

MINUTES OF THE REGULAR MEETING
OF THE
ADMINISTRATIVE RULES REVIEW COMMITTEE

Time of Meeting The regular meeting of the Administrative Rules Review Committee was held Tuesday and Wednesday, March 8 and 9, 1988, State Capitol, Room 24, Des Moines, Iowa.

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

Convened Chairman Priebe convened the meeting at 7:30 a.m., Tuesday, March 8, 1988. He called for disposition of minutes of Minutes the February meeting. Senator Doyle moved approval of the February minutes as submitted. Motion carried.

PAROLE BOARD James Twedt and Richard George were present for the following:

CORRECTIONS DEPARTMENT[201]"umbrella"
Rescind 615—chs 1 to 9, adopt 205—chs 1 to 13 ARC 8435...X..... 2/24/88

Ch 6 Twedt indicated the rules were rewritten to comply with state government reorganization. He pointed out that Chapter 6 on victim notificatin reflects legislation passed last year.

Ch 7 Discussion of Chapter 7 relative to parole and work release. George noted that rule 7.6 reflected the accelerated interview requirement which has had dramatic impact on the Board's workload. In January, 359 inmates were interviewed as opposed to 150 prior to the "prison cap." Priebe viewed provisions concerning conduct of spectators to be somewhat limiting in 7.14(3). Department officials said that it was not new language and recalled a law suit filed by the "R and T" against the Board when its position was that parole interviews were not public. Priebe was told that allowing the staff to stand during parole proceedings did not create problems.

6.7 In 6.7, Clark thought that in the case of violent crime, victim information should be withheld. George agreed to review the matter.

5.4(3) Clark and Twedt discussed 5.4(3) on disclosure of confidential information and it was noted that the statute requires disclosure of the substance of opinions expressed in a letter.

7.2(1) Twedt concurred that the second sentence of 7.2(1) was unnecessary. Clark challenged the apparent option by use of "request" in 7.3--inmate orientation.

PAROLE
BOARD
Cont'd

George emphasized that all rights can be waived. In response to question by Clark, George indicated that a video tape is used to inform inmates regarding parole and work release. A handout is also provided. Clark stressed the importance of uniformity in dissemination of information on how the "system" works. She referenced letters from inmates wherein they complain of inconsistent treatment. Department officials thought the point was well taken.

- 7.6(4) Clark viewed provisions in 7.6(4)d as being quite open and George agreed to review the rule.
- 7.6(5) With respect to case review, George advised that an inmate is notified of the decision following an interview. Subrule 7.6(5) refers to case reviews conducted because of prison overcrowding.
- 7.6(6) Doyle questioned use of "department" in 7.6(6) since the "institution" normally conducts interviews. George said that it was used generically but the language would be clarified. Doyle questioned use of "including simple misdemeanors" in 10.7 and Twedt agreed to review the rule. Doyle also suggested inclusion of language relative to the parolee's right to remain silent. He questioned authority for 10.10(2)c(5) relative to "prima facie showing..." and George was willing to rewrite the provision.

Chairman Priebe recognized William Angrick, Citizens' Aide, who discussed time frame for mandatory minimum sentences; whether violation of parole agreements are public record; and whether inmates are entitled to an attorney at the time of rescission or revocation of parole--if so, who would be the appointing authority, etc? Angrick was also interested in who would determine whether a language interpreter would be present for non-English speaking inmates and who would be responsible for the costs. George referenced pending legislation to move prior forceful felony mandatory minimum to the court system. He agreed that there was a void in state government on the non-English speaking issue and commented on the constitutional right to a fair hearing for the revocation.

- 12.3(3) There was discussion of commutations of sentences and restoration of citizenship and Doyle took the position that language in 12.3(3) should appear in Chapter 11, "Parole Discharge." George said the rules followed the sequence of events. He recalled that the statute addressed restoration of citizenship under executive clemency and that parole discharge was dealt with in a separate statute. Procedurally, when the board recommends discharge, they may also recommend restoration of citizenship. George agreed with Doyle's suggestion to include such provision in both Chapters 11 and 12. No other questions.

COMMITTEE
BUSINESSUniform
Rules

Upon request by Barry, Tieden moved that the editor of the Iowa Administrative Code be authorized to publish in the Iowa Administrative Bulletin the Final Report of the Governor's Task Force on the Uniform Rules relative to Public Records and Fair Information Practices. [17A.6(1)c] Motion carried. Parker voted "no."

CORRECTIONS
DEPARTMENT

Fred Scaletta and Harry Cannon appeared for the following:

Inmate Transfer Hearing Board(505) rescinded, filed emergency, ARC 8432....*FF*..... 2/24/88
Inmate civil legal assistance, 20.14(5) ARC 8430.....*N*..... 2/24/88
Iowa state industries, amendments to 37.1, 37.2 ARC 8431.....*N*..... 2/24/88

Inmate
Transfer
Hearing Bd.

No questions re ARC 8432 which rescinded rules of the Inmate Transfer Hearing Board. The Board was repealed in 1983.

20.14

Scaletta explained 20.14(5) which states that rule 291--20.14(246) would be effective contingent upon funding for the program. No questions re amendments to Chapter 37.

HUMAN
SERVICES

Those in attendance for the rules of Human Services included: Mary Ann Walker, Mary Ellen Imlau, Jon Payer, Mary Nelson, Daniel W. Hart, Nancy Haigh, Dan McKeever, Bob Lipman, Harold Poore, Joe Mahrenholz, Jan Walter, and Marg Corkery. The agenda follows.

Departmental organization and procedures, exceptions, 1.8 ARC 8365....*F*..... 2/10/88
Conditions of eligibility, persons ineligible for ADC, 75.1(2) ARC 8363....*F*..... 2/10/88
Medical and remedial care providers, pharmacists, 79.1(8)"a," "b" ARC 8366....*F*..... 2/10/88
Child care centers, family and group day care homes, 109.1(7), 109.1(11), 109.2(2)"h," 109.2(6), 109.3(6), 109.3(8), 109.4(4)"a," "c" to "e," 109.4(8), 109.5(4)"a," 109.5(8), 109.6(2), 109.6(3)"b" to "c," 109.6(5)"c," 110.5(1)"a" ARC 8390....*F*..... 2/10/88
Subsidized adoptions, 201.1, 201.2, 201.3, 201.3(1), 201.3(1)"f" to "h," 201.3(2), 201.3(3), 201.3(4), 201.4, 201.4(3), 201.5, 201.6(1), 201.6(1)"b" to "d," 201.6(3), 201.7, 201.8, 201.10 ARC 8364....*F*..... 2/10/88
Confidentiality and records, ch 9 ARC 8387.....*N*..... 2/10/88
Aid to dependent children eligibility under the SEID project, ch 48 preamble, 48.3 ARC 8389.....*N*..... 2/10/88
Unemployed parent workfare program, 59.3(4), 59.4, 59.4(2)"f" ARC 8433.....*N*..... 2/24/88
Medically needy--conformance with Medicaid coverage, 86.2(4), 86.6(3), 86.8(1), 86.8(3) ARC 8434.....*N*..... 2/24/88
Foster care services, 202.1, 202.4, 202.5, 202.5(1), 202.5(2), 202.6(1), 202.6(4), 202.8(4), 202.15 ARC 8388.....*N*..... 2/10/88

1.8

No recommendations for 1.8.

75.1(2)

In response to Tieden and Priebe, Walters explained that 75.1(2)b provides if a person of a household elects to exclude income and resources, one of the three groups under paragraph "a", they are also excluding income and resources from Medicaid eligibility. Parker discussed a hypothetical situation relative to self-supporting parents of minor unmarried parents. He thought the entire process should be studied at a future time. Walker agreed to provide additional information. No questions re 79.1(8), amendments to Chapter 109 or amendments to Chapter 201.

79.1, Ch 109
Ch 201

Ch 9

In review of Chapter 9, Clark questioned definition of "confidentiality" which seemed "wide open." Hart pointed out that the rules on records would be revised when the final report of the Governor's Task Force on Fair Information Practices was available.

According to Department officials, rule 48.3 will establish policy for implementing a four-year, self-

HUMAN
SERVICES
Continued

employment demonstration pilot project. The goal is to eliminate public assistance policy disincentives for ADC recipients with programs such as WIN or JTPA. Iowa has a \$100,000 appropriation which will be federally matched. Parker recalled a similar program under the Department of Economic Development. Haigh commented that the DED program was targeted for low-income persons not necessarily ADC recipients.

48.3(1)

Priebe raised question in 48.3(1)b as to whether there was a limitation on nonhomestead real property. Department officials explained the intent was to assist low-income persons. An example would be a building on main street of a small town, where a business could be started. McKeever stressed that this program would be limited to eligible ADC recipients and property that could be used in self-employment enterprises.

In response to Parker, Haigh said the waiver from counting up to an annual net profit of \$15,000 from the 185 percent gross income test was allowed by the federal government. Intent was to allow for seasonal growth in a good month. Parker expressed skepticism of the process.

Ch 86

No questions re amendments to Chapter 59 or 202. Brief review by Walker of amendments to rules on medically needy. She noted that "categorically related" in 86.8(1) clarified that Medicaid was available to all pregnant women in categories of assistance, e.g., ADC, blind, or disabled.

PUBLIC
HEALTH DEPT.

The agenda and representatives of the Department of Public Health follow.

Laboratories for employee drug testing, ch 12, filed emergency after Notice	ARC 8422	<i>FEAN</i>	2/21/88
WIC program, 73.2, 73.3, 73.5(4) to 73.5(6), 73.6(1), 73.7(3) to 73.7(5), 73.18	ARC 8410	<i>F</i>	2/21/88
Statewide obstetrical and newborn indigent patient care program, ch 75	ARC 8403	<i>F</i>	2/21/88
Statewide obstetrical and orthopedic indigent patient care program, ch 82	ARC 8402	<i>F</i>	2/21/88
Confidentiality of records, 103.1(4) Notice	ARC 8267	terminated	2/21/88
Confidentiality of records, 103.1(4)	ARC 8426	<i>N</i>	2/21/88
Financial assistance to eligible end-stage renal disease patients, 111.6(2), filed emergency	ARC 8401	<i>FE</i>	2/21/88

Mike Guely, Phyllis Blood, David J. Fries, Cheryl Grasty, Dennis H. Bach, Pierce Wilson, Joyce Spencer, Susan Osmann, Muriel Cedenno, Brian Barnhart. Also present: Jim West and Chris Kiltough, Iowa Grocers Association.

Ch 12

Fries explained that Chapter 12 was adopted to close a gap on drug testing of employees. Guely called attention to 12.18(2) which required the Department to publish in the IAB a change in approved laboratory testing. He wanted to revise the subrule to provide "The Department has a list of currently approved laboratories." Department officials explained that requirements for drug analysts were identified in 12.13(3) since there is no certification process. Fries pointed out that the State Hygienic Laboratory would provide inspection of all facilities that analyze specimens for detection of chemical substances. This was intended to eliminate any conflict of interest.

PUBLIC
HEALTH
Continued

Parker recommended that the rules be submitted for publication under Notice again. Tieden reasoned that 12.5(4) and 12.5(5) should be clarified and he also favored opportunity for more discussion. Fries stated that any positive test, whether 80 or 90 percent, must go through confirmation testing and be 100 percent.

Tieden questioned documentation of testing process in 12.11. He noted inconsistency in 12.4(3)b(4) and 12.18(1)h as to use of "government" and "state" agency. Priebe asked the Department to renote the rules.

Ch 73

Bach provided history on rules pertaining to the WIC program. Clark observed that controversy surrounding the rules had not been resolved.

Chairman Priebe recognized West who spoke of changes in criteria for contracting with vendors which would exclude convenience stores and many smaller grocery stores from participation in the program. Categories of fresh produce and meats were included in groceries which must be stocked.

Motion
to Delay

There was discussion of possible delay of the rules for further study. Clark moved a 70-day delay on amendments to Chapter 73.

Bach declared that it was not the Department's intention to exclude grocers in small communities and he did not believe the rules would have that effect. He was concerned that delay of the rules would place the program "in legal limbo." The Department would lack authority to approve or disapprove applications.

Royce advised that existing rules did not include selection criteria for vendors. It was noted that broad federal regulations charge the state with responsibility for writing vendor selection criteria. Bach concurred with Priebe that Iowa was more restrictive than federal requirements. He stated that in addition to publication of the Notice, copies of the rules were mailed to every vendor under contract and only one response was received.

ARRC members inquired as to why the Department rejected the suggestion of the Grocers Association and Bach responded, "We did not believe it would make significant difference in the number of people affected."

Vote

The motion to delay 70 days carried. The issue will be placed on the April agenda.

Ch 75

Clark suggested deletion of the words "the individual is" from the definition of "resident" in 75.1. However, the correction can be made in a subsequent filing.

No recommendations were offered for Chapter 82, or 103.1(4).

PUBLIC
HEALTH
Concluded

Spencer explained that revision of 111.6(2) will allow for 100 percent reimbursement for the end-stage renal program. She agreed to furnish Doyle with figures on the medically needy program.

BLIND
DIVISION

R. Creig Slayton and Kris Leschefska appeared for Division for the Blind. The agenda follows.

HUMAN RIGHTS DEPARTMENT (421) "umbrella"
Agency procedure for rule making, ch 3 ARC 8384 F 2/10/88
Confidential information, fair information practices Act regulations, rescind 2.1, new ch 13 ARC 8385 N 2/10/88

Ch 3
Ch 13

No questions re Chapter 3. There was brief review of Chapter 13.

Doyle raised question in 13.1, paragraph 1, as to how records could be located without use of name or other identifier. It was noted that the language in 13.1 was recommended by the Attorney General. Royce expressed concern over records that identify Iowa residents and citizens, whose records can be located through an index. He stressed the importance of controlling this type of information compiled by the government.

Priebe questioned the use of lists. He asked, "If it is not listed, is it excluded?" Burnett pointed out that the language in question would appear in rules of every agency. Priebe suggested that someone from the AG office be requested to appear at the April meeting to discuss the "purpose and scope" rule.

AGRICUL-
TURE &
LAND
STEWARDSHIP
10.22

Arlo Hullinger, John Whipple, David Werning and Chuck Eckermann represented the Department for the following:

Administration, ch 1; rescind 30—ch 1 ARC 8429 F 2/24/88
Pesticides, continuing education, 10.22(5) to 10.22(7) ARC 8386 F 2/10/88
Fertilizers and Agriculture lime—sample fee, 8.20(2) ARC 8436 N 2/24/88

In review of amendments to rule 10.22, Eckermann pointed out that the date for continuing education compliance was extended one year because of the groundwater legislation.

Doyle asked if there would be provision for extension of time for compliance and Eckermann had not considered that. He recalled that other agencies provide for extension due to extenuating circumstances.

Royce brought up the matter of "banking of continuing education hours." Doyle favored the concept but no formal action taken. Doyle questioned use of "habits" in 10.22(7). [Editor checked later with Department official who confirmed that "habits" was correct.]

8.20

In re 8.20(2), Priebe was advised that receipts and expenditures were basically balanced.

Recess

Recessed at 9:12 a.m. to be reconvened Wednesday, March 9, 1988.

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Reconvened
Wednesday

Chairman Priebe reconvened the ARRC at 7:35 a.m.,
Wednesday, March 9, 1988, with quorum and staff present.

ECONOMIC
DEVELOPMENT
DEPARTMENT

Richard Webb, Melanie Johnson, Diane Oak Goode, and Jeff
Nall represented the Department for the following:

Emergency shelter grants program, 24.3, 24.9, filed emergency ARC 8412... N.F.F...... 2/24/88
Small business innovation research grant assistance program, ch 59 ARC 8317, also filed
emergency ARC 8318... N.F.F...... 1/13/88
Labor-management cooperation program, ch 10 ARC 8278, also filed emergency ARC 8279... N.F.F...... 1/13/88
* (Carried over from February meeting)

In response to Priebe, Johnson said that emergency
filing of amendments to Chapter 24 was necessary to
comply with HUD's insistence that the funds be expedited
through Economic Development Department and committed to
local governments within a 60-day time frame.

Review of Chapters 10 and 59 deferred temporarily.

COLLEGE AID
COMMISSION

Gary W. Nichols and Darlene Lawler appeared on behalf
of the Commission for:

Iowa guaranteed student loan program, 10.27, 10.77, 10.79(2) ARC 8358... F...... 2/10/88
Iowa work-study program, ch 18 ARC 8359... F...... 2/10/88
Iowa guaranteed student loan program, 10.2(1), 10.2(2), 10.7, 10.10, 10.11, 10.25, 10.31, 10.33, 10.37, 10.38, 10.41,
10.42(1), 10.42(1)"a.", "c.", "d.", 10.42(2)(3), 10.43, 10.44(7), 10.45 to 10.48, 10.51, 10.52, 10.54 to 10.57,
10.57(1)(2), 10.58 to 10.68, 10.70 to 10.76 ARC 8360... N...... 2/10/88

Lawler described the Iowa guaranteed student loan and
work-study programs. Doyle was advised the rules did
apply to Community Colleges. Nichols said the Student
Loan Service references were used primarily to distin-
guish the federal student borrower program from the
program for parents. Iowa uses PLUS loans for both
students and parents.

ARRC expressed their preference for use of "shall"
rather than "must." Nichols pointed out that the re-
quirements were federal. Doyle noted use of "may not"
in 245--10.25, second paragraph, and recalled an AG
ruling against that expression. Nichols agreed to
consider ARRC recommendations.

ECONOMIC
DEVELOPMENT

Parker arrived and Chairman Priebe called up rules of
Economic Development carried over from the February
meeting. Parker reiterated his dissatisfaction with
the rules in terms of what should be accomplished and
how points would be ranked. He concluded that the stat-
ute and the rules were unclear.

In response to Committee opposition to emergency rules,
Johnson spoke of a tentative plan to eliminate such
filings. She emphasized that the Department makes a
good effort to work with those affected by programs
before rule drafts are developed. Representative Clark
excused.

NURSING
BOARD

Ann Mowery appeared for the following:

PUBLIC HEALTH DEPARTMENT (641) "Umbrella"
Nursing education programs, 2.1, 2.3(2)"d"(1) to (4), 2.6(1)"a"(1) to (3), 2.6(2)"c"(1) to (5) ARC 8407... N...... 2/24/88
Licensure to practice--registered nurse/licensed practical nurse--fees 3.1 ARC 8446... N...... 2/24/88
Nursing practice for registered nurses/licensed practical nurses, 6.5(1)"c"(4) ARC 8406... N...... 2/24/88
Advanced registered nurse practitioners, 7.3 ARC 8408... N...... 2/24/88

NURSING
BOARD

Also present: Dr. Chet Rzonca, University of Iowa; Barb Crittenden, Southwestern Community College; Ann Aulwes, Indian Hills Community College, Ottumwa; and Robert Ernst, Southwestern Community College, Creston.

Ch 2

According to Mowery, amendments to Chapter 2 deal with the issue of "grandfathering" nursing faculty. She reviewed history of the rule making and the fact that Community Colleges had asked for further negotiation. Mowery expressed her frustration with trying to please all factions. She responded in the negative when questioned by Tieden as to possible change in position of the Board. She reasoned that Iowa was "far behind the rest of the country." Mowery added that national standards are not being met.

Tieden reiterated his concern that more stringent educational requirements would aggravate the nurse shortage problem. Mowery reminded that she had included the grandfather provisions requested by the Committee. She referenced a study on the complexity of nursing. No Committee action.

No questions re 3.1 or 6.5(1)c(4).

7.3

In the matter of advanced registered nurse practitioners, rule 7.3 places into rule form guidelines which have existed for more than five years.

Mowery informed Doyle that liability insurance for advanced registered nurse practitioners would cost more. She cited her situation when she reached the higher grade and her premium increased from \$100 to \$1200. She did not have information on companies which were writing the coverage. Mowery thought that National Organizations were working with insurance carriers on coverage for midwives. Tabor arrived.

Discussion of role of midwives and the fact that Iowa has only five or six in that profession. No other comments.

Fair
Informa-
tion
Practices
Committee
Business

Barry sought Committee guidance with respect to publication of a large volume of rules intended to implement Iowa Code section 22.11--Fair Information Practices. Since over 40 agencies had submitted those rules simultaneously, it would not be possible to follow the customary editorial, typesetting, and proofing functions and meet the statutory deadline for publication in the Iowa Administrative Bulletin.

Barry requested and received permission to reproduce the uniform rules as they were submitted with an editor's explanatory note.

There was discussion as to whether the Task Force rules on Public Records and Fair Information Practices could be adopted by reference by the various agencies. Full text of the Uniform Rules would be included in Volume I of the

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Committee Business Iowa Administrative Code following the green tab, "Uniform Rules." Other uniform rules include Petitions for Rule Making; Declaratory Rulings; and Rule-making Procedure. Adoption by reference will reduce publishing costs. It was reported that many agencies prefer to have their rules set out in full. Mention was made of possible legislation to extend compliance date for filing fair information rules but conclusion was that such action would be after the fact. General consensus was that adoption by reference would be acceptable.

NURSING BOARD Chairman Priebe announced that the Committee would hear comments from persons interested in Chapter 2, Nursing Board rules. Rzonca referenced a letter to Charles Moench, Bureau of Area Schools Education Department, with respect to faculty credentials for nursing education. Rzonca did not oppose advanced degree requirement but contended it should not be limited to an MSN. He concluded that area schools need flexibility.

Aulwes, Department Chairperson of Health Occupation at Indian Hills Community College in Ottumwa, also spoke in opposition to narrowing of degrees required to teach in Community Colleges. She contended there was no documentation that nursing education was deficient at this time. Since the Board has authority to approve curriculum, Aulwes saw no reason to hire a consultant.

Crittenden concurred with Aulwes and pointed out the increasing student enrollment and the problem of qualified faculty.

Ernst, Vice President of Instruction at Southwestern Community College, commented that the original filing startled them in that it appeared individuals would be "going from the rank of private to general in one large step." He stressed that Community College faculty must teach many facets within the nursing field. Ernst concluded that the Masters in Nursing requirement was an "unobtainable goal and could serve to put us out of business."

Tieden could foresee a nursing shortage with more stringent requirements.

BOARD OF REGENTS R. Wayne Richey, Executive Secretary, presented the following:

Admission rules common to the three state universities. 1.4	ARC 8382 ..F.....	2/10/88
Transfer, renumber and amend 720--chs 1 to 16 to 681--ch 1 to 16, transportation reimbursement.	16.8	ARC 8396 ..F.....
Special transfer credits	720--1.3(1)	IAC

Also present: John V. Sjoblom, Registrar, Iowa State University, and Kris Garrison McCartney.

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BOARD OF
REGENTS
1.4

Richey indicated there had been no changes re 1.4 since the Notice. Doyle inquired as to what would be a "serious disciplinary action" in 1.4(1)e. Sjoblom viewed dismissal of a student as serious. Doyle questioned how an alien could be a resident--1.4(2)h and was informed that an alien with a permanent visa is treated the same as a U.S. citizen student from another state. Richey emphasized the issue was one of residency, not citizenship. He stated that they attempt to ensure uniform interpretation of the rules at each institution.

16.8

No recommendations offered for items pertaining to transfer of Regents rules to conform with state reorganization and amendment to 16.8.

Special
Review
1.3(1)

Royce addressed the Committee concerning a complaint from Kristine G. McCartney involving the transfer of junior college credits into the Regents system. Subrule 1.3(1) allows a maximum of 60 hours credit for junior colleges, but included in that number is the credit from all schools attended.

Priebe recognized McCartney, who challenged 1.3(1) [2nd paragraph] which states that "transfer credit from a two-year college will not reduce the minimum number of credit hours required for a baccalaureate degree if that credit is earned after the total number of credit hours accumulated by the student at all institutions attended exceeds one half of the number of credit hours required for that degree." She had become aware of the provision when she applied for admission to Iowa State University last fall. McCartney had earned 54 hours of credit at the University of Iowa several years ago and two years later, she attended Des Moines Area Community College and earned 50 hours through the legal assistant program. Iowa State University would accept only 65 hours of credit.

Richey interjected that the legal assistant program was not transferable. He explained that the operative words were "earned after"--it is the sequence in which the credits are earned. Parker took the Chair. Richey offered an example--all credits could be transferred when a student attends a community college for two years and then enrolls in a private college for one year. He indicated a willingness to study the matter.

Parker voiced opposition to "sequence making a difference" and questioned whether the individual should lose that credit. General discussion. No Committee action.

REVENUE &
FINANCE

Carl Castelda was present for the following:

Taxable and exempt sales, agricultural products and services, 16.52, 17.4, 17.9, 17.9(5), 18.44(5), 18.44(6) ARC 8449.....	2/24/88
Filing returns, payment of tax and penalty and interest: determination of net income, 52.4, 52.4(5), 53.8, 53.8(2), 53.8(2) "c", 59.6 ARC 8448.....	2/24/88
Procedure for nonlocal business entity bond forfeitures, 7.27 ARC 8447.....	2/24/88
Determination of a sale and sale price, 15.3, 15.3(3) to 15.3(5) ARC 8397.....	2/10/88

REVENUE &
FINANCE
Continued
16.52

Castelda indicated 16.52 re taxable and exempt sales of agricultural products and services was controversial. Public hearing revealed that many groups felt the rule was too narrow. However, the Department believes they lack statutory authority to extend the refund program. Castelda referenced two corrective bills pending--SF 2100 and HF 2248.

Royce cited a hypothetical situation--can the dealer accept the farmer's word that equipment he buys is tax exempt? Castelda replied that the dealer would be required to charge the sales tax and the farmer would need to apply for the refund. The Department was aware of confusion between this program and the straight agricultural indemnity program which applies to self-propelled implements of husbandry (SF 395, 1985).

Parker had received complaints as to ambiguity concerning machinery and equipment sales tax on industrial equipment. Castelda was aware of a problem regarding depreciation of agriculture equipment and referenced pending corrective legislation. However, he was unaware of problems with industrial equipment and suggested that those with complaints could file petition for formal declaratory ruling. This must be done prior to the audit and assessment. Castelda said that the Department encourages taxpayers to visit informally, after an audit, and before assessment. Approximately 85 percent of the protests are resolved without formal hearings.

52.4
et al.

No questions re amendments to 52.4 et al. Castelda reviewed proposed rule 7.27 and reported that an informal opinion of the AG has advised that the statute is unconstitutional in that it requires bonding of out-of-state contractors. [87 Acts, Ch60] Castelda expressed preference for repeal of the statute. No recommendations for 15.3.

15.3

ENERGY AND GEOLOGICAL RESOURCES DIVISION Victor Kennedy represented the Division for the following rules carried over from the February meeting:

RESOURCES
DIVISION

NATURAL RESOURCES DEPARTMENT[561] "umbrella"
Energy audits grants programs. 7.1(2), 8.6(4)"b," "c," and "d" ARC 8290...*N*.....1/13/88
Grants to nonprofit and local government housing organization, ch 19 ARC 8300...*N*.....1/13/88
(Carried over from February meeting)

He stated that the definition of "complex" in 7.1(2) was federal language. No Committee action.

ENVIRON-
MENTAL
PROTEC-
TION
COMMISSION

Mark Landa, Marla Gallardo, Randy Clark, Dennis Alt and Wayne Farrand were present for the following:

NATURAL RESOURCES DEPARTMENT[561] "umbrella"
Emission standards for contaminants, 23.1(2), 23.1(2)"bb," "cc," "yy," "zz," "aaa" to "ddd," 23.1(3),
23.1(3)"h" ARC 8391.....*F*.....2/10/88
Criteria for award of grants, financial assistance, 91.1 ARC 8393...*F*.....2/10/88
Description of organization, rescind 900--ch 1, filed emergency ARC 8392...*FA*.....2/10/88
Private water well construction permits, ch 38 ARC 8291...*N*.....1/13/88
(Carried over from February meeting)

Brief discussion of amendments to Chapter 23 and 91.1.
No questions.

ENVIRONMENTAL
PROTECTION
COMMISSION
Continued

Randy Clark indicated that Chapter 38 describes the types of wells for which construction permits are required. There was discussion as to the role of counties. With respect to enforcement, R. Clark said that approximately 20 county sanitarians are actively involved in overseeing these private water wells, sewage systems, etc. No Committee recommendations.

TRANSPORTATION
DEPARTMENT
602.11

Doyle requested review of rule 602.11, with respect to eligibility for an operator's license. Chapter 602 had been placed in the "No Rep" category. Doyle contended that an applicant should have the privilege of buying a 4-year license when the applicant would be 18 years old as determined by the expiration date on the license. He concluded that current practice unfairly penalizes the individual who applies for a 4-year license any time within the 30-day time period prior to the individual's 18th birthday. The position taken by DOT has been that an applicant under age 18 is only eligible for a 2-year license.

Motion to
Delay 602.11

Doyle moved to delay for 70 days the effective date of rule 602.11(321) to allow time for further study of the matter. Motion carried.

No Agency
Reps

No agency representatives were requested to appear for the following:

BANKING DIVISION[187]
COMMERCE DEPARTMENT[181]"umbrella"
Applications procedures, 2.14 to 2.18 ARC 8362...F..... 2/10/88

CREDIT UNION DIVISION[189]
COMMERCE DEPARTMENT[181]"umbrella"
Investment powers, ch 17 ARC 8428...F..... 2/24/88

EDUCATION DEPARTMENT[670]
Standards for accredited schools and school districts, ch 4, Economic Impact Statement on ARC 7758 Notice
published 7/15/87.....N..... 1/27/88
Area vocational schools and community colleges, 5.45(2) ARC 8361...N..... 2/10/88

EMPLOYMENT APPEAL BOARD[486]
INSPECTIONS AND APPEALS DEPARTMENT[481]"umbrella"
Rules of procedure for OSIIA appeals, rescind 610—ch 1, adopt 486—ch 4 ARC 8404...N..... 2/24/88

EMPLOYMENT SERVICES DEPARTMENT[341]
Fair information practices Act, ch 2 ARC 8413.....N..... 2/24/88

ENGINEERING AND LAND SURVEYING EXAMINING BOARD[390]
Standards for accredited engineering and land surveying programs, 1.2-3" ARC 8415...N..... 2/21/88

FAIR BOARD[371]
Transfer and amend 430—chs 1 to 8 to 371—chs 1 to 8: Insurance, quality standards and products, space rate,
advertising restrictions, Walnut square, 4.9, 4.27(5), 4.28(2), 4.28(7), 4.28(8), 4.29, 7.9 ARC 8399...N..... 2/21/88

HEALTH DATA COMMISSION[411]
Transfer 465—chs 1 to 8 to 411—chs 1 to 8: commission membership, 1.2, 1.2(1), 1.2(2), 1.3 ARC 8405...N..... 2/24/88

INSPECTIONS AND APPEALS DEPARTMENT[481]
Renumber 481—chs 4 and 5 as 481—chs 10 and 11 ARC 8379...F..... 2/10/88
Agency procedure for rule making, ch 4 ARC 8380...F..... 2/10/88
Food establishment inspections, 31.1"4" ARC 8381...F..... 2/10/88
Family member may refuse to give name, address or phone number to care review committee, 57.24(5), 53.27(5),
59.32(5), 63.22(5), 64.35(5) ARC 8418...F..... 2/21/88
Admission and retention of persons with histories of dangerous and disturbing behavior, 57.35(9) ARC 8417...F..... 2/21/88
Action on claim of dependent adult abuse of a resident, 57.39(4), 58.43(9), 59.48(9), 63.37(4), 64.49(9) ARC 8416...F..... 2/24/88
Suspected abuse reports, 57.39(5), 58.43(10), 59.48(10), 63.37(5), 64.49(10) ARC 8418...F..... 2/21/88
Minimum physical standards for residential care facilities, ch 60 ARC 8420...F..... 2/21/88
Persons with mental illness, ch 62 ARC 8421...F..... 2/21/88
Food establishment inspections, food service establishment inspections, 31.2, 32.3(6) ARC 8378...N..... 2/10/88

INSURANCE DIVISION[191]
COMMERCE DEPARTMENT[181]"umbrella"
Treatment for statutory accounting purposes of various items on insurer's financial statements, 5.5,
5.6 ARC 8423...F..... 2/24/88
Life insurance companies—variable annuities contracts, 31.4(9) ARC 8377...F..... 2/10/88

No Agency
Reps
Continued

JOB SERVICE DIVISION[315]

EMPLOYMENT SERVICES DEPARTMENT[341]"umbrella"

Employer's contributions and charges, claims and benefits, 3.83 to 3.88; 4.1(21), 4.2(1)"h"(1),(2),(3), 4.2(1)"j", 4.9,
4.20, 4.21, 4.22(2), 4.22(3), 4.51, 4.52, 4.53, 4.54 ARC 8383 ..N..... 2/10/88
Iowa fair information practices Act, ch 8 ARC 8414 ..N..... 2/24/88

NATURAL RESOURCE COMMISSION[571]

NATURAL RESOURCES DEPARTMENT[561]"umbrella"

Permit requirements and construction standards for docks and similar structures, 16.8(8), 16.9(1)"e" ARC 8444 ..F..... 2/24/88
Wildlife refuges, delete Gilchie Manitou, 52.1(1) ARC 8445 ..F..... 2/24/88
Commercial fishing, ch 82, 82.2(1) ARC 8356 ..F..... 2/10/88

Water fowl and coot hunting seasons, 91.1, 91.2, 91.3 ARC 8439 ..N..... 2/24/88
Pheasant, quail and gray (Hungarian) partridge hunting seasons, 96.1, 96.2, 96.3 ARC 8440 ..N..... 2/24/88

Common snipe, Virginia rail, sara, woodcock and ruffed grouse hunting seasons, 97.1, 97.2, 97.3,
97.4 ARC 8442 ..N..... 2/24/88

Wild turkey fall hunting, ch 99 ARC 8443 ..N..... 2/24/88

Deer hunting regulations, 106.1, 106.2, 106.6, 106.8 ARC 8441 ..N..... 2/24/88

Rabbit and squirrel hunting, 107.1, 107.2, 107.3 ARC 8438 ..N..... 2/24/88

Mink, muskrat, raccoon, badger, opossum, weasel, striped skunk, fox (red and gray), beaver, coyote, otter and
spotted skunk seasons, 108.1 to 108.6, 108.7(1), 108.7(2)"f", "g", "h", "i" ARC 8437 ..N..... 2/24/88

PUBLIC HEALTH DEPARTMENT[641]"umbrella"

Pharmacy license, general provisions, 3.4 ARC 8370 ..F..... 2/10/88

Minimum standards for the practice of pharmacy, 8.11(3)"b"(3), 8.11(4)"c", 8.15(3)"b", 8.16 to 8.18 ARC 8371 ..F..... 2/10/88

Civil penalties, 9.1(2)"i", 9.1(4) ARC 8368 ..F..... 2/10/88

Code of professional responsibility for board investigators, ch 13 ARC 8369 ..F..... 2/10/88

Transfer and amend 620—chs 1 to 12 to 657—chs 1 to 12, filed emergency ARC 8367 ..F..... 2/10/88

Information policy, record system, and inspection of records, rescind I.I(9); new ch 14 ARC 8374 ..N..... 2/10/88

Minimum standards for the practice of pharmacy, rescind 8.7, renumber 8.8 to 8.15 as 8.7 to 8.13 ARC 8372 ..N..... 2/10/88

Controlled substances, rescind 10.10(6), 10.13(7), 10.13(11), renumber 10.13(8) to 10.13(15) as 10.13(7) to
10.13(13) ARC 8373 ..N..... 2/10/88

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10.13(13) ARC 8373 ..N..... 2/10/88

Next Meeting The next meeting was scheduled for Tuesday, Wednesday, and Thursday, April 19, 20 and 21, 1988, to coincide with adjournment of the General Assembly.

Adjourned Meeting was adjourned at 9:10 a.m.

Respectfully submitted,

Phyllis Barry
Phyllis Barry, Secretary
Assisted by Vivian Haag

APPROVED:

Burt E. Kuehl

CHAIRMAN