

MINUTES OF THE REGULAR MEETING
OF THE
ADMINISTRATIVE RULES REVIEW COMMITTEE

Time of Meeting: Wednesday and Thursday, June 9 and 10, 1982.

Place of Meeting: Committee Room 116, Statehouse, Des Moines, Iowa.

Members Present: Representative Laverne W. Schroeder, Chairman; Senator Edgar Holden; Representatives Betty J. Clark and Ned Chiodo. Members not present: Senator Berl Priebe, Vice Chairman and Senator Dale Tieden, who were on vacation.
Also present: Joseph Royce, Legal Counsel; Brice Oakley, Rules Coordinator; Phyllis Barry, Deputy Code Editor; and Vivian Haag, Administrative Assistant.

Meeting Convened Chairman Schroeder convened the meeting at 10:10 a.m.
CONSERVATION
COMMISSION Conservation Commission rules to be reviewed were:

CONSERVATION COMMISSION[290]
Wild turkey fall hunting regulations. 112.1, 112.2, 112.4 ARC 2894 ...F..... 5/26/82
Zoning and watercraft use, Black Hawk Lake. 30.10 ARC 2895.....N..... 5/26/82
Zoning and watercraft use, water skis and surfboards. 30.61 ARC 2896 .N..... 5/26/82

112.1, 112.2,
112.4

Roy Downing, Superintendent of Waters, and Robert Barrett, Superintendent of Wildlife, represented the Commission. Barrett explained that the major difference in Wild Turkey fall hunting regulations was much of the state will be open to bow hunting. Responding to Holden, Barrett said there had been no problems with bow hunters. No other questions.

Holden in the chair.

30.10

Downing discussed rule 30.10 which would reduce the restricted speed zones on Black Hawk Lake from 300 feet from shore to 200 feet. Aerators in the lake become boating hazards in the summer. Downing displayed a map showing location of aerators and emphasized the proposed change should not interfere with recreational activity.

30.61

Chairman Schroeder took the chair. Downing pointed out that 30.61 would prohibit water skiing from one-half hour after sunset to sunrise on waters under Conservation jurisdiction. Schroeder was not supportive of the proposed change contending it was the responsibility of each individual. Downing declared there had been a number of accidents after sunset and added that the person in the water creates the hazard, not the person on skis. Schroeder preferred barring the skiers from a designated swimming area but Downing pointed out that, on natural lakes and federal impoundments, there is no restriction on swimming.

CONSERVATION
COMMISSION
Continued

Oakley supported the cautious approach taken by Conservation. Downing solicited comments from skiers who favor that period just before and after sunset as being the ideal time for skiing. Conservation considered this proposal to be a "middle of the road" response.

Oakley was hopeful the Department would take an "even hand" with the educational process rather than citations. Downing assured him the Commission would try to do a good job of public education and would utilize the news release.

JOB SERVICE
(EMPLOYMENT
SECURITY)

Paul Moran, Job Insurance Administrator, and Joe Bervid, Attorney, appeared on behalf of Job Service for review of the following:

EMPLOYMENT SECURITY(370)

Employer's contribution and charges. 3.2(6)"c". 3.3(3)"c". 3.29(2). 3.31(1)"a"(1), 3.31(1)"c" and "d", 3.31(4)"a" and "c".
3.43(9)"a". 3.43(16). 3.49(1)"c". 3.49(1)"e". 3.70(6). 3.70(9). 3.71(5) ARC 2876 F 5/12/82
Claims and benefits. 4.1(27). 4.6(9)"b". 4.13(2)"n". 4.23(40). 4.24(15)"b". 4.43(5). 4.55 ARC 2877 F 5/12/82
Claims and benefits, factfinding interview. 4.1(48), Item 2 of ARC 2515 terminated ARC 2889 N 5/26/82
Claims and benefits, past acts of misconduct. 4.32(8), Item 7 of ARC 2515 amended ARC 2890 N 5/26/82

Bervid explained that amendments to chapter 3 contain changes in reimbursement rates--Moran advised ARRC members that it had been 8 or 10 years since the last change. He admitted this had been a controversial area. Bervid pointed out the previous figures were not realistic for tax purposes.

3.2(6)

In 3.2(6), responding to Clark's comment re the uneven dollar amounts, Bervid said Job Service tried to follow state per diem rates. There was discussion of deductions from unemployment insurance claims, which Moran said were below 10 percent.

chapter 4

According to Bervid, the important changes in chapter 4 amendments were in extended benefits--a federally sponsored and partially paid for program which is a benefit in times of economic difficulty--thirteen extra weeks of benefits provided to claimants. The new requirements are from the federal law. Bervid called attention to the definition of "suitable work" in 4.24(15)b(2). Schroeder referred to paragraph b(3) as being verbose. He asked for inclusion of a date certain for the public law reference. Bervid agreed to review the language.

4.1(48)

In re 4.1(48)--claims and benefits--Bervid reported that their proposal to allow use of telephones in fact-finding interviews was very controversial and was terminated.

4.32(8)

Holden questioned language in 4.32(8) and Bervid said Job Service desired to clarify that past acts could be considered in judging the magnitude of the current act. No further questions.

Committee
Business

There was brief discussion of the large volume of rules to be reviewed at the July meeting, which was scheduled for the 13th and 14th.

Committee
Business
Cont'd

Royce informed the Committee that he had been invited to join a group of Legislative employees who would be visiting the Minnesota Revisor of Statutes to view their operation. Barry noted that she had been invited also.

Motion

Chairman Schroeder called for a motion to authorize the necessary expenses for staff members to accompany the delegation June 23 to June 25. Chiodo so moved. Motion carried.

Vote

COLLEGE AID
COMMISSION

Gary Nichols, Assistant Executive Director, appeared on behalf of the College Aid Commission for review of National Guard education benefits as follows:

COLLEGE AID COMMISSION[245]

National Guard education benefits. 9.1(1)F and "g" ARC 2875 ... *N* 5/12/82

Nichols announced that changes were made to concur with the current scholarship and grant programs which are administered. Benefits will be provided only to students making fair academic progress and on-campus programs will be required. The structure of correspondence programs precludes inclusion in the program.

Schroeder suggested rephrasing the rule to provide that upon completion of a correspondence course, the student could receive reimbursement. Otherwise, in his opinion, this could be discriminatory. Nichols emphasized there was no intent to discriminate but funds were very limited. Holden wanted it clear in the rules that standards must be met or funds will be cut.

Clark supported the rule contending that on-campus study rather than correspondence courses should be encouraged. No further questions.

BUREAU OF
LABOR

Walter Johnson, Deputy Commissioner, David Topczewski, Peter Bos and Harold Holmgaard represented the Bureau of Labor for review of the following:

LABOR, BUREAU OF[530]

Administration of elevator division. 71.1 to 71.5 ARC 2902 ... *N* 5/26/82
Elevators, new installations. 72.1 to 72.18 ARC 2903 ... *N* 5/26/82
Existing elevators. 73.1. 73.2(1). 73.2(5). 73.2(13). 73.2(15). 73.2(16). 73.2(17). 73.3(9). 73.3(11). 73.7(1). 73.9(2). 73.9(10).
73.10(2). 73.10(3). 73.11(2). 73.12(5) to 73.12(8). 73.13(9) to 73.13(12). 73.14(2). 73.14(3). 73.14(5). 73.14(6). 73.14(8). 73.14(9).
73.15(1). 73.17(10). 73.18(6). 73.19 ARC 2904 ... *N* 5/26/82
Existing escalators, moving walks and dumbwaiters. 74.1(7). 74.1(12) ARC 2905 ... *N* 5/26/82
Permits-elevators. 76.2. 76.2(9). 76.3 to 76.5. 76.6(1). 76.6(4). 76.7 ARC 2906 ... *N* 5/26/82
Variances. 77.1 to 77.6 ARC 2907 ... *N* 5/26/82
Hearings and appeals. 78.1. 78.2(3). 78.2(4). 78.3(1). 78.3(2). 78.4. 78.5(1). 78.5(2). 78.7(1). 78.7(3). 78.7(4)
78.9 to 78.11 ARC 2908 ... *N* 5/26/82

Also present: J. E. (Ed) Murray, Sasco of Des Moines.

In re administration of elevator rules, 71.1 to 71.5, Johnson indicated the rules were a basic revision of all the existing rules except those dealing with fees. Changes had not been made since 1975. Elevator industry and selected groups such as Iowa Manufacturers Association had been apprised of the proposal--some comments had been submitted and changes were made. A public hearing was scheduled for June 24.

Murray reviewed his experience over the past few years and expressed his frustration with the frequency of inspection

BUREAU OF
LABOR
Continued

of his elevators, the excessive fees and apparent lack of interest by the Department with respect to his complaints.

71.2

Discussion of the statute which provides that the Commissioner may adopt rules providing for inspections of facilities at intervals other than annually. [SF 2210, 1982 Acts] The law requires every facility to be inspected at least annually, but the first inspection can be postponed by rule. That fact was brought to the Bureau's attention by the Citizens' Aide. Johnson referred to 71.2 which would be a solution to Murray's problem.

In answer to Chiodo, Johnson was not sure how many inspections could be made with the funds available. He estimated they should be able to complete those listed in 71.2(1)a. Chiodo wondered if all elevators were identified and categorized at this point. Johnson said the list of elevators came from a variety of sources including the industry. He added, however, that because of a slip-up in 1975, each owner of an elevator was not required to register within 90 days. Rule 71.4 requires registering and there are about 8000 registered elevators of which 4500 have been inspected. Schroeder recommended that language in lettered paragraphs of 71.2 be rearranged as follows: a, d, c, b, e and f.

Oakley asked Johnson's interpretation of SF 2210, re prescribing inspections less frequently than annually. He noted the Bureau has always had the authority to return and inspect an elevator any time. Oakley posed the question, "Do you interpret that to mean you can require inspections only every 2 years?" Johnson answered in the affirmative.

Oakley commented, "If that is the case, why don't you, under 71.2(1), when you know what your resources are, prescribe the frequency of all those elevator inspections?" Oakley was concerned about the mandate if the annual inspection is not made as to the liability of the state. Johnson said they did not, at this time, have the resources to inspect elevators listed in 71.2(1)"d" and "e". Oakley thought that should be so stated. He inquired if Johnson knew of a way to creatively deal with that exposure--by changing the nature of inspections, reallocations, or not spending as much time on "a" and "b". Johnson was doubtful considering the other requirements in the Code. Oakley recommended that a plan be drawn listing the facts -- and a list of the appropriation resources.

Oakley was concerned about posting of permits so the public would know when the next elevator inspection would be. In addition, he thought a plate in the elevator should state when it was inspected. Johnson stressed that even though an inspection had been made, a permit would not be sent until the fee has been paid. Holden concurred with Oakley's suggestion and declared it was important for the legislature to know the magnitude of the problem. Johnson cited the problem as lack of cooperation. Schroeder recalled deficiencies in the elevator bill when it was written in 1975.

BUREAU OF
LABOR
Cont'd

Holden wondered how an awareness of the law could be ensured. Johnson reiterated the rules were circulated among the industry and labor and 1304 copies were sent to elevator owners in the state. Mention was made of a possible news release. General discussion. Johnson corrected his statement that the rules had been sent out--rather a notice was sent stating there would be a hearing and the rules could be obtained in their office. The Bureau wanted to avoid unnecessary expense.

Clark suggested restructuring of 71.5(4) (5) to 71.6 and 71.5(6) to 71.7.

- 71.5 Holden was informed that "special inspector" in 71.5 was someone employed by an outside company. According to Johnson, when the law was written, the hope was that insurance companies would pick up inspections as they picked up boiler inspections. That has not occurred--an Ohio company inspects in several states. He assured Holden there was statutory authority for the practice.
- 71.5(3) With respect to 71.5(3)--proof of insurance--Johnson said the provision was recommended by elevator companies and others, such as IMA. Service company inspections will be acceptable to Bureau providing that company is not also providing service on the elevator. They want to avoid any conflict of interest. Holden preferred that dual inspection not be required. General discussion.
- Holden opined that major elevator systems would have maintenance agreements on their elevators and those inspections could be certified. Johnson indicated about 50 percent would have their own maintenance contracts.
- In 71.5(3), Clark questioned use of "of others" in the last two lines of "a". Johnson will try to clarify.
- 72.1 Schroeder asked if the italicized language in 72.1 was a grandfather clause. Holden contended the appropriate standard was not spelled out.
- 72.5 In re 72.5, Chiodo inquired about addition of the word "automatic." According to Holmgaard, it would apply to new installations only to remove excess oil leakage. Chiodo thought the cost would be prohibitive in low-use elevators.
- 72.18(b) Clark, in re 72.18(b) asked about impact on church elevators. Johnson recalled the ARRC had requested this rule last October. The inexpensive elevator would be built with some limitations. Clark had problems with the key-operated elevators but Schroeder knew of no complaints. Holden pointed out key-operated elevators were intended for infrequent use in locations such as churches for lifting a few handicapped people.
- 73.13(12) Schroeder referred to 73.13(12) and wondered what constitutes an excessive broken wire out of a 7-strand cable. Johnson admitted that an enormous amount of time was spent on that provision in an attempt to provide a concise form.

BUREAU OF
LABOR
Cont'd

He recalled the "overwhelming detail" of the National Code. Clark referred to 73.2(1) and was assured by Johnson there were no major changes for freight elevators -- the rule pertains to passenger elevators.

73.9(2)

Chiodo was informed that 73.9(2) applies to all elevators. Methods of enclosing the equipment were discussed.

74.1(7)

In re 74.1(7), Holden was advised the clearance on either side of the steps between the step tread and adjacent skirt panel was from the National Code.

76.2

In 76.2, Johnson informed Holden that the contract price of the installation was included because fees depend upon the price of the installation. Johnson agreed to modify 76.6(4). Schroeder asked for explanation of variances in chapter 77. Johnson said temporary variances are left to the discretion of the owner. He knew of no application for a permanent variance. There was discussion of the safety test. On an annual "drop safety test," the speed of the elevator is checked by 3 men to be sure it is working properly.

Holden asked Murray, as an elevator owner, if he would be comfortable with a statute that provided "your elevator inspector certify to you that this elevator was inspected according to the Code." Murray said he would be.

Johnson concluded that the rules, although lengthy, did not contain a great deal of substantive change.

Holden responded to query by Murray that if he suspects unfair treatment, he should contact his legislator. No formal Committee action.

Recess

Chairman Schroeder recessed the Committee at 12:13 p.m. to be reconvened until 1:30 p.m.

Reconvened

The Committee was reconvened at 1:45 p.m. with a quorum present.

BOARD OF
NURSING

Lynne Illes, Iowa Board of Nursing, Laura C. Harrison, Iowa Federation of Licensed Practical Nurses; James West, Iowa Medical Society attorney; Tina Preftakes, Iowa Medical Society; JoAnne Hannah, Iowa Hospital Association; S. Kay Montgomery, American Society for Nursing Service Administrators; Kay Myers, Iowa Nurses Association; Merle Wilma Fleming, Assistant Attorney General; Helen Van Gelder, Orange City; and Brad Bauman, Rock Valley, were present for review of the following:

NURSING BOARD OF [590]

Registered nurse, licensure by examination. 3.1(1), 3.1(5) ARC 2872 N 5/12/82
Licensed practical nurses, standards of practice. 6.1(14), 6.3(3) ARC 2873 A 5/12/82

Ch 6 delayed -- Standards

3.1(1)(5)

Illes gave a brief history of the rule pertaining to examination for licensure. In 1976, the Council and the Board of Nursing advised heads of nursing programs of the decision to change the exam. In April 1980, the Board directed their delegate to vote that Iowa would support a comprehensive licensing examination. The delegate assembly of the National

BOARD OF
NURSING
Continued

6-9-82

Council of State Boards of Nursing unanimously voted to adopt the new licensing examination. Heads of nursing programs were given ample time to peruse the curricula.

Illes apologized for the Board's error at the time of the last test--but they were of the opinion there was ample time to file rules since heads of nursing programs had been notified of the new exam. Illes admitted there had been considerable controversy about the matter. Chiodo questioned the Board's authority to allow a non-state operation to supersede state functions. Illes pointed out that Iowa is not required to join the National Council of State Boards of Nursing--it is optional. She continued that Iowa is a member of the National Council in order to offer examinations that are acceptable in all jurisdictions.

Since Illes was cognizant of ARRC's concern about whether or not the Board of Nursing could contract with a private organization, she requested the Board's legal counsel to respond. An Attorney General's opinion ruled the Board of Nursing was vested with the power to contract for examination of services. Illes said, "It is my view that the power to contract necessarily implies the power to enter into an exclusive contract with a private organization..."

Chiodo opined the Board was not conforming with the law. Illes disagreed.

Responding to Schroeder's question as to why the Board could not obtain partial exams, Illes said they could petition for an amendment to their contract but cited cost--about \$1,000 per test question, and if students take an Iowa Board constructed exam, candidates may not be able to "endorse" in any other US jurisdiction.

Schroeder insisted students should not be placed in that predicament. He was unhappy with the contract the Board had signed and labeled it "perpetual, with no way out." Illes explained that she seeks permission of the Executive Council to enter into the membership contract and sends it to legal counsel. She stressed the fact that the Board could choose to withdraw from the National Council.

Chiodo questioned the high cost of the test, but reiterated the fact that rules state individuals are entitled to partial test. Applicants should have the opportunity to decide. In his opinion, the Board has made the decision--not the applicant.

Illes said that 41 student candidates who took the February examination would have been eligible for a partial exam. She referenced a motion whereby they can petition the National Council. However, as yet they have not. Schroeder thought the Board should have asked the National Council for special dispensation. Chiodo asked Illes if students fail the July exam, will they have an option to retest. Illes could not respond--Board would have to make that decision.

BOARD OF
NURSING
Continued

Oakley interjected there seemed to be two philosophies--equity and law--a legal question first. He discussed both and concluded that if an exam is given that is authorized by Board of Nursing rules, it is a legal examination and applicants can be required to take the entire test. Oakley concluded there was no argument for a lag time of only 6 months.

Chiodo insisted that taking a partial test was well within the realm of reason. He failed to understand how ground rules could change after the test is taken. He continued, "Rules are to be written so they can be understood and it is immensely clear to me that to change the rules after somebody has read them is to make a mockery of the whole process."

Clark saw merit to both sides of the issue but she reasoned the potential licensed nurses know what kind of test it is they will take and she saw no unfairness.

There was discussion of time allotted for candidates to pass the test--up to 4 tests, not necessarily in a time frame. Schroeder wondered if it would have been preferable for the Board to petition the National Council for a special dispensation, in light of the error. Illes indicated that was still possible.

Chiodo resented the attitude taken in attempting to resolve the problem. He added that the Board incurred no burden as a result of the mistake. The student was the victim which he thought was unfair. Chiodo wanted it made clear that candidates do have legal recourse.

Illes said that at the public hearing held last week no one spoke in opposition to the rules. Fleming agreed with Chiodo with respect to legal questions but as an analytical observer in the conversation, she acknowledged that the Board is charged with protecting the public served by nurses; that is the underlying concern of whether nurse candidates can pass the test.

3.1(5) Clark referred to 3.1(5), sixth line, and recommended deletion of repetitious language. In response to Holden, Illes stated that 6.1(14) was intended to alleviate fear during disciplinary action. Clark was of the understanding that the rule was agreed upon by all factions.

Holden referred to the number 2 paragraph of the handout from INA and IFLPN. He wanted assurance that recommendations for LPN's would not be more comprehensive than those required for RN's. Illes said the course is being developed and details will be in the next bulletin. She added that the course is designed for a supervisory role for an LPN in a Long-Term Health Care Center.

Schroeder voiced criticism of contents of recent publications of the "Nurses Bulletin."

Clark commended the Board and other interested groups for their relentless effort in drafting an acceptable set of standards.

BOARD OF
NURSING
Continued

Although the process was slow, laborious and painful, it was proof to her that the "system does work"--the end result was something far superior from the standpoint of agreement within the profession. In conclusion, Clark sensed a feeling of mutual respect and she expressed her thanks to Illes who would be moving to Louisiana.

Motion

Clark moved to lift the 70-day delay imposed on chapter 6 at the April 13 meeting. Motion carried.

Illes asked permission to insert the word "adding" [in 6.3(2)] before the words "discontinuing intravenous infusions" when ARC 2873 is adopted. Members viewed the change to be for clarification and that would be acceptable.

Holden questioned Illes re continuing education as to what kind of supporting evidence the various boards are requiring for CE. It was his understanding there were cases where there is no certification. He also asked what evidence the Board had concerning renewal. Illes described their form as being similar to one for income tax where pertinent information re courses is required. She added that they approve providers throughout the state--about 140--and they also have an audit system. The computer is utilized to aid in ensuring compliance. Holden reasoned that with 37,000 people involved, the likelihood of anyone getting caught was negligible. Holden asked if there were a reason why a licensing board shouldn't require a diploma, certificate or statement from the provider. Illes cited a tremendous amount of paper work and expense. Holden was still skeptical of the procedure. No further recommendations.

Illes expressed thanks to the Committee and alerted them of future issues which would be presented to them, including midwifery.

HEALTH
DEPARTMENT

Peter Fox, Hearing Officer, and James Krusor, Board of Medical Examiners, represented the Department of Health for review of the following:

HEALTH DEPARTMENT[470]
Physicians' assistants. 136.3, 136.3(2) to 136.3(9), 136.4(1)rd, 136.4(2) to 136.4(5), 136.11(3) ARC 2915...X..... 5/26/82
Funeral directors. 146.1(7), 147.2(3), 147.2(9), 147.98(3), 147.101(4) ARC 2891.....X..... 5/26/82

136.3(2)

According to Krusor, the rules bring the Board of Medical Examiners rules into compliance with the statute. Schroeder inquired about fees and Krusor replied they were recommendations from Physician's Assistants Commission. In 136.3(2), the \$30 temporary fee is new for individuals who graduate in January and cannot take the examination until the following October. Scores are not released until the following January.

Responding to Schroeder, Krusor reasoned a PA who had not passed a certification examination should not be in a satellite clinic. He was hopeful there would be no problems.

136.3(2)
c(1)

Clark called attention to 136.3(2)c(1) and recommended "take" in lieu of "sit." Krusor was amenable. Clark advised revision of the paragraph for clarification. She asked rationale for 136.3(7) and Krusor indicated it was statutory.

HEALTH DEPARTMENT Continued

Schroeder questioned 146.1(7) concerning stricken language as to impact on border counties and cities. He interpreted it to read that a Nebraska resident who dies in an Iowa nursing home could not be returned to Nebraska for burial. Fox declared the intent was to make the rule less stringent. Presently, if the body is not embalmed, burial has to be within the local health department's jurisdiction, i.e., the county. Schroeder wanted assurance there would be no problems for interstate movement of the dead. He suggested another paragraph be added for clarification to the effect that bodies may be removed to the adjacent local health authority.

146.1(7)

147.101(4)

In re 147.101(4), Clark suggested "for one to three succeeding calendar years" be substituted for "one or more succeeding.... years," Fox was amenable.

Clark in chair.

IOWA ARTS COUNCIL

Nan Williams appeared on behalf of the Iowa Arts Council for the following review:

ARTS COUNCIL[100] Touring arts team. 2.3(11)"a"(6) and (7), filed emergency ARC 2881 FE 5/12/82

Williams explained the reason for the emergency amendment. In response to Clark, Williams said the emphasis was in getting new people in the program. She indicated a preference for elimination of the fee factor from the rules, leaving the determination to the Council. Discussion of what basis would be used to set fees. Holden suggested providing in the rules that "Fees shall be uniform except for the following:". Williams was amenable. It was Holden's opinion the preamble to the amendments regarding response by communities could have been more to the point.

No other comments. Holden in the chair.

ENERGY POLICY COUNCIL

Dennis Guffey, Deputy Director, was present for review of the following:

ENERGY POLICY COUNCIL[380] Grant programs for schools, hospitals, buildings owned by local government and public care institutions. 7.1(2)"k"(1), 7.5(3)"d", 7.7(2)"b", 7.8(1)"a", 8.2(2)"b"(2), 8.2(2)"c", 8.3(1)"d", 8.4(2)"a"(6), 8.6(3), 8.6(5)"b", 8.7 ARC 2917 5/26/82 Grant programs for schools, hospitals, buildings owned by local government and public care institutions. 7.3, 7.4, 7.6(1), 7.8(2)"a", 8.1, 8.5(2)"b", 8.5(6), 8.6(4)"c"(1), 8.6(5)"a" ARC 2918 5/26/82 Qualifications of energy auditors. 7.5(3)"a" ARC 2916 5/26/82

8.2(2)b

Guffey reported that the Council was correcting some Code references. Holden questioned the formula in 8.2(2)b. He preferred use of Btu's per square ft. per 100-degree days, 1000-degree days, individual degree days or whatever. Guffey understood Holden's position but emphasized that architects have no problem with the rule. That can be used in an accounting system in terms of energy usage. Normalization using that tool will be possible. Holden contended the Council had not said what it would be -- "You have given this analysis but for what year -- cold, warm, average, good or bad." He asked, "Why not use degree days which is constant and wouldn't it make a difference as to length of time?"

ENERGY POLICY COUNCIL Cont'd Guffey pointed out one user may want the energy accounting system on a fiscal year rather than on a calendar year. Holden argued that 8.2(2)b(2) was meaningless. He asked about architects and engineers who design buildings, e.g. one in Davenport and one in Nashville, Tenn--how can comparison be made. Holden took the position that "degree day" would be preferable. Guffey noted there are a number of systems. He stated those in the grant program have been told what to use for conversion factors--establishing a standard by which to measure Btu's that are consumed.

8.3(1)d In 8.3(1)d, Clark requested inclusion of a date certain for the CFR. There was discussion of the payback procedure and monitoring the grant. Clark suggested rewriting of 8.4(2)a and 8.5(2)b to eliminate verbiage.

In response to Schroeder, Guffey said rule 7.5 would have no effect on the weatherization program. Schroeder and Guffey discussed the qualifications for energy auditors in general. No further questions.

HEALTH DEPT. Special Review ch 42 The following individuals were present: Richard C. Hamilton, Administrator, Osceola Community Hospitals, Sibley; Mrs. Donna Towne, Administrator, Community Memorial Hospital, Hartley; Norene D. Jacobs, Vice President, Iowa Hospital Assn., Des Moines; Samuel J. Curnow, Administrator, Central Community Hospital, Elkader; Margaret J. Page, Iowa Society of Radiologic Tech; Cindy Windsor, President, Iowa Society of Radiologic Technologist, University Hospitals, Iowa City; John Myers, Administrator, Leon Hospital, Leon; Helen Van Gelder, Administrator, Orange City Municipal Hospital, Orange City; Brad Bauman, Administrator, Rock Valley Hospital, Rock Valley; Dr. Don Young, Penn Medical Plaza, Des Moines; John A. Eure and Don Falter, Department of Health and Larry Elings, Madison County Hospitals, Winterset.

Chair requested brief statements from those making presentations. He called on Department of Health officials for opening comments. Eure called attention to the reasonable approach the Department had taken and the widespread notification given to the regulated community. He described the training standards for the two categories--the limited one involves individuals who will be employing one or two techniques, chest and extremities--generally, in private offices. The other category would include any type of radiology--such as in a hospital setting with very little supervision. For the most part, hospitals require two years of training.

Eure continued that in hardship situations, where a facility or a possessor of radiation emitting equipment can show a strong need with a reasonable plan for training, the Department can allow up to ninety days to begin the training program. Classes are readily available. He assured Schroeder there were competent technologists to meet the need. Eure knew of no institutions which offer part-time training which would take 4 years.

Schroeder viewed the grandfather clause as being of paramount importance--interpreting that anyone who doesn't have it would have to resign to take the training. Eure replied that was not

HEALTH necessarily so. He knew of 15 people and 11 hospitals that would
 DEPT. be affected. In those hospitals, there are 40 qualified people.
 Special The hospitals will not be without radiographic services. Eure
 Review did not foresee many lost jobs since, in most instances, operators
 Cont'd are working as medical technologists as well as radiographers.
 He emphasized the Department acted in a reasonable manner by post-
 poning the effective date of chapter 42 until July 1, 1982. The
 rules were sent to every regulated facility with equipment--980
 hospitals and private practice facilities. A second mailing in
 March was accompanied by a questionnaire to determine facility
 status under the new rules.

Falter interjected a point of clarity with regard to the two-year
 training. He had contacted the National Regulatory Office re
 accreditation and was informed if the individual is a full-time
 student, he or she would be allowed to work.

Since June 1, 117 questionnaires have been returned for a total
 of 70 percent response from facilities--65 percent of private
 practices responded and 9 percent did not meet the two-year re-
 quirement. However, in most cases, doctors have made arrange-
 ments for them to attend the limited schools.

Responding to Schroeder, Flater reiterated that anyone who has
 two years of experience will be grandfathered. A person who is
 one month short can attend a night program offered by area com-
 munity colleges. Flater pointed out that in offices today less
 than 10 percent lack some type of medical professional training--
 RN's, LPN's or Lab Technicians. Department of Public Instruction
 made a survey previous to initiating the statewide training pro-
 gram. Schroeder expressed dismay over the fact that DPI, not
 Health, had conducted the survey.

Holden questioned department officials at great length as to the
 impetus for the rules.

Oakley offered that the basic premise of the need to protect the
 public had already been adopted and implemented. The "question
 here is whether or not it is applicable to certain basically
 rural areas and whether or not the health care standards are
 jeopardized by either not requiring this rule and its affect on
 those people or whether the costs will be elevated to the degree
 that pay for the kinds of people they mandate." Holden wondered
 if the law should be repealed.

Jacobs stated that her Association had been contacted by smaller
 rural hospitals asking for guidance. She opined the "limited
 diagnostic" radiography category was created primarily for the
 benefit of doctor's offices and clinics and it will be useless
 to every hospital in the state. The reality being that limited
 certification would permit an individual to take X-rays of chest
 and extremities in the doctor's office but he could not perform
 the same task in the hospital. She discussed the Department's
 interpretation of direct supervision as being the physical pres-
 ence of a practitioner. Jacobs asked that the ARRC delay the
 rules at least 70 days to provide additional time for a resolu-
 tion of the problem. She noted that their Ad Hoc Committee and

HEALTH
DEPT.
Cont'd

and Advisory Group who assisted the Department failed to include hospitals in the study.

Hamilton viewed the standards as "general" and "poorly written" contending that many facilities were probably unaware of potential consequences. He added that most X-rays are taken in hospitals --yet the Iowa Association of Hospitals was not invited to participate or to audit the standards. He spoke of the problems faced by small rural hospitals in being required to hire a special general diagnostic radiographer. There would be additional cost which would be added to the patient's costs, and, in his judgment, potentially serious consequences for the small rural hospitals as of July 1. He asked for postponement so the impact could be fully assessed. He concluded that the equipment operator must be able to apply X-radiation to any part of the body.

Schroeder asked if an emergency provision to permit this would alleviate the problem. Hamilton thought it would.

Curnow supported the points made by the first two speakers. He was unsure whether his personnel would be grandfathered and he supported the request for delay of the rules.

Windsor recalled that members of her Society which represents 50 percent of the registered technicians in the state spoke unsuccessfully in opposition to the rule over one year ago. They were sympathetic to the problems of rural hospitals. She recalled a survey last year which revealed there were 2.9 percent positions open. With respect to cross-training, she stressed that, "Just anybody off the streets should not be able to X-ray. As far as grandfathering, if it is wrong today, why should it be right tomorrow just because a person has worked "X" number of years." She called attention to the fact that the Iowa State Penitentiary sued the state for inadequate health care and the governor appropriated \$1.8 million to hire adequately trained personnel. Windsor felt the citizens of Iowa deserve as much. She disagreed that the chest and extremity X-rays were any less important than a cat scan since any kind of radiation is hazardous to the patient. She referred to more stringent regulations which were in process.

Windsor indicated her group was not in support of chapter 42 which they labeled as "ambiguous" and a compromise for trained individuals. Holden asked how many more licensed practitioners were needed to staff hospitals but Windsor did not know.

Page reported that this was the first year her students had not received job offers. Holden questioned, "Is this the reason it has become critical because there are not places for these people?" He pondered, "Where is the pressure coming from for licensed professional operators--is it from the public?" Windsor and Page responded it starts at the federal level but the public is becoming more and more aware of the hazards of radiation. Holden said it was the professionals who contacted him, not those being served. Windsor contended that was because of unawareness of the hazards. She denied there was any intent to "limit our profession for any kind of monetary gain." Their main goal was for the safety of the public.

6-9-82

HEALTH Clark asked who does the training in the small hospitals and
DEPT. Windsor said that it with no consistency. Towne was not
Special opposed to the concept of the rules but took the position that
Review attention should be focused on those who are operating X-ray
Cont'd equipment and never see the radiologist. In Hartley, the
radiologist is available at least twice weekly and he is held
accountable.

Schroeder asked Eure if this situation of someone working under direct supervision of a radiologist could be treated somewhat differently. Discussion of the definition of "direct supervision." Windsor took exception to the statement that two days a week would be considered as direct supervision. The analogy of physician assistants working in satellite areas under the direct supervision of a doctor was used. Discussion of required training for radiologists.

Holden pressed for an answer to his original question as to "What problem are we trying to solve?" Eure spoke of the biological effects of radiation. He continued there are no acute injuries but as near as the Department could fathom, any amount of radiation was harmful. They were concerned about exposure of the entire population which is exposed from background radiation at the rate of 100 MR. He cited numerous examples and degrees of radiation exposure and its effect.

Holden questioned Eure as to how much more radiation exposure were patients in small hospitals subjected to as opposed to metropolitan areas. Eure emphasized the rules were not restricted to rural Iowa. He cited the problem of inexperienced technologists having to retake X-rays, thus doubling exposure. Eure admitted they had found "atrocious use of X-ray in Iowa" but could not cite any one individual. They had found 3 old machines and there is a 25 percent noncompliance rate on equipment.

Oakley observed that the burden is on those who maintain that the exemption should be broader. It seemed reasonable to him that the debate should center on elevating medical costs and requiring too much training rather than saying we are going to let the gap be so broad for people to be able to do the same thing.

Holden pointed out the one example dealt with the antiquated equipment, not the operator.

Myers read a letter from 5 smaller hospitals that agree with objectives of radiation control but feel the standards are coming "too fast and too soon." They urge use of nonregistered technologists. Oakley reasoned the grandfather clause would not answer the problem of lack of qualified personnel. He faulted the industry for not being more sensitive to the issue.

Clark observed, "The trained people can't find jobs and jobs can't find people." She wondered whether the argument was simply to protect the status quo. The problem of obtaining highly qualified professionals in the smaller communities was discussed.

The chair entertained a motion for a 70-day delay on the rules.

HEALTH Windsor clarified that "radiographers" are "technologists" as
DEPT. opposed to "technicians."
Special
Review Dr. Don Young, who served as chairman of the Ad Hoc Committee
Con- prior to the legislation, recalled the legislation was a compro-
cluded mise. He emphasized the need for competent personnel.

Motion Clark moved that a 70-day delay be placed on 470--ch 42, Iowa
to Administrative Code, of the Department of Health rules for fur-
Delay ther study.
Ch 42

August Royce inquired if it would be acceptable to reschedule the rules
Review for review in August and Schroeder thought that would be in order.

Vote The motion to delay chapter 42 for 70 days carried with 4 ayes--
Priebe and Tieden absent.

Recess Chairman Schroeder recessed the meeting at 5:30 p.m. to be re-
convened Thursday, June 10, 1982.

Recon- Chairman Schroeder reconvened the meeting at 9:08 a.m. in Com-
vened mittee Room 116--Priebe and Tieden not present. Also present:
Royce, Oakley, Barry and Haag.

SOCIAL Social Services Department was represented by Judy Welp, Rules
SERVICE and Manual Specialist, David Lyn, Division of Mental Health/
Mentally Retarded Developmentally Disabled, and Margaret Stober.

The following rules were before the Committee:

SOCIAL SERVICES DEPARTMENT[770]		
Adult correctional institutions, 16.10(7)"b" and "e" ARC 2885	F	5/26/82
State community mental health and mental retardation services fund, ch 32 ARC 2897	F	5/26/82
Supplementary assistance, limitation of expenses, 54.3(11)"m" ARC 2863	F	5/26/82
Medical assistance, 78.3, 78.10, 78.12(16), 80.4(1), 81.10(4)"f" and "g", 81.10(5) ARC 2882	F	5/26/82
General provisions, 130.1, 130.3(5) ARC 2886	F	5/26/82
Child day care services, 132.4(2) ARC 2884	F	5/26/82
SOIL CONSERVATION DEPARTMENT[780]		
Iowa soil 2000 program, ch 6 ARC 2919	F	5/26/82
Fair hearings and appeals, 7.1(15), 7.5(3), 7.5(4), 7.7(1), 7.7(2)"k" to "m", 7.9 ARC 2870	N	5/12/82
Community mental health center standards, ch 33 ARC 2898	N	5/26/82
ADC, source of recoupment, 46.5 ARC 2899	N	5/26/82
Homemaker-home health aide services, chore services, chs 144 and 149 ARC 2482 terminated ARC 2900	N	5/26/82

16.10 No questions re 16.10(7)b and e. Responding to Schroeder, Welp
ch 32 had received no comments on amendments to chapter 32. She said
54.3 54.3(11)m would affect very few homes since most are owned. No
comments. Medical assistance amendments were considered.

78.3 Schroeder raised question re 78.3, hospitals -- in the new
language "Limitations shall be updated annually." Welp reported
that their Council had been unhappy with some of these rules
but since they were filed, the agreement was not to change at
this time. Schroeder asked her to make a note of his opposition.

ch 130 According to Welp, rule 130.1 changes the definition of family
for the services program--block grant. Definition of "temporary
absence" was added to the rule so DSS would have knowledge as to
when a person was still a member of the family. She said there
had not been a big problem but questions had been received from
the field.

SOCIAL SERVICES Cont'd Subrule 132.4(2) limits the child day care program through the block grant program. Recipients of ADC or the refugee program would not be eligible for day care services when they can have it as a work expense or a training expense. Welp did not anticipate resulting hardship.

ch 7 Welp stated that amendments to chapter 7 were needed to comply with monthly reporting and retrospective budgeting system required by the Omnibus Budget Reconciliation Act. Responding to Schroeder, Welp claimed the monthly report form would require recipients to account for changes in certain circumstances. Food stamp questions re rent and utilities will not appear until next year. Clark commented that she had been upset about the form contending it should have been simpler. Welp explained briefly that DSS had contracted with an individual at University of Northern Iowa to simplify the form and another person voluntarily rewrote it. Three different forms are being tested out in the field and DSS has requested client comment. Clark approved of that approach.

Schroeder wondered if any groups had developed a service for completing forms for recipients on a professional basis. According to Welp, DSS has requested waivers to exempt a large block of grants from a monthly report.

Stober explained that chapter 33 rules were reviewed by a task force and by the Standards Committee on Mental Health who generated changes from existing rules for mental health centers.

33.2 (1)a(5) In re 33.2(1)a(5)--governance--Clark questioned the mandate of "approximately an equal number of men and women." She contended "It negates the whole idea of equality." She and Schroeder recommended that it be deleted. Schroeder questioned intent of 33.2(1)b(4). Welp explained that at least one meeting a year would be required. Schroeder thought uniform policies re meetings were set out elsewhere in Social Services rules.

Clark pointed out the centers' meetings were autonomous. She continued that one of the real concerns in past mental health reorganization was whether the centers would lose their individuality. After further discussion, no formal action was taken.

33.3 Stober told Schroeder that credit for experience would be addressed in 33.3(1)b(1)--administration.

9:40 a.m. Oakley arrived. Clark saw no problem with strict qualifications for administrative officer of a mental health center. Schroeder preferred a waiver provision for exceptions. Welp agreed to refer the matter to the Council.

In re 33.3(4)g(2), Schroeder inquired as to whether reference to "collective bargaining agreements" was appropriate. Welp was unsure if they could require notices of openings without placing some qualifications in the rule.

No recommendations were offered for ARC 2899 and ARC 2482.

NO REPRESENTATIVES The following rules were perused by the Committee and the Public Instruction proposed rule was reviewed briefly. Holden referred to language in 5.30 and favored the alternative of no drinking while driving. Clark thought use of "alternatives" should be clarified.

Agriculture No representative was present but Royce announced that Duncan had assured him that old language for food service standards was being restored and changes were made to clarify substantive intent of language already in place.

PUBLIC INSTRUCTION DEPARTMENT[670]
 Instruction course for drinking drivers, 5.30, 5.31 ARC 2869 ...*N*..... 5/12/82

AGRICULTURE DEPARTMENT[30]
 Food establishments ch 38, 39.2(4) to 39.2(10) ARC 2868*F*..... 5/12/82
 Standards for gasoline signs and pump advertising, 55.48 ARC 2909 ..*F*..... 5/26/82

No questions were raised with respect to the following:

INSURANCE DEPARTMENT[510]
 Duplicate Medicare supplement coverage, accident and health-minimum standards, 15.9, 36.10(4)"a", 36.5(6)"c"
 ARC 2913*F*..... 5/26/82
 Health maintenance organizations, 40.10(1)"g", 40.12, 40.1(10), 40.13, 40.14 ARC 2914*F*..... 5/26/82

PROFESSIONAL AND OCCUPATIONAL REGULATION COMMISSION[637]
 Evaluation of professions and occupations, 5.3, 5.4 ARC 2865 5/12/82

SOIL CONSERVATION DEPARTMENT[780]
 Iowa soil 2000 program, ch 6 ARC 2919 5/26/82

TRANSPORTATION, DEPARTMENT OF[820]
 Driver licenses, (07,C)13.5(4)"c", "d", and "e" ARC 2735 terminated ARC 2887 ...*N*..... 5/26/82
 Liquid transport carriers safety regulations, (07,F) 13.8(1), filed emergency ARC 2888 ...*N*..... 5/26/82

The following rules of the Office for Planning and Programming were discussed briefly but no formal action was taken:

OFFICE FOR PLANNING AND PROGRAMMING[630]
 Governor's highway safety program, 12.4(3), 12.5 ARC 2878.....*N*..... 5/12/82

NATURAL RESOURCES

Mike Smith, Hearing Officer, was present for review of:

NATURAL RESOURCES COUNCIL[580]
 Permits to divert, store or withdraw water, floodway construction, 3.1(4), 3.2(3)"c", 5.60(2)"c" ARC 2866 ...*F*..... 5/12/82
 Evaluation of professions and occupations, 5.3, 5.4 ARC 2865*F*..... 5/12/82

Also present: Floyd Millen and Ken McNichols, representing Limestone Producers Association.

Smith reported communication between Natural Resources and the Limestone Association over the last several months resulted in the modification of the rules. Smith emphasized there was specific statutory authority to require a permit from the Natural Resources Council for diversion of water or other material from the surface directly into any underground course or basin. He understood the industry concern since, for the first time, the rules address limestone quarries. Smith said that because of the particular nature of limestone, there is valid reason to address quarries and the potential pollution of limestone aquifer when surface water is allowed to run into it.

In response to Schroeder re stip coal mining, Smith stated the potential for pollution at a coal mine site in Iowa was not nearly as great as it was with limestone.

NATURAL
RESOURCES

He continued that in eastern Iowa, limestone quarries are sources of ground water. The rules were tailored to be applicable only where the Council has information on a potential problem. Smith cited 3.2(3)c which has added language placing more burden on the Council to provide evidence. Smith indicated that they could take action in a specific case without the rules.

Responding to Holden, Smith acknowledged the rule would apply only when a permit is requested to dewater a quarry. Smith said if they have a permit and haven't made application, it also applies to that situation. He did not believe the Department would have jurisdiction over a quarry that was not being worked.

Holden was interested in knowing why the rules did not address gravel pits. Smith spoke of the very substantial difference between the way water flows through sand and gravel aquifers and the way it flows through limestone. He explained the process by which pollutants stay in the cracks and crevices and settle to the bottom. He referred to a polluted aquifer in Decorah caused by human excrement from septic tanks, and cesspool leaching.

McNichols spoke of the impact of the rules on the limestone industry and their resentment at being discriminated against. He recalled that in the past 14 years, there was not one incident of pollution from an abandoned operation or a limestone mine or quarry.

Holden asked for documentation of a single case of pollution of an aquifer because of a limestone quarry operation. Smith reiterated there was a definite potential for pollution and some kind of preventative measure was justified.

Smith explained to Oakley the intent of 3.2(3) was to impose requirements that water be diverted by berm or by ditch away from the quarry if there was evidence of pollution. Oakley expressed two concerns: (1) Delay that government creates on legitimate economic enterprises which Natural Resources Council, in some areas, does not understand; and (2) unenforceable regulations due to lack of resources. Smith could not give assurances the rules could be enforced because of staffing levels. However, he was confident that the controversy under the rules would involve relatively few cases. General discussion.

Millen pointed out the similarity between gypsum and limestone quarries and wondered why both were not included in the rules. According to Smith, gypsum is not a source of drinking water.

Discussion of possible objection and delay of the rules.
Motion to Delay Clark moved that, since there is so much disagreement on the matter, the Committee place a 70-day delay on ARC 2866. Holden thought they had used the "door-opener" of somebody's need to pump water out of his quarry to get at another problem

NATURAL RESOURCES Cont'd

which, if there is a problem, could be handled from a health standpoint without an actual permit. Schroeder suggested that Smith consult Ken Choquette and John Eure from the Health Department for advice on solution. Smith was amenable. He reiterated that a polluted aquifer is irreversible.

Recess

Chairman Schroeder recessed the Committee at 10:30 a.m. Committee was reconvened at 10:45 with Schroeder in the chair.

REVENUE DEPT.

Carl Castelda, Deputy Director, and Brian Bruner, Supervisor, Property Tax Division, appeared on behalf of the Revenue Department for review of the following:

REVENUE DEPARTMENT[730]	
Supplemental assessments and refund adjustments, 11.6(3), 43.2, 51.2(1)"h", 57.2(1)"h", 63.2, 81.6, 86.3(4), 103.2 ARC 2910	5/26/82
Permit (retail sales tax), 13.8 ARC 2911	5/26/82
Real estate transfer tax and declaration of value 79.2(2), 79.2(6), 79.2(9), 79.2(10), 79.2(12), 79.2(13), 79.5(1), 79.5(4) ARC 2912	5/26/82

Castelda commented that ARC 2910, with one exception, was identical to that filed under Notice -- a clarifying sentence was added to 43.2, 51.2(1) and 57.2(1) providing that the rule shall not prevent Revenue from making an assessment or refund adjustment when there is a federal law. No questions.

In a matter not officially before the Committee, there was brief discussion of the governor's veto of SF 2153 pertaining to tax exemption for certain printing materials. Holden and Schroeder requested that the Department draft a similar bill for introduction in the General Assembly next year. Castelda was willing to work with the Committee.

13.8

In discussion of 13.8, Castelda reminded Committee of Senator Priebe's concern about the statutory authority of the Revenue Department to establish a statute of limitations with respect to withdrawal of permits. Castelda referred to the explanatory letter he had sent to Royce. No formal action taken on amendments to chapter 79.

ch 79

COMMERCE COMMISSION

Ronald C. Polle and Ben Stead, Commerce counsel, appeared for the following:

COMMERCE COMMISSION[250]	
Restoration of agricultural lands, pipelines and underground gas storage, 9.4(1)"a", 9.4(2)"a", 10.1, 10.2(1), 10.2(2), 10.2(3), 10.3, 10.12, 10.14, 10.16 ARC 2867	5/12/82
Accounting, 16.2(9), 16.3(9), 16.4(2) ARC 2880	5/12/82

Schroeder raised question with respect to easements for pipelines--in particular, if additional compensation to owners would be made when an extra line is laid in the same court. Polle was not familiar with the old contract but he presumed that companies would want to keep them as broad as possible.

Schroeder suggested someone from Commission consider that area for possible legislation. Holden pointed out that the contract could not be changed. Polle agreed to pursue the question. He added that the rules before the Committee were simply to implement certain of the most recent amendments to the Code.

No questions regarding accounting amendments.

PLANNING AND PROGRAMMING Jim Lynch and Bruce Ray appeared on behalf of Planning and Programming for review of the following:

Community services block grant. ch 22 ARC 2879 F 5/12/82

ch 22

Responding to Schroeder, Lynch said he knew of no complaints since the formula was issued. Schroeder had heard complaint from a taxpayer regarding the ranking of communities. Lynch recognized the similarity between chapter 22 and Community Development Block Grant Program rules. He contended the taxpayer was referencing that program and not today's rules on the Community Services Block Grant. Lynch said OPP planned to place all of their rules under review on the Community Development Block Grant, and by September, can show what happened in terms of the rating system.

Schroeder asked if there were a process to change carriers when communities are dissatisfied. Lynch spoke of methods where the programs are turned over to other agencies as long as they meet federal and state mandates. According to Lynch, a critical factor for OPP was to ensure delivery of services to the recipients--meals on wheels, headstart, congregate meals, etc.

Schroeder wondered if there could be an overseer at the local level--Lynch said he would not be adverse to that approach but pointed out they had been meeting with other state agencies who are working with the West Central area to share problems. No other comments.

BOARD OF REGENTS

Board of Regents were represented by Gordon Munson, R. W. Ferguson and Reid Crawford, Iowa State University. Also present: Don Volm, Director, Regents Merit System. These rules were before the Committee:

REGENTS, BOARD OF(720)
Personnel, reduction in force. 3.104(4)re ARC 2901 F 5/26/82
Traffic and parking, Iowa State University. 4.25 to 4.32 ARC 2874 F 5/12/82

Rules 4.25 to 4.32 were reviewed. Crawford introduced Ferguson and Munson and he reminded members that parking rules were extremely detailed. Schroeder interjected the possibility that parking rules from all three state universities be reviewed. Crawford stated that, at ARRC request, students who use parking on campus will now be required to have permits just as faculty and staff. Iowa State decided to discard detailed parking rules in favor of a more general approach followed by University of Iowa. He referenced Royce's memo re a possible formal procedure for rules for other than faculty and students. With respect to parking, faculty and students would be exempt from parking regulation under the Administrative Procedure Act. Crawford thought it advisable for them to propose a schedule of fines and procedure applicable to the general public. Schroeder wondered if all three universities could operate with the same schedule of fines. Crawford saw that was a possibility but added that Iowa State has to remain consistent with the City of Ames. Ferguson reported that receipts of \$200,000 are generated by fines and from that, administrative costs are deducted.

BOARD OF
REGENTS
Cont'd

The city does not share in the revenue. Crawford called attention to the fact that Iowa State was preparing a parking manual and he agreed to provide the Committee with copies.

Royce suggested the possibility of virtually eliminating all of the parking rules and simply adopting the manual by reference. Crawford was receptive to the idea. The Committee recommended Iowa State contact the other two universities to ensure continuity in the rulemaking process.

- 4.26 (9) In re 4.26 (9), Holden recommended that "pedaled" be changed to "propelled" since all definitions are based on how the bicycle is propelled.
- 4.29 (6) In 4.29 (6), Holden requested further clarification with respect to parking on the street. General discussion.

Schroeder requested that the President of Iowa State be apprised of today's recommendations.

ARC 2901

Volm presented background to ARC 2901. About one year ago, for purposes of affirmative action, the rule was proposed to make the requirements regarding reduction in force, in this aspect, for nonorganized employees, consistent with the similar provision in the state's collective bargaining contract. After Board approval, the rule was presented to the State Merit Commission. Some concerns were raised and an AG opinion was requested by Mr. Keating, then Director of State Merit Employment. The Commission deferred action until the AG opinion was issued-- January 15, 1982--confirming the legality of the provisions in question. The State Merit Department Commission then approved the provisions that had been requested by other state agencies and the Board proceeded to file the permissive rules.

Volm advised Holden that a letter from an AFSCME attorney requested a hearing. Since it was not a valid request, it was withdrawn. No further questions.

ARTS
COUNCIL

Royce informed the Committee of a request from the Waterloo Recreation Commission for a special review of Arts Council sub-rule 2.3(8). After discussion, the Committee directed Royce to draft a letter concerning the request to the Director of the Arts Council and also send a copy to Representative Tom Lind. Royce draft is reproduced herein.

Re: 100.IAC 2.3(8)-criteria for
operational support grants

Dear Dr. Grabarski:

At its 9 June 1982 meeting the committee considered a request by the Waterloo Recreation Commission that a special review be held for subrule 2.3(8), relating to the definition of large-budgeted performing and visual arts organizations. The committee did not take any action on that request.

The committee did request that the arts council reconsider the income floors that establish eligible performing and visual arts organizations; and consider the possibility of developing more flexible eligibility criteria for operational support grants. The committee would appreciate an initial response that explains the need to limit operational grants to performing arts organizations

ARTS
COUNCIL

with a budget of \$100,000 and visual arts organizations with a budget of \$200,000, and why applicants must be single discipline organizations. These criteria in particular seem somewhat rigid and of limited value in determining what constitutes a "large-budgeted performing and visual arts organization. It would be helpful if these two questions could be answered at your earliest convenience. At a later time the council could consider possible alternatives to the current subrule.

If I can be of any help please contact me at any time.

REAL
ESTATE
COMMIS-
SION

Gene Johnson, Director, and Ken Smith represented Real Estate Commission for review of the following:

- REAL ESTATE COMMISSION(700)
- Brokers and salespersons. examination application. 1.3 ARC 2892 ..F..... 5/26/82
- Brokers and salespersons. 1.27. 1.27(5). 1.30 ARC 2893 ..N..... 5/26/82

No questions re 1.3

In the discussion of trust accounts, 1.27, Schroeder raised question as to need of "located in the state of Iowa." Johnson said they were not aware of any other state that does not now require the trust account to be in the home state. Johnson said it did not preclude money from a Nebraska real estate transaction being placed in this account. Schroeder was interested in knowing if there had been a problem. Holden saw no problem because "if your business broker in Iowa sells Illinois property then he has had to have an Illinois license. If he has, then he has to comply with the Iowa-Illinois law."

Johnson pointed out many multijurisdictional companies were operating in Iowa and money on Iowa property being held in trust should be held in Iowa.

Schroeder suggested that consideration be given to a "tag line" that this rule applies to listing after the effective date of the rule. Johnson said from a practical standpoint, they operate under a rule of reasonableness and it was decided the word "acceptance" was the key word and date was unnecessary.

Holden recommended that the title be expanded to include "broker associate" and Johnson agreed. 1.27(5) was discussed briefly. Johnson pointed out there was a great deal of unclaimed money in trust accounts.

In a matter not officially before the Committee, Holden discussed a problem with an individual who had sent insufficient money for application and his broker placed him on in-active status. During the ensuing confusion, his license became delinquent. Discussion of both sides of the issue. No formal action taken.

Adjourned Chairman Schroeder adjourned the Committee at 12:35 p.m. Next regular meeting scheduled for July 13 and 14, 1982.

Respectfully submitted,

Phyllis Barry
Phyllis Barry, Secretary
Vivian Haag, Assistant

APPROVED:

Laverne Schroeder
Chairman