella"  
Employer's contribution and charges; claims and benefits; benefit payment control; placement; public records and fair information practices; forms, 3.19(5)"a," 3.14(1), 3.31(1)"b"(1) and (5), 3.39(1), 3.43(4), 3.43(8), 3.65(5) to 3.65(10), 3.68, 3.69, 4.2(1)"e," 4.2(3), 4.6(8), 4.10(1), 4.11(2) to 4.11(6), 4.11(8), 4.11(10), 4.17(1), 4.22, 4.24, 4.24(2)"b," 4.26(15), 4.27, 4.28(1), 4.28(2), 4.29, 4.31, 4.32(1)"b," 5.8(1)"d," 6.13(2), 7.2(8), 7.2(10), 7.2(11), 7.3(1), 7.3(4), 7.3(6), 7.4(4), 7.4(6), 7.4(10), 7.5(4), 7.7(1), 7.7(2), 8.9(2)"g," 8.10(2)"d"(9), ch 10 ARC 9487..... 11/30/88

PERSONNEL DEPARTMENT[581]  
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SUBSTANCE ABUSE DIVISION[643]  
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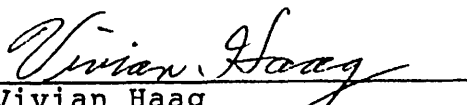
Next  
Meeting

The next meeting was scheduled for Wednesday and Thursday, January 4 and 5, 1989.

## Adjourned

The meeting was adjourned at 1:30 p.m.

Respectfully submitted,

  
Vivian Haag  
Assisted by Bonnie King

APPROVED:

CHAIRMAN