

MINUTES OF THE SPECIAL MEETING OF THE ADMINISTRATIVE RULES REVIEW COMMITTEE

- Time of Meeting** The special meeting of the Administrative Rules Review Committee (ARRC) was held on Monday, February 3, 1992, in Senate Committee Room 22, State Capitol, Des Moines, Iowa.
- Members Present** Senator Berl E. Priebe, Chairman; Representative Emil S. Pavich, Vice Chairman; Senators Donald V. Doyle, H. Kay Hedge, John P. Kibbie, Dale L. Tieden; Representatives Ruhl Maulsby, Janet Metcalf, David Schrader, and Jane Teaford.
- Staff present: Joseph A. Royce, Legal Counsel; Paula S. Dierenfeld, Governor's Administrative Rules Coordinator; Phyllis Barry, Administrative Code Editor, Mary Ann Scott, Administrative Assistant; Caucus Staff and other interested persons.
- Convened** The meeting was called to order by Chairman Priebe at 7:30 a.m. and Morris Boswell and Ronald Rowland of the Agriculture and Land Stewardship Department were recognized for their agenda.
- AGRICULTURE** **AGRICULTURE AND LAND STEWARDSHIP[21]**
- Pilot lamb and wool management education project, 15.2, 15.3(1), Filed ARC 2706A 1/22/92
- Pseudorabies disease — definition of low-incidence state/area, designation of Lee County as a program area, 64.147, 64.153(1), Notice ARC 2684A 1/8/92
- 15.2, 15.3** In review of amendments to rules 15.2 and 15.3(1), Priebe commented on success of the program. Boswell informed Tieden that the \$200,000 appropriation was cut by 3.25 percent. Boswell said the Governor has proposed to strike this.
- 64.147, 64.153(1)** With regard to ARC 2684A, Rowland explained that the Department had taken action last week to terminate proposed amendments to 64.147 and 64.153(1). In 64.153(1), Rowland advised Tieden that the pseudorabies program was set up by counties and a referendum must be conducted in each county approved by the Pseudorabies Advisory Board of Iowa Pork Producers. Lee as well as seven other counties will be added in the revised rules.
- Committee Business** There was discussion of the date for the March meeting of the ARRC and March 9 was agreed upon. The meeting will commence at 7:30 a.m. and be reconvened later in the day after the General Assembly has recessed.
- Minutes** Teaford moved to approve the January minutes as submitted. Motion carried.
- Royce brought up the matter of the January special review of rules of the Economic Development Department regarding Targeted Small Businesses [ch 54], specifically questions dealing with required set-aside in school districts. He asked for clarification of Committee intent regarding the rules. Kibbie had recommended referral to the General Assembly but there was no formal motion.
- Motion - Targeted Small Business** Kibbie then moved to refer the Targeted Small Business issue to the Speaker of the House and President of the Senate for review by the appropriate committee. Motion carried.
- Objections** Barry brought up the problem with disposition of published objections when the rule objected to has been subsequently amended. Previous policy has been to

Objections
(cont'd.)

remove the objection from the IAC and the ARRC would take any appropriate action on the modified version. However, members have questioned this policy and Barry asked for direction. She pointed out confusion which will exist when the original objection is no longer applicable but must remain in the IAC for a few weeks awaiting ARRC review. Barry cited examples.

In response to Priebe, Royce stated that the policy of automatic removal of objections had worked well until one flaw surfaced in the case of an objection to an emergency filed rule. In this situation, the rule would expire in 180 days. A question had been raised as to whether the 180 days would have to be recalculated if the rule were changed and the objection removed under that circumstance. The ARRC wanted to avoid that approach. Royce spoke about the chance of leaving objections in the IAC which are totally invalid. He reasoned that for the most part when the agency modifies the rule, it intends to overcome the objection.

Barry interjected that in some instances an entire rule is objected to even through opposition focused on only one small segment. She distributed copies of an objection to Racing and Gaming rule 491—4.27(99D) on today's agenda. The rule was modified and the objection was removed from the 1/8/92 IAC following current policy. Barry added that it was her opinion the latest amendment to 4.27 clearly did not address Committee objection. Royce agreed.

Priebe favored retention of current policy with exception for emergency rules. These objections should remain in place until the Committee formally removes them.

Schrader suggested leaving all objections in place until the Committee removes them to avoid placing Barry in the position of having to make a judgment call.

Priebe reiterated concern for liability of the agency.

Schrader could foresee a breakdown in the process if agencies were aware that any modification could nullify an objection.

Priebe could not recall abuse by an agency but said Schrader's point was well taken.

Barry distributed copies of the objection imposed on Natural Resource subrules 15.7(2) and 15.7(3) by the ARRC at their 12/10/91 meeting. The Department had attempted to overcome the objection with amendment published in 2/5/92 IAB.

Discussion followed as to appropriate amendment to the Committee's Rules of Procedure.

ARRC
objections

Motion

Schrader moved that any objection voted by the ARRC shall remain in the IAC regardless of subsequent amendments to the rule until the Committee meets and takes formal action to remove the objection. Motion carried. It was agreed that the Rule of Procedure should be published in the IAB as a Notice of Intended Action.

Motion

The Committee then discussed the Natural Resource objection and Doyle moved that the objection to 571—15.7(2) and 15.7(3) voted at the ARRC meeting held December 10, 1991, be removed from the IAC. Motion carried.

**Economic
Development****Motion**

Barry then distributed a copy of the objection placed on Economic Development rule 261—61.3"1" imposed at the ARRC meeting held September 11, 1991. It was noted that this rule relative to export trade had been referred to the General Assembly for review at that time. There was Committee consensus that the amendment published in 2/5/92 IAB did not overcome the objection. Doyle moved to reinstate the objection to rule 261—61.3"1." Carried.

Lottery

Chairman Priebe asked that Lottery rules in Chapter 14 [ARC 2704A, 1/8/92 IAB] be placed on the March agenda.

**PROFESSIONAL
LICENSURE**

Representing the Division were Susan Osmann, Bureau Chief; Roger Chapman, Chairman, Cosmetology Board; Rose Vasquez, Assistant Attorney General; Harriett Miller and Barbara Charls, Board Administrators. The following agenda was before the Committee:

PROFESSIONAL LICENSURE DIVISION[645]**PUBLIC HEALTH DEPARTMENT[641]"umbrella"**

Advanced manicuring license, 60.1, 60.14(20), 60.14(21), 60.15(1) to 60.15(6), Filed ARC 2712A 1/22/92

Also present were Barbara Lukavsky, president, Lusan Inc.; Pat Prunella, General Manager, Merle Norman Cosmetics; Ruth Cooperrider, Legal Counsel and Connie Bencke, Citizens Aide/Ombudsman Office.

Osmann introduced Chapman and Vasquez after which Chapman noted changes from the Notice in Chapter 60 relating to licensure requirements for advanced manicuring.

Chairman Priebe recognized Lukavsky who owns and operates a beauty products manufacturing firm in Madrid, Iowa. She also owns retail businesses which will be affected by the rules. Lukavsky noted that she employs nail technicians and is a training center in her own right since Iowa has not taught the technique of nail extensions. She referenced the case of Horstman v. Cosmetology Board where Barbara Horstman defended her right to teach and to train nail technicians and won the suit. Lukavsky emphasized the difference between "nail training" and "hair training." She was not opposed to regulation of nail technicians but urged delay of the rules to allow time to reach a compromise. Lukavsky's concerns were: The rules address cosmetology and barber schools only, thus eliminating qualified persons like Horstman or herself from operating training centers. She questioned whether the training could be delivered within the 6-month time frame outlined. Lukavsky wanted to ensure that the trained nail technicians who have a very good business would not become unemployed. She stressed importance of the "grandfathering clause." Lukavsky considered the submission of the examinations as a major problem that needs to be predetermined.

In conclusion, Lukavsky recommended that someone from the nail industry be asked to work with the Cosmetology Board on this particular issue.

Metcalf and Lukavsky discussed "policing" of the examinations. Metcalf expressed her opinion that it was incumbent upon the citizens of Iowa to know and follow the law. She suspected that word would travel quickly as to responsibility for manicurists to be licensed and properly regulated—the October date seemed to be a reasonable time for the test to be administered. Metcalf wanted assurance, because of health issues involved, that the citizens of Iowa were protected. Lukavsky had no problem with being subject to the same licensing rules as schools.

**PROFESSIONAL
LICENSURE
(cont'd.)**

Priebe recognized Prunelle who also was doubtful that tests could be administered during the time frame.

Osmann did not foresee a problem. A recent mailing to all the cosmetology schools earlier this month requested their examinations and curriculum. The Board intends to develop a uniform examination from this material to be administered by the schools. Responding to Priebe, Osmann advised that the Board lacked specific authority to examine for a manicuring license. Osmann anticipated that the test would be available to schools by February 26 when the rules are effective.

Vasquez spoke of the Board's interpretation of the law—practice of nail care in Iowa requires either the specific manicuring license or a full cosmetology license. The Board wants to clarify the definition of cosmetology by providing two levels of licensure for manicurists.

Tieden opined that "the cart was before the horse" on this issue.

Motion to Delay

Metcalf moved that amendments to 645—60.1, 60.14 and 60.15 be delayed until adjournment of the 1992 General Assembly.

Priebe took the position that rules relative to the examination should be reviewed by the ARRC.

Osmann explained that necessary rules were in place to implement the manicurists statute [157.5A] and the test would be developed.

Vasquez added that training qualifications were in the statute and the rules merely emphasized the law. In response to question by Metcalf, Division and Board representatives agreed that the Merle Norman trainers were teaching illegally under current rules.

Vasquez stated that the rules were designed to help those who want to be licensed now.

Lukavsky reiterated they did not have a problem with the rules as stated but may resist the testing requirement. Vasquez advised Lukavsky that barber schools could train and curriculum and tests would be similar to those of cosmetology schools.

Cooperrider expressed concern as to Board authority to create the state license under Code Chapter 157. She spoke of inconsistencies in proposed testing requirements—licensed cosmetologists and unlicensed individuals are performing the nail service. She continued that barber shops have been exempted and licensed cosmetologists do not have to be tested but may not be adequately trained.

In conclusion, Cooperrider commented on the 425-hour requirement and reasoned that application would be inconsistent.

Priebe called up the Metcalf motion to delay 645—60.1, 60.14 and 60.15 until adjournment of 1992 General Assembly.

Royce advised on two technical points.. The amendments pertain to different subject matters but for the most part address licensing of nail technicians or advanced technology. He pointed out that 60.1 simply expanded the definition of "cosmetology" to include the application of nails. This was a result of the court case and he asked if the Committee intended to delay that amendment. Committee consensus was to delay all of ARC 2712A.

**PROFESSIONAL
LICENSURE
(cont'd.)**

Royce pointed out a second issue. Professional Licensure rule 645—20.10(158) relating to unlicensed manicurists in barber shops was delayed for 70 days from its effective date of January 1, 1992 at the ARRC meeting held December 11, 1991.

Metcalf asked to include in her motion the delay of the effective date of rule 645—20.10(158) until adjournment of the 1992 General Assembly. [The rule was under a 70-day delay] No opposition. The motion as amended carried.

Motion amended

Charles Patton, Director of Riverboat Gambling, was before the Committee for the following rules:

**RACING AND
GAMING**

RACING AND GAMING COMMISSION[491]

INSPECTIONS AND APPEALS DEPARTMENT[481]"umbrella"

Gaming, riverboat operation — embarkation and disembarkation periods, 4.27(2), 4.27(3)"a," 25.13(1), 25.13(2),

Notice ARC 2673A, also Filed Emergency ARC 2674A 1/8/92

Registration of labor organizations with the commissioner, 22.33, Notice ARC 2675A 1/8/92

Patton explained amendments to 4.27(2) et al.

4.27 et al.

Question was raised in 25.13(1), excursion length, as to whether patrons could come and go at will on the boat during the off season. Patton responded in the negative and explained that the rule was intended to cover events such as a "super bowl party" on a Sunday afternoon where an extended excursion length would allow ample time for boarding. In effect, they would provide for one excursion of four or five hours with a two and one-half hour restricted period only. There would be just one "buy-in" during this restricted time period. Patton explained to Schrader that by advertising a special party for a longer period of time more patrons would be served even though the \$200 limit would apply for a longer period of time.

**Refer to General
Assembly**

Schrader requested the Committee to refer subrule 25.13(1) to the General Assembly for review by the appropriate committee. Hearing no objections, Priebe so ordered

**Motion -
Objection
Renewed**

Priebe then recognized Schrader who discussed rule 491—4.27(99D, 99F) and the objection voted by the ARRC on April 9, 1991. Schrader explained to the new Committee members that the Committee had been opposed to the blood alcohol level of .05 percent for licensees, such as owners in restricted areas, at the parimutuel tracks. The Committee's position has been that the level should be consistent with level for driving and other areas mentioned in the law. Although rule 4.27 had been modified, the blood level was not changed. Therefore, Schrader moved that the objection be renewed.

Patton defended the Agency's position citing potential injuries.

Priebe clarified that renewing the objection does not alter the .05 level. The Committee is merely affirming their earlier action in support of .10 level.

Motion carried.

22.33

Discussion of proposed rule 22.33 which, according to Patton, was based on New Jersey's court-tested rules on registration of labor organizations.

RACING AND
GAMING(cont'd)

Hedge inquired why this registration did not extend to tracks as well as to riverboats. Patton was not sure but Pavich thought it was a federal regulation. Royce was asked to research the issue.

Patton informed Schrader that DCI agents who work for the state are unionized and are members of SPOC. Patton reported that Dick Searle, the special agent in charge of riverboat employees, favored the rule.

PUBLIC
HEALTH

Carolyn Adams, Dennis Bach and Michael Magnant presented the following rules:

PUBLIC HEALTH DEPARTMENT[641]

State plumbing code, ch 25, Notice ARC 2713A 1/22/92

WIC program, 73.7(4)"e"(4) and (8), 73.18(1), 73.18(2)"a"(1), 73.18(2)"b" "2," Notice ARC 2714A 1/22/92

Criteria for awards or grants, ch 176, Notice ARC 2699A 1/8/92

Ch 25

Adams briefed the Committee on ARC 2713A, amendments to state plumbing code.

Representative Lee Plasier addressed the Committee regarding concerns from the plumbing industry relating to polybutylene, a piping product. Plasier voiced opposition to removal of this product as an approved material by the International Association. He had sold this product for ten years and had experienced none of the problems alleged and documented by other parts of the country. He suspected that any problem could be attributed to improper installation. Plasier listed three reasons to retain polybutylene in the Iowa Plumbing Code. The product is very resistant to freezing; it is a consumer-friendly product—flexible and easy to use; the International Association of Plumbing and Mechanical Officials who ultimately voted not to include copper tubing in the uniform plumbing code as an approved material were advised for five consecutive years to include it. Beyond this, he saw a "turf battle" between competing plumbing industries.

Magnant spoke of documented failures of polybutylene pipe, mostly in California, Texas and a few in Kentucky. These failures related largely to a joining system not currently in use and recirculating hot water systems but Magnant was not aware of any systems failures in Iowa.

Plasier agreed to work with Royce to obtain more information before the rules are adopted.

Magnant responded to Metcalf's inquires regarding backflow prevention requirement for cities over 15,000 population. She had received inquires from Des Moines plumbing inspectors about a license to inspect and wondered if this should be in the rules. Magnant said there were two bills in the legislature which give the Department authority to register backflow assembly testers. The new edition of Uniform Plumbing Code has expanded backflow prevention and there is a section stating that the backflow prevention assemblies have to be tested every year by a certified tester. However, no administrative mechanism exists to provide the certified testers. No formal action.

73.7, 73.18

ARC 2714A was before the Committee relating to the WIC program. Bach responded to Priebe's question on Violation 15 in 73.18(1)b by explaining that sale or exchange of WIC checks for cash or credit was prohibited by federal law.

Metcalf referred to Violation 8 and wondered why only 5 points sanction for checks being lost or stolen. Bach said the list of violations was drafted by

PUBLIC
HEALTH(Cont'd.)

representatives of local WIC agencies with whom the Department contracts but he would check on this.

Bach informed Tieden the checks were mailed monthly and 750 grocery stores have chosen to participate.

Bach advised Priebe that the Farmer's Market was a demonstration project administered through the USDA Nutrition Service on the federal level. the State Department of Agriculture and the Public Health Department coordinate the WIC program.

Ch 176

Adams briefed the Committee on Chapter 176 and read from a "Summary of Comments Received" that was distributed to the Committee. No recommendations.

Vice Chairman Pavich presiding.

COLLEGE AID
Deferred

College Student Aid Commission was temporarily deferred.

HUMAN
SERVICES

The Department was represented by Mary Ann Walker, Joe Mahrenholz, Lucinda Wonderlich, Elaine Monaghan, Mike Murphy, Rita Vodraska, Vivian Thompson, Josephine Lerberg and Rosemary Norlin. The following agenda was presented.

HUMAN SERVICES DEPARTMENT[441]

ADC child care deduction, 41.7(2)"b"(5), Filed ARC 2667A 1/8/92

Mandated budget reductions in entitlement programs, 41.8(2), 49.10(5), 52.1(3), 75.1, 78.16(6),

78.31(4)"d"(7)"6," 79.1(5)"u," ch 86, 150.3(5)"v," 156.20, 177.4(3), 202.9(1)"a"(1), 202.9(6)"a"(1),

Filed ARC 2666A 1/8/92

Administration of child care program, 49.7, 49.7(1), 109.8(1), 109.10, 110.5(8)"d" and "g," 110.8, 110.11,

130.3(1)"d"(2) and (3), 130.3(3)"x" and "y," 130.3(6)"e," 130.4(2), 130.4(3), 130.5(6)"d," 153.5(6),

ch 170 preamble, 170.1, 170.2(2), 170.2(3)"c," 170.2(3)"g" and "h," 170.2(4), 170.4(3)"d" to "g,"

170.5, Filed ARC 2664A 1/8/92

SSI cost-of-living adjustment, community spouse resources, personal needs allowance for residents of RCF,

51.4(1), 51.7, 52.1(1), 52.1(2), 52.1(3)"a"(2), 75.5(3)"d," 75.16(2)"d"(3), Notice ARC 2669A, also

Filed Emergency ARC 2668A 1/8/92

Payment for visitation days in RCF limited to 30 days per calendar year, 52.1(3)"e," Notice ARC 2687A .. 1/8/92

Medicaid eligibility for newborn children of Medicaid-eligible mothers, 75.1(20), 75.1(24), 75.1(26)"d,"

75.1(28)"i," 75.18, Filed Emergency After Notice ARC 2672A 1/8/92

Medicaid — eligibility, application and investigation, waiver services, 75.2, 75.5(3)"c"(8), 75.20(5), 76.1, 76.5(1)"d,"

83.43(1), Notice ARC 2686A 1/8/92

Medicaid reimbursement of prescribed drugs, 78.1(2), 78.1(3)"b," 78.2(1)"a," 78.28(1)"a" and "b," 79.1(8)"d,"

Filed ARC 2665A 1/8/92

Medicaid coverage of enteral products and authorization for parenteral products, 78.10(3)"b," 78.10(3)"c"(2) and (3),

78.28(1)"c" and "d," Notice ARC 2685A 1/8/92

Other policies relating to providers of medical and remedial care, nursing facilities, 79.12(2), 81.1, 81.13(5) to

81.13(16), 81.13(18), 81.13(19), 81.16(3)"b," Notice ARC 2702A 1/8/92

Income guidelines — services funded with social services block grant funds, 130.3(1)"d"(2),

Notice ARC 2671A, also Filed Emergency ARC 2670A 1/8/92

Foster care services, 202.11(1), 202.11(2), Notice ARC 2698A 1/8/92

41.7; 49.7 et al.

There were no comments on ARC 2667A or 2664A.

51.4(1) et al.

In review of amendments to 51.4(1) et al., Tieden disagreed with the figures calculated by using the 3.7 SSI cost-of-living increase and Walker agreed to review this area prior to adoption following notice.

Priebe resumed the Chair.

DHS (Cont'd.) ARC 2666A, mandated budget reductions in entitlement programs, was before the Committee. Walker emphasized that unless the Committee takes action at this meeting, the cuts will go into effect on March 1. She noted that the pending supplemental bill 41.8 et al. Budget Reductions may not be passed by that date and if not, the Department cannot change the cuts.

Motion Schrader moved to delay all amendments in ARC 2666A until adjournment of the 1992 General Assembly. Motion carried.

Motion Schrader distributed a draft of a Joint Resolution which he would sponsor to nullify the DHS amendments set out in ARC 2666A published in 1/8/92 IAB on pages 1216 to 1219. His concern was, even though this rule had been delayed with the assumption that the Supplemental would pass, the rules still hang in the balance. Schrader moved that the Resolution be passed out of this Committee. He was aware that the Supplement would have to be passed prior to the Resolution.

It was Walker's understanding that the old rules would be in effect during the delay of the amendments. She thought nullification would eliminate the old rules as well.

Royce interjected that the proposed Resolution would simply nullify the amendments to the rules and since the amendments were never in effect, the original language would be intact.

Hedge was concerned about the Resolution passing without the Supplemental in place.

Schrader stressed that was not his intent. He took the position that other options were available to the Department, such as layoffs. Walker pointed out their requirement to reduce by line item appropriation and ADC was in a different line item than field operations or general administration that provides the salaries. She did not know how each line item could be reduced.

Dierenfeld questioned whether procedurally, the legislature could nullify a rule before it goes into effect.

It was noted that the Constitution provides, "The general assembly may nullify an adopted rule. . . ." Royce suspected this could apply to any rule that is in the second half of the rule-making process.

Schrader did not believe the Administrative Code was drafted with the intent that, while there was a delay in force, the legislature would be preempted from taking action.

In response to Metcalf, Schrader felt that in his House leadership position, he would have some control over the Resolution.

Hedge reasoned the Resolution would not be necessary if the Supplemental passes. If it doesn't pass, there would be no funding so he failed to see the mechanics of the issue.

Dierenfeld stated if the Supplemental were not passed and the rules were nullified, the agency would, in effect, be asked to violate the law.

Schrader replied that if this should happen, the agency has full power and emergency amendments could be justified for an across-the-board cut.

Priebe repeated Schrader's motion that this HJR be passed out of this Committee.

Tieden asked if this Committee had ever approved a privately sponsored bill and Schrader indicated that upon passage by this Committee, the Resolution would be

DHS (Cont'd.)

ARRC sponsored. It was Tieden's opinion that as a Committee bill, Schrader could lose control of it.

Maulsby declared the whole process was being complicated by misinforming the public. Schrader expressed his opposition to the rules which were delayed by the Committee.

Priebe suggested referring the Resolution to the appropriate committee stating that the ARRC endorses it.

Schrader doubted that the ARRC had a lawful way to get a bill before another committee other than by passing it.

Priebe indicated that a special meeting of the ARRC would be called before March 1 if the Supplemental did not pass.

Motion failed

A record roll call on the Schrader motion showed Priebe, Metcalf, Hedge, Maulsby, Tieden, Doyle and Kibbie voting "nay" and Pavich, Schrader and Teaford voting "aye." Priebe announced the motion failed 7 to 3.

There were no comments or recommendations on ARC 2687A, 2672A, or 2686A.

78.1(2) et al.

In review of ARC 2665A, amendments to 78.1(2) et al., Walker explained that with a Medicaid rebate agreement, the pharmaceutical company signs a participation agreement with Health Care Financial Administration and the Department receives a rebate from the company. Mahrenholz added that this became effective January 1 under a federal law. He then informed Kibbie there would be no impact on the pharmacy at Veterans Home in Marshalltown. Rebates are calculated into their Medicaid budget.

78.10(3) et al.

There were no comments or questions on ARC 2685A.

79.12 et al.

In ARC 2702A, Walker and Vodraska further clarified for Metcalf why facilities need not maintain copies of advance directives executed by individuals under their care.

130.3; 202.11

No questions or comments on ARC 2670A or ARC 2698A.

LABOR
SERVICES

Walter Johnson, Deputy Labor Commissioner, represented the Division for the following agenda and there were no comments or recommendations:

LABOR SERVICES DIVISION[347]

EMPLOYMENT SERVICES DEPARTMENT[341]"umbrella"

Occupational exposure to bloodborne pathogens, 10.20, <u>Notice</u> ARC 2692A	1/8/92
Occupational exposure to asbestos, tremolite, anthophyllite, and actinolite, 10.20, <u>Filed</u> ARC 2691A	1/8/92
Construction safety and health rules — asbestos, 26.1, <u>Notice</u> ARC 2690A	1/8/92
Safety standards for stairways and ladders in the construction industry, occupational exposure to asbestos, tremolite, anthophyllite, and actinolite, 26.1, <u>Filed</u> ARC 2693A	1/8/92

Priebe and Johnson discussed a nonagenda matter regarding OSHA citations and fines. Priebe's constituents were told by the Iowa inspectors that the federal government had cut dollars so the state is funding their inspection program with fines that are levied.

Johnson clarified that federal OSHA funds had not been cut in the area of enforcement—only in the area of consultation. If more state money were

**LABOR
SERVICES
(Cont'd.)**

available, they would be able to obtain more federal money for the OSHA enforcement program. Fines go directly to the general fund and have no real bearing on the program. OSHA employees are paid from the general fund. Priebe expressed concern that the OSHA employees were saying that the fines maintain their staff. Johnson stated that an increase in fines was due to follow the federal mandate to increase penalties statutorily. Johnson agreed to investigate problems experienced by one of Priebe's constituents.

Hedge inquired if the fines were mandated at a certain level or were they negotiable. Johnson replied that circumstances would dictate amount of fine. Inspectors follow guidelines in making that determination. No formal action.

UTILITIES

Allen Kneip and Vicki Place were present for the Filed amendment to 22.5(14) relating to information services—access blocking, printed in IAB 1/22/92 as ARC 2710A.

Kneip explained to Hedge that 900 was interstate service and 976 was intrastate. The 960 service was not offered in Iowa.

Schrader was informed that the vast majority of Iowa customers would be served by an exchange that could provide blocking.

In regard to Kibbie's inquiry, Kneip said they do not have statistics on number of customers with charges exceeding \$150. No Committee action.

**COLLEGE
STUDENT AID**

21.1

Laurie Wolf, Administrative Support, and Gary Nichols, Executive Director, were present from the Commission for a special review of 283—21.1(2)h regarding nursing student loans. Also present was Ann Mowery, Associate Director, Governmental Relations, Iowa Nurses Association.

Royce explained that complaint from Senator Emil Husak on behalf of a constituent prompted this review. In 1989 a nursing loan repayment program was established which would, under certain circumstances, repay student loans for nurses who located in rural Iowa. That particular criteria was not set out in the statute and questions have been raised.

Nichols responded that in 1989 when the program was advanced, the legislature concurrently charged the College Aid Commission to do a study on the needs of health care practitioners, particularly in rural areas. The rules to administer the nurse repayment program were developed at the same time the recommendations from the various health care and nursing study groups were provided. The Commission believed they were following legislative intent in giving priority to those nurses agreeing to practice in rural areas. The rule did not preclude eligibility of other nurses. Nichols stated they had been helping all nurses who applied. However, this summer subrule 21.1(2)h will start to have an impact on the program and the Commission plans to give priority to those nurses working in rural hospitals and rural health care facilities. Nichols indicated they had been in contact with members of Iowa Nursing Association, the Iowa Board of Nursing as well as Inspections and Appeals and they seem to be very supportive of the rule that was developed. Funds will be available to assist 150 nurses out of about 400 applicants. Nichols was hopeful they could continue to direct the money to best meet the state's health care needs.

Tieden did not disagree with the Commission's endeavor but questioned whether the Code allows it.

**COLLEGE
STUDENT AID
(Cont'd.)**

Royce spoke in support of the rule as being totally reasonable since the whole purpose of the program was to funnel available money to rural Iowa where a nurse shortage exists. He cited the legal problem—Iowa Code section 261.47 sets out four criteria for obtaining the loan and anything not on that list would be excluded from interpretation. Since rural Iowa was not included on this list, there is a statutory interpretation problem.

Nichols reiterated that impact of the rule would be engaged this summer when applicants will be turned down.

Responding to Maulsby, Nichols took the position that these programs, by nature, were discriminatory. No Committee action.

No agency representatives requested to appear for the following:

NO REPS

ACCOUNTANCY EXAMINING BOARD[193A]

Professional Licensing and Regulation Division[193]

COMMERCE DEPARTMENT[181]"umbrella"

Procedure for enforcement, ch 12, 15.2(1), Filed ARC 2658A 1/8/92

BANKING DIVISION[187]

COMMERCE DEPARTMENT[181]"umbrella"

Debt management company — exemption from licensure, 2.9(4), Filed ARC 2678A 1/8/92

CIVIL RIGHTS COMMISSION[161]

Contested cases, rescind 4.7, Filed Emergency ARC 2659A 1/8/92

CRIMINAL AND JUVENILE JUSTICE PLANNING DIVISION[428]

HUMAN RIGHTS DEPARTMENT[421]"umbrella"

Juvenile justice advisory council, ch 3, Notice ARC 2705A 1/8/92

EDUCATION DEPARTMENT[281]

Program and administrative sharing initiative, 21.64 to 21.71, Notice ARC 2694A, also

Filed Emergency ARC 2695A 1/8/92

Child development coordinating council — appeal language, 64.22, 64.23, Filed ARC 2682A 1/8/92

Educational support programs for parents of at-risk children aged birth through three years — appeal language,

67.18, 67.19, Filed ARC 2683A 1/8/92

Standards for practitioner preparation programs and graduate practitioner preparation programs, amendments to

chs 77 and 78, Filed ARC 2688A 1/8/92

HEALTH DATA COMMISSION[411]

Uniform hospital billing form, data accessibility and confidentiality of public records and fair information practices,

5.5(6), 7.3(1)"f" to "i," Filed ARC 2676A 1/8/92

Submission of data, rescind 6.6, Notice ARC 2700A 1/8/92

INSPECTIONS AND APPEALS DEPARTMENT[481]

Collection procedures for ADC and food stamp overpayments, ch 71 title, 71.1, 71.3, 71.4,

71.5(1), 71.5(2), 71.6 to 71.8, Filed ARC 2707A 1/22/92

INSURANCE DIVISION[191]

COMMERCE DEPARTMENT[181]"umbrella"

Health maintenance organizations, 40.1, 40.20, 40.21, Notice ARC 2681A 1/8/92

JOB SERVICE DIVISION[345]

EMPLOYMENT SERVICES DEPARTMENT[341]"umbrella"

Benefit payment control, 5.7(6)"g" and "h," 5.10(2), 5.16, Filed ARC 2689A 1/8/92

NO REPS
(Cont'd.)

LAW ENFORCEMENT ACADEMY[501]	
Jailer training — continuing education, 9.1(2), <u>Notice</u> ARC 2677A	1/8/92
LOTTERY DIVISION[705]	
REVENUE AND FINANCE DEPARTMENT[701]"umbrella"	
Iowa's \$100,000 Cash Game, ch 14, <u>Notice</u> ARC 2703A, also <u>Filed Emergency</u> ARC 2704A	1/8/92
NURSING BOARD[655]	
PUBLIC HEALTH DEPARTMENT[641]"umbrella"	
Licensure to practice — RN/LPN, 3.7(6)"a"(3) and (4), <u>Filed</u> ARC 2701A	1/8/92
Continuing education, 5.1, 5.2(2)"b" to "g," 5.2(3)"d" to "f," 5.2(4)"b"(1), 5.2(4)"c"(1), 5.3(2)"a" to "e,"	
5.3(3)"a" and "b," 5.3(4), 5.3(5), 5.3(6)"c," <u>Filed</u> ARC 2680A	1/8/92
PHARMACY EXAMINERS BOARD[657]	
PUBLIC HEALTH DEPARTMENT[641]"umbrella"	
Label information, patient counseling, 8.3(1)"d," 8.16(3), <u>Notice</u> ARC 2661A	1/8/92
Controlled substances — registration of physician assistants, record of sample distribution, 10.2, 10.15,	
<u>Notice</u> ARC 2662A	1/8/92
Nonresident pharmacy licenses, ch 19, <u>Notice</u> ARC 2663A	1/8/92
REVENUE AND FINANCE DEPARTMENT[701]	
Vehicles subject to registration received as gifts or prizes, 34.6, <u>Filed</u> ARC 2696A	1/8/92
Composite returns, 48.3, 48.4, 48.6, 48.7, 48.8, <u>Filed</u> ARC 2697A	1/8/92
Cigarette tax, 82.10(1)"a" and "c," 82.10(2), <u>Filed</u> ARC 2716A	1/22/92
Hotel/motel tax, 105.3(1), <u>Filed</u> ARC 2715A	1/22/92
SECRETARY OF STATE[721]	
Uniform commercial code — financing statement forms, 30.1, 30.2(1)"a," 30.6(1)"a,"	
<u>Filed Emergency After Notice</u> ARC 2660A	1/8/92
TRANSPORTATION DEPARTMENT[761]	
Noncommercial drivers' licenses, ch 600 title, 600.1 to 600.4, 600.6, 600.8 to 600.10, 600.12, 600.13, 600.19	
to 600.21, 601.1(1), 601.1(5), 601.1(6), 601.5, 601.6, 602.1 to 602.3, 602.11 to 602.13, 602.16 to	
602.21, 602.23 to 602.26, 604.1, 604.2, 604.3(1), 604.7(1), 604.7(2), 604.10 to 604.13, 604.20(2) to	
604.20(4), 604.21, 604.30(1), 604.30(2), 604.31, 604.32, 604.35, 604.40, 604.45, 604.50, 605.1,	
605.5(6)"c" and "e," 605.10, 605.11, 605.15, 605.16, ch 610, ch 615 title, 615.1 to 615.4, 615.7,	
615.11 to 615.21, 615.22(3), 615.22(4), 615.26, 615.27, 615.28(2), 615.29 to 615.31, 615.34, 615.36,	
615.38 to 615.40, 615.43 to 615.45, 620.1, 620.3(1)"b," 620.3(4), 620.4(2)"a" and "b," 620.4(4), 620.5,	
630.1 to 630.4, 640.3, 640.4(1)"b," 640.4(3)"b," 640.4(4)"a," 640.4(6)"b"(1) and (2), <u>Filed</u> ARC 2679A	1/8/92
UTILITIES DIVISION[199]	
COMMERCE DEPARTMENT[181]"umbrella"	
Promotional practices and energy efficiency programs, 16.2(7)"56"(1), 16.2(8), 16.3(7)"56"(1),	
16.3(8), 16.7(2), <u>Notice</u> ARC 2708A	1/22/92
Rescission of peak alert rule, 20.11, <u>Notice</u> ARC 2709A	1/22/92
Rescission of I-SAVE rules, ch 27, <u>Notice</u> ARC 2711A	1/22/92

Adjournment

Chairman Priebe adjourned the meeting at 10:17 a.m. The next meeting was scheduled for Monday, March 9, 7:30 a.m.

Respectfully submitted,

Phyllis Barry, Secretary
Assisted by Mary Ann Scott

APPROVED


Chairman