MINUTES OF THE REGULAR MEETING
of the
ADMINISTRATIVE RULES REVIEW COMMITTEE

Time of Meeting: Wednesday, May 13, 1981, Thursday, May 14, 1981; Tuesday, Wednesday, Thursday, May 19, 20 and 21, 1981.

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

Members Present: Representative Laverne W. Schroeder, Chairman; Senator Berl E. Priebe, Vice Chairman; Senators Edgar Holden and Dale E. Tieden; Representatives Betty J. Clark and Ned Chiodo. Also present: Joseph Royce, Committee Staff, and Brice Oakley, Rules Coordinator.

Wednesday
May 13, 1981

Chairman Schroeder convened the meeting at 7:30 a.m. The following rules of the Department of Public Instruction were before the Committee:

School lunch program, 10.3 ARC 1965.....F.....4/15/81
Adult education, ch 34 ARC 1966 .....F.....4/15/81

Interscholastic competition, 9.1, 9.2, 9.3(4), 9.4-9.7, 9.15, 9.16, 9.18, 9.19 ARC 1943 N.....4/15/81
Special education, 12.3(4)"e" ARC 1968 ...N.....4/29/81

Dr. Robert Benton, Superintendent of Public Instruction, Larry Bartlett, Legal Counsel, and Carol Bradley, Chief of Instructional Services were present for DPI. Warren F. and Marylynn J. Weeks, Iowa Assn. Children and Adults With Learning Disabilities, and Jim Carney, Legal Counsel, ACLD, were also present.

Bradley addressed the Committee with respect to special education and explained there is a special weight (in the School Foundation Plan) for the child who fits the category of learning disabled. According to Bradley, proposed criteria would not differ significantly from present policy. The rule defining severe discrepancy between achievement and intellectual ability was more definitive and statistically accurate and would provide students equal opportunity.

10.3

Dr. Benton arrived and Chairman Schroeder called on him to brief the Committee as to various state plans which implement federal Acts., i.e., school lunch. Benton informed them the Department was attempting to avoid duplication of efforts.

In response to Schroeder, Benton commented it was seldom that public input was received on federal matters.

PUBLIC INSTRUCTION Cont'd

Discussion of the number of individuals serving in an advisory capacity with Holden being informed there were approximately 9 to 15 on the Advisory Committee. Holden noted use of "committees" in 10.3(1). Benton indicated there would be only one committee--one being statutory. Discussion of the ad hoc committees and ARRC concern that the Dept. might lack control over the various Committees.

Oakley observed that payment to state advisory committees was a difficult area to which the comptroller was sensitive. Federal law often requires creation of Committees and he thought consideration should be given to exempting them from rulemaking.

Benton noted the state board had addressed the issue and the DPI had submitted two options for legislative perusal. He referred to page 32 of their legislative package. Discussion of funding for the various Committees. Benton indicated he had proposed a highly simplified state plan--30 to 40 "categorical floaters" in one block grant.

In response to Tieden, Benton agreed to check whether the Child Nutrition Act of 1966 had been amended since that year.

Holden was hesitant to support exemptions to rulemaking. Bartlett emphasized the purpose of the rules was to alert the public of the state plans. Priebe and Holden concurred there should be oversight of these plans. Priebe contended that any committee consisting of more than 7 members was ineffective.

Special Education Rules

Discussion returned to 12.3(4)e -- Schroeder pointed out that public hearings would be held in Cedar Rapids and Council Bluffs. Carney introduced Weeks, legislative chairman, Iowa Association for Children with Learning Disability.

Weeks said their organization had surveyed the state in an attempt to identify children with learning disabilities. Weeks continued that they had reviewed rules of other states and found they were dissimilar to Iowa. She added that Iowa has been the leader in the field and she was hopeful this status would continue. She mentioned that "over identifying" was as much a problem as "under identifying."
In response to Priebe, Weeks said Iowa has regressed in the areas of identifying a child on a "statistical basis." She was opposed to dealing with children in a "computer-like manner." Another concern was that a child would ultimately be dismissed from the program when "cured" of the disability. Weeks took the position a "cure" was not possible. She read a letter from the parents of a handicapped child whose level of achievement had improved but the individual was still in need of special training. The Association for Children with

PUBLIC INSTRUCTION Cont'd

Learning Disability were concerned that interpretation of the rule would vary.

Holden could understand the parents' concern but thought objective valuation should be made by others not so close to the problem. He was concerned, as a legislator, with the ease with which professionals determine someone needs special education. He declared some limitation was necessary to prevent abuse of the system.

12.3(4)e(7)

Bradley referred to the words "and eventually reaches a stage of maintenance" in 12.3(4)e(7) and she maintained this was difficult to define. She recognized the problem confronted by DPI as to how detailed the rules should be to protect the rights of those who are learning disabled and handicapped. Schroeder defended the Department.

Oakley stated that the governor's staff and his office would follow the rules very closely, review all public comments and request an analysis on the impact. He admitted it was rather difficult to explain to a parent that the child could not participate in a program beyond eighth grade equivalency in achievement. He reasonsed the basic structure of the rule was good. However, he lauded the Department for their effort in soliciting a wide range of comments.

Holden wanted it understood he was not critical of Weeks' position. Weeks stressed the fact that DPI is dealing with children--not statistics.

Priebe requested that DPI select a school and prepare statistics on the effect of the rules. Bradley indicated figures were available. She pointed out the old criteria used a deviation from grade level--one year behind at second grade, four years behind at grade 7, etc. However, DPI found this procedure actually penalized high achievers and tended to pick up "slow learners." Priebe was concerned that a child would be "just moved along" through the system.

Clark commented that practice was also applied to students without learning diabilities.

ch 9

Discussion of ch 9 amendments which Bartlett indicated were basically "clean-up." He explained there was one case of "red-shirting" in Iowa which was a concern to the Boys Assn. It was hoped the revision of 9.15(2)c would resolve the issue.

9.2(2)

Tieden pointed out the word "association" should be substituted for "union" in 9.2(2)

PUBLIC INSTRUCTION Cont'd

Schroeder could forsee that a parochial school could entice students to transfer under 9.15(6)q.

9.2 Chiodo questioned the list of sanctions in 9.2 and Bartlett said it merely sets out the associations which are currently recognized.

9.18(7) Priebe questioned impact of 9.18(7) on "free style" competition. Bartlett said the intent was to allow local schools to establish meets with out-of-state schools, but not championships between two states.

9.3, 9.4 Bartlett told Chiodo that amendments to 9.3 and 9.4 were intended to maintain consistency.

9.15 Oakley requested the Dept., when submitting the adopted 9.15, to set out the changes by use of strike through and underscore type. In addition, remove two references to Department of Public Instruction and substitute "Department." Oakley questioned use of "interests of the student and interscholastic athletics" in 9.15(2)c. Further, he considered use of "permit or allow" in 9.15(11) to be redundant.

AGING COMMISSION Mary Ann Olson and Lois R. Haecker represented Commission on Aging for review of area agency subgrants and contracts, 1.10, ARC 1980, Notice, IAB 4/29/81. The rules establish procedures to be followed for appproving grants and subcontracts with profit-making organizations--a recent federal mandate. In response to Priebe, Olson said the rules had been sent to the Area Agencies and no comments had been received. A public hearing had been scheduled for May 27.

1.10 Clark questioned the necessity of separate rules for profit-making organizations. She favored giving preference to the organization that provides superior service. It seemed logical to her, if the services were equal. Holden added, "If the costs were the same." Clark agreed.

1.10(2) Holden suggested that 1.10(2) pertaining to contracts with profit-making organizations be clarified. Olson was amenable. In response to Clark, Olson said the Commission was in the process of preparing a policy manual.

Oakley discussed a letter from Glenn Bowles re forms and indicated that rules on the subject would be adopted.

REVENUE DEPT. The following Revenue Department Rules were before the Committee:

Assessment practices and equalization, 71.1(7), 71.19 to 71.20 ARC 1946 ..F.....4/15/81
Property tax reimbursement for elderly and disabled, 73.8, 73.13, 73.15, 73.21, 73.23 ARC 1947..F.....4/15/81
Property tax exemptions, 78.6 ARC 1948 ..F.....4/15/81
Inheritance tax, ch 86 ARC 1997....F.....4/29/81

REVENUE
Cont'd

REVENUE DEPARTMENT[730]
Filing of tax liens, 9.5 ARC 1994 ..... N 4/29/81
Sales and use tax, 18.3, 18.37(5), 26.2(6)"b" ARC 1995 . N 4/29/81
Gasohol exemption, 64.4 ARC 1966 ..... N 4/29/81
Determination of value of railroad and utility companies, 76.4(2), 76.4(3), 77.4(2), 77.4(3) ARC 1945 . N 4/15/81

Appearing on behalf of the Department were Carl Castelda, Deputy Director, Gene Eich, Property Tax Deputy Director, Ben Brown, Director of Estates in Trust Division, and Cindy Eisenhaur, Director, Exise Tax.

Eich explained amendments to ch 71. In response to Tieden re 71.20, Eich interpreted the Code to allow either a 3 or 5-member Board of Review. He continued that the Code provides, "There shall be one active farmer" and a good faith effort should be made to locate an individual familiar with construction. Eich told Schroeder the conference board appoints local boards of review. The Board will not appoint two additional people.

71.20(1)a — Holden referred to the last sentence of 71.20(1)a and opined it would preclude certain individuals. Priebe thought the legislative intent was that the farmer member should be actively engaged in farming.

71.20(3)a — Holden questioned the language in the last sentence of 71.20(3)a allowing the Board of Review to adjust "an entire class of property" in a nonreassessment year.

71.21(1) — In re 71.21, Holden queried why assessors could not act as private appraisers. Eich commented it was intended to prevent a conflict of interest. General discussion followed.

73.13 — Priebe questioned the authority for 73.13 and use of "contiguous." Eich explained it would be the same principle as used in the Homestead area. No formal action taken.

78.6(1) — No recommendations were offered for 78.6 and 40.7.

Ch 86 — Castelda told the Committee that one substantive change was made in ch 86 in response to suggestion from the Probate Committee of the Iowa Bar Association. 86.2(3) was restructured to permit amendments to preliminary inheritance tax reports to correct an error.

The Bar also felt the rule was too restrictive in that it prohibited amendments to "second guess value." However, the Department did not change that portion since a hearing officer decision sustained their position.

No recommendations were offered re 9.5, 18.3, 18.37(5), 26.2(6)b and 64.4.

REVENUE Cont'd

76.4(2)

In the matter of determination of market value of securities traded, Priebe expressed opposition to removal of the date certain in 76.4(2) and substitution of "an appropriate time period..." He also had reservations about allowing discretion to the Director. Eich commented the Department must be consistent in their application of the rule.

Recess

Chairman Schroeder recessed the Committee at 9:10 a.m. to be reconvened at 7:30 a.m. May 14, 1981.

Reconvened Thursday May 14

Chairman Schroeder reconvened the meeting, Thursday, May 14, 1981, at 7:30 a.m. Senate Committee Room 116. All members were present.

At Schroeder's request, Oakley reported on the Nursing Board Rules[ch 6] delayed 70 days by the Committee]. On May 5, the governor, by Executive Order Eight, rescinded 6.1(9) and 6.4(1) with regard to administering of prescription drugs by registered nurses and others. Oakley continued that the Governor, in a letter to examining boards, had taken the position that those boards--medical, dental, pharmacy, podiatry and veterinary--should withhold further rulemaking concerning prescription drugs in view of the moratorium passed by the Legislature one year ago. He pointed out the report of the interim committee had been submitted to the Legislature in January, but the issue had not been resolved legislatively. An AG opinion re effects of the moratorium has been requested.

COMMERCE COMMISSION

The following Commerce rules were before the Committee:

Cogeneration and small power production, ch 15 ARC 1954....E.....4/15/81
Ratemaking standards, 20.10 ARC 1999.....E.....4/29/81
Financing of energy conservation measures, 27.11 ARC 2000..E.....4/29/81

OMMERCE COMMISSION[250]
Outdoor gas lights, rescinds 19.3(1)"e" ARC 1962.....N.....4/15/81
Reasons for denying and discontinuing service (gas and electric), 19.4(15)"h"(4), 20.4(15)"h"(4) ARC 1967 .N.....4/29/81

Representing the Commission were Andrew Varley, Chairman, David Conn, Counsel, Judy D. Friedman and Twila Morris. Also present: James M. Parker and Clement Springer, Jr., Interstate Power Co.; Richard Cool, Iowa Citizen/Labor Energy Coalition; Tami Odell, IC/LEC; Steven C. Goodrich, Iowa Bankers Assn.; Tom Bixby, ACORN; Loren E. Dorr, Midland Financial Savings and Loan; Kathy Cashman, Iowa Savings and Loan League; Pamela Prairie and Jerry Parkin, Iowa Power and Light; Paul Leighton, Sioux City, Iowa Public Service; Brent E. Gale and Robert J. Haack, Iowa-Illinois Gas and Electric Company, and John Lewis, Iowa Utility Association.

COMMERCE COMMISSION Cont'd ch 15

Clark and Holden took exception to the fact the full text of ch 15 had not been published under Notice which, in effect, denied the Committee and other interested persons an opportunity for perusal prior to the adopted version.

Oakley defended the agency's decision in this technical area to clearly state the policy issues, solicit public comment, and then proceed to draft language to conform with the policy. He added that appropriate changes in adopted rules could be made in one of two ways -- those that are less affected with policy matters, filed emergency, with the subject being placed under Notice. He concluded that a significant question was whether the public was given fair opportunity for input.

In response to Schroeder re federal mandate, Conn said the law requires the utility to interconnect and to purchase electricity if the generator owner wants to sell.

15.10(5)

Schroeder asked what problems would be created by 15.10(5). Conn explained that during the course of the proceeding, it became clear that there were certain types of facilities that could be interconnected with the system that could pose problems in terms of interruption of service to nearby customers. Rule 15.10 was designed to help avoid this. Conn used a hypothetical case to make his point. He added testimony was taken from staff engineers and Dr. Lamatt at Iowa State University.

Schroeder took issue with Commerce in consulting with Iowa State and he asked for statutory authority for that action. Conn indicated there was none. Dr. Mahmud knew a staff engineer had done research in this field.

Tieden recalled a constituent's dilemma with a power company and asked if the rule would help a facility. Conn answered that the rules were designed to assist in resolving disputes. Schroeder pointed out federal law prevents a utility from disconnecting. The safety standards for interconnection are set by the state--rule 15.10.

Holden was skeptical about the impression being given to "every monkey" who has a windcharger, that he can "pump out of the system." He declared the federal mandate did not make it right and was fearful of legal ramifications.

Clark thought 15.2(2)a was unclear. Conn said the intent was to allow a utility and cogenerator to agree on an acceptable rate to buy and sell power.

COMMERCE Cont'd

15.5(4)

Clark referred to 15.5(4) and viewed it as an invitation to "disagree." Conn stated the Commission could not require an agreement--only provide a fair procedure. He added there were many possibilities without going to a full hearing.

Aside from the context and impact of the rules, Priebe expressed dissatisfaction with the rulemaking procedure followed by the Commission. He anticipated other agencies would expect to follow the precedent. Conn emphasized the Commission thought there was authority under ch 17A. The Notice of Intended Action set out every issue in the rules and there was a great deal of input at the public hearing. Priebe viewed the rules as being no different from emergency rules.

Oakley reiterated his support for the procedure followed in this instance. Holden doubted there was a "great urgency" to implement them. Commerce officials assured Schroeder that all of the referenced manuals were on file.

Holden thought it possible that most users rely on the large utility to furnish power continuously and he could forsee complications when small operators, with no responsibility, are allowed to "come on stream."

In discussion of alternatives available to ARRC, Royce advised The Committee could object to the rule on the grounds that the Notice of Intended Action was inadequate to apprise people. However, it was his opinion they have the authority for the procedure followed and have technically complied with the Notice provisions, even though specific details were not set out. The other alternative would be to place a 70-day delay for further study. Discussion of ch 15.

20.10

Rule 20.10 was deferred.

Priebe wanted to be on record that he would object if this procedure is followed by any agency in the future.

27.11
I-SAVE plan

Conn said 27.11(8) requires utilities, under certain circumstances, to arrange financing up to $1,000. The restriction imposed by the Commission relates to inability of the borrower to obtain financing from banks and savings and loans. It was not intended that the utility would displace those institutions--only supplement when other funding was unavailable. Funding would be made available at market interest rates. Schroeder raised question as to authority for the rules and Conn replied it was necessary to ensure effective implementation of the program.

COMMERCE Cont'd

Gale distributed a written statement and summarized it for the Committee. Iowa-Illinois Gas has filed an application for rehearing and reconsideration of the rules that were adopted mandating that utilities become "lenders of last resort." Gale continued that until experience with I-SAVE program has been obtained, a need for utilities to become lenders cannot be determined. Gale concluded the rules were unconstitutional as well as arbitrary, capricious, vague and ambiguous in numerous aspects. He urged a formal objection before June 3.

Parker, Interstate Power Company, also presented a written statement to the Committee and summarized their position which, basically, concurred with Iowa-Illinois Gas. He made the point that the Commission has the authority to institute a "pilot program" but had not done so. Parker saw no indication of need for utilities to become involved in financing. He concluded the rules violate §476.5, The Code, and utilities will become lenders of last resort.

Holden said, "It is absolutely ridiculous to expect utility companies to serve as intermediary in a loan process." He could forsee collection problems.

Varley emphasized that lending by utilities for conservation measures was not a new concept and some utilities were participating voluntarily. Federal law was changed and , then reversed, and loans were acceptable. Federal law required utilities to assist individuals in arranging for loans. As to the extent of the utility's involvement, he would defer to the attorneys. He continued that response from lending institutions had been disappointing. Many loans were made under the caveat they would be under $1000 to $1500. Varley continued loans are limited to homeowners and the entire community would benefit. He disagreed with opponents who contended loans would be "high risk." Tieden reasoned there was a strong possibility the program could have a marked effect on investors' returns. Varley interjected this would not be true.

Chiodo saw some justification on the part of the Commission but was hesitant to have utilities enter the financial field. He reasoned if utilities become "financiers of last resort", interest rates should be commensurate with those charged by small loan companies, where interest rates are much higher. He took the position the utility should not be mandated and Holden concurred.

Brenton presented a copy of their position re energy conservation loans. His bank has promoted this type of loan for quite a few years but they disagreed with mandating. Brenton said the rate could vary from 15-20% daily.

COMMERCE COMMISSION Cont'd

Tieden wondered about percentage of failure for loans of last resort. Brenton had no statistics. Tieden spoke of the responsibility for public utilities as well as for the consumer. Brenton stated they would not lend to those who might be delinquent on home payments, have low equity in a home, or are unemployed.

Oakley presumed that the utility company would sell the notes to lending institutions rather than set up their own loan departments. Conn agreeed that was within the scope of the rule. Discussion of surcharging for utility bills in default.

Leighton contended the Commission was exceeding its jurisdiction in the matter and imposing an unreasonable and unnecessary burden on ratepayers. He urged the Committee to place an objection on the rule.

In response to Chiodo, Leighton could forsee the possibility of manipulation by a customer to take advantage of a lower rate through a utility company. If a bank would lend only $10,000, and $11,000 was needed, the customer could ask the utility for the $1,000. Conn concurred that would be possible under the rule.

Rescheduled

Chairman Schroeder rescheduled the Commerce Commission rules for further review on Wednesday, May 20, 1981, 7:30 a.m.

TRANSPORTATION DEPARTMENT

The following DOT rules were before the Committee:

Operation and movement of vehicles and loads of excess size and weight, [07,F] 2.1(13)-2.1(17), 2.3(1)-2.3(4), 2.4(4), 2.5, 2.6 ARC 1944 ... N 4/15/81
Rail assistance program, [10,F] ch 1 ARC 1942 ... N 4/15/81

07,F Ch 10

Those in attendance were Dan Franklin, Railway Division, DOT; George Stewart, Ernie's Field Service, Storm Lake; and Don Ettler, Engineer, Associated Engineers, Storm Lake.

Stewart, former shipper on Milwaukee Railway Lines, appeared for review of [10,F]ch 1. He reference the May 6 letter addressed to this Committee stating the position of Storm Lake Industrial Corporation. Stewart recalled his frustration in "dealing with the Iowa bureaucracy since 1978." He was critical of the manner in which DOT administered federal Rail Assistance Funds. He pointed out DOT has obligated or reserved over $10 million in federal assistance without administrative rules or even a public hearing. In 1981, they obligated over $2.5 million in state branch line assistance funds. Stewart declared DOT was negligent in failing to inform abandoned rail users of their eligibility for federal assistance and involve public in the decision not to participate in substitution service assistance. He argued the Department had too much flexibility in decision making.

DEPARTMENT OF TRANSPORTATION

Stewart offered alternate proposals which, in part, would divide the state's rail service program to assist branch-lines as well as abandoned rail users. Franklin advised that federal regs allow flexibility to the state as to type of projects eligible for assistance--branch line rehabilitation and rail improvement--those most beneficial to the state with limited funds.

Franklin said bankruptcy of the Milwaukee and Rock Island lines had caused a great deal of difficulty in rehab programs. He added that contract with the Albert City Line was entered into prior to the Milwaukee bankruptcy. There was disagreement between Stewart and Franklin on the matter.

Stewart advised Priebe his firm had tried to purchase the line privately. Schroeder indicated a "main line problem" was being addressed. Franklin stated federal funds were available and they favored this project. Ettler commented the federal system was intended to help abandoned shippers. In the last two years, $10 million of Federal Rail Assistance funds have been available, but $8 million has not been spent and $5 million has not been contractually obligated. It has been reserved for assistance to existing branch lines. They wanted railroad assistance which could be used to build truck terminals for abandoned shippers. There was general discussion of the problem.

Schroeder wondered if shippers were willing to get involved in picking up variance in lines. Stewart pointed out the railroad has the business but the spur is located in another area not convenient to the shippers.

Oakley made a personal observation that this was a classic example in determining if public dollars should be used to benefit a large region of the state or a very localized project. He concluded this matter may not fall into that category, but should be kept in mind.

[07,F]]

No recommendations were offered for [07,F]2 amendments.

Recess

Chairman Schroeder recessed the meeting at 9:10 a.m. until Tuesday, May 19, 1981.

Reconvened — Chairman Schroeder reconvened the meeting at 7:35 a.m. in Room 116 with all members present. Also present: Royce and Oakley.

REAL ESTATE COMMISSION — Gene Johnson, Real Estate Commission, Mark Schantz and William F. Raisch, Attorney General's office, represented the Commission for review of the following:

License renewal and fees, 1.7, 1.13, 2.2(2) ARC 1993 ..N.....4/29/81
Trust account, 1.14, 1.27, 2.4 ARC 1955.....F.....4/15/81
Transactions, tying arrangements, 1.31 ARC 1956...F.....4/15/81

Also present: Bud Ewell and Les Calvert, Iowa Association of Realtors.

1.7, 1.13, 2.2(2) — Johnson explained amendments to 1.7, 1.13 and 2.2(2) were intended to implement three-year licensing and adjust the current fee structure. A public hearing was scheduled for May 21. Fees paid to the testing company are established by contract and basically are uniform with the 32 states participating in the ETS testing system. Currently, Iowa fees are $2 less than other states because of a 2-year contract. The amount is paid directly to the testing service. Schroeder thought the fee should be included in the rules and Johnson was amenable.

Holden suggested referencing the contract dates in 1.13. Tieden was told fee categories were consolidated in 1.7 for convenience and to streamline the operation. An economic impact statement will be made.

1.27 — Minor changes were made in 1.27 as requested by ARRC and as a result of the public hearing. Re deposits in 1.27, Holden suggested "on the next banking day after acceptance of the offer" should read "not later than the next...." Johnson agreed to make the change when the rule is revised again. The Committee saw no need for an emergency filing.

Johnson yielded to Schantz for explanation of the amendments to 1.31 which prohibits an anti-competitive practice referred to as "tying arrangment"-- a list-back practice where a licensee sells a lot to a homebuilder or consumer and requires the buyer to pay a commission on the value of the house to be built. In all cases, the effect of the practice is to preclude consumers from considreing the services of other realtors.

Schantz emphasized the rules would not limit the ordinary landowner's sale and price arrangement. Schantz discussed the history of the rule. Although concern about the scope of the rule has been expressed, the Association concurs with and supports the basic thrust of it. They do not dispute the list-back practice nor the Commission's authority to make the rule.

REAL ESTATE COMMISSION Cont'd

Through the mechanism of declaratory ruling, the AG's office and the Commission will deal with those concerns. Schantz advised that Senator Holden had requested Royce to draft a tentative objection, a copy of which was provided to Schantz. There was discussion of the grounds on which the Committee would base the objection. Schantz reminded the Committee that the AG had proposed these rules to the Commission as authorized under 17A.7, and the AG does have primary responsibility, under Chapter 553, The Code, for enforcing the antitrust laws.

Schantz urged the ARRC, as well as the Governor, to give significant deference to the AG's legal conclusion. He doubted there was good basis for objecting. Schantz informed Schroeder they had received under 20 complaints from homebuilders. Holden found it difficult to understand why the Real Estate Commission should be expected to enforce a theory which was not part of the law.

Calvert admitted there was disagreement but the Association plans to seek declaratory rulings in those areas.

Schantz reiterated the rule was restrictive only when the licensee also owns the land.

Holden viewed the area of ethical standards as being nebulous and there was general discussion.

Schantz referred to §117.29, The Code, which sets out reasons for supervision or revocation of licensees.

Holden interpreted the rule to require the Real Estate Commission to make judgments for which they are not qualified. Schantz emphasized it was not the Commission, but the AG who was contending that tying arrangments were illegal. Tieden wanted statutory authority for it.

Schantz quoted from §117.29(3) "engaging in unethical practice or conduct harmful or detrimental to the public..." which he said was fairly general language. He maintained it would be helpful to the licensee to know what kinds of activities could subject him to discipline on that ground--an area where interpretive rules would be desirable. Schantz insisted there was no attempt to exclude the courts.

Royce said the question was--should administrative agencies pioneer or lead the way in development of common law in a given subject. Here was a licensing board pioneering in developing common law in antitrust. Rather than following Iowa precedent, they were developing it without responding to judiciary. Royce questioned whether this was within their scope of authority.

REAL ESTATE COMMISSION Cont'd

Oakley disagreed to the extent that the Iowa Competition Act [Ch 553] is broad--the general thrust of the rules falls into the gambit of that common law enacted by the legislature a few years ago. Oakley thought it more appropriate to have the civil side of it -- to develop an interpretation of that. He continued, "After all, the Commission has decided that in their interpretation, if a complaint were brought, they would interpret their responsibility in determining whether a licensee has violated conditions of the law."

"Criminal prosecutions will be difficult in these kinds of arrangements such as the anti-competition Act." His principle concerns were "(1) Take a look at 'A' and set up a hypothetical case -- realtor receives an exclusive right to sell or list that house to be constructed on that lot. The seller had to make an agreement with the realtor. (2) If I am the realtor and also the owner, is it not important that it depends upon the capacity in which I am functioning? If the rules say if you are the owner, the fact that you have a real estate license is only an adjunct to that; if I sell to that builder then I am acting as a realtor to list the house--I am restricted as an owner. (3) What effect does this have on multiple listings? (4) What would be the impact of an objection?"

Schantz replied that there would be situations where the owner would effectively require certain things which do not fall within the rules. He could see no problems with multiple listing. He said the rule covers aiding and abetting. As he understood the law, "The objection has two effects -- it alters the burden of proof. Exceeding the authority is a question of law. An objection doesn't play much of a part on a formal matter."

1.31(7)

Oakley referred to the last sentence of 1.31(7) which provided that the Commission "...upon receipt of any formal written complaint filed pursuant to this rule, <u>shall forward a copy of same to the attorney general of the state</u>...." and he questioned why this language was included. Schantz replied because they did not see the rules as shifting <u>responsibility</u> to the Commission for enforcement of antitrust laws. In the absence of rules, if somebody were convicted of a tying arrangement, it would be AG obligation to call that to the attention of the Commission for disciplinary action.

Tieden opined the Real Estate Commission should seek amendment to §117.29 by including the substance of rule 1.31 as grounds for revocation of the license.

REAL ESTATE COMMISSION Cont'd

Responding to Priebe as to the Governor's position, Oakley said the office had wanted to wait until after today's meeting to take any action. Oakley thought the only question he had was whether or not the particular language overreaches and covers situations which perhaps should not be covered. He added that, in matters of close questions, deference should be to the expertise of the licensing commission and the A.G.'s office. He doubted that he would recommend veto.

Tieden thought it was the responsibility of ARRC to prevent departments from promulgating by rule that which they can't get through the legislature.

In response to Priebe, Johnson indicated the Commission planned to implement the rule. Oakley interjected there would be some declaratory rulings which was preferable to the criminal process.

Holden was of the opinion the Real Estate Commission should carry out its responsibility by notifying the licensees that the AG was showing concern about tying arrangements. Further, they should alert licensees that participation in those arrangements should be on the advice of their counsel.

Motion to object to 1.31

Holden moved to object to rule 1.31 on the basis that it exceeds the statutory authority. Priebe commented he would have a problem voting for an objection.

Failed

Roll call was requested. Motion failed with 3 "aye" votes by Schroeder, Holden and Tieden and 3 "no" votes by Priebe, Clark and Chiodo.

Oakley favored monitoring the process more closely. Holden concluded that it was a "dangerous precedent."

Refer to Judiciary

Priebe requested that the ARRC refer the matter to standing Committees of the House and Senate. Upon recommendation by Clark, Judiciary was specified.

CIVIL RIGHTS COMMISSION

Artis Reis, Executive Director, represented Civil Rights Commission for review of the following:

Rules of practice, 1.1(6)"f", 1.5(1)"e", 1.8(7), 1.8(8), 1.9(6) ARC 1976.F.....4/29/81

Disability discrimination in employment, 6.8 ARC 1928..N.....4/15/81

Also present were Don G. Hauser and Kathleen Reimer, Iowa Manufacturers Association.

According to Reis, the rules permit the agency to close cases in two instances: Where a right-to-sue letter has been issued or where Civil Rights has investigated and conciliation has failed, but they do not feel the record justifies moving the case to public hearing.

CIVIL RIGHTS COMMISSION Cont'd

Holden expressed his uneasiness with the language requiring hearings to be held in Des Moines "unless the hearing officer determines otherwise..." Reis indicated the rules do not presently allow procedural hearings.

1.1(6)f

Reimer presented IMA's preference for dismissal of cases, not case closure, and expressed opposition to telephone conferences. IMA contends ch 17A does not require witnesses to be listed.

Reis had supplied additional proposals on the matter to IMA, which would eliminate some of their concerns. She indicated, if both parties agree, the prehearing conference could be held in Des Moines. If that be the case, there would be no reason to have a telephone conference. Reis was amenable to amending the rule. She concluded in situations of dispute between parties re hearings, the hearing officer would make a determination. There was general discussion.

6.8

Reis explained the purpose for 6.8 was to clarify that CR does not intend to deal with temporary disability since they did not feel it was legislative intent.

In response to Tieden and Oakley, Reis indicated the Commission had received an adverse comment from Polk County Legal Aid but had not received request for public hearing. No formal motions.

EMPLOYMENT SECURITY

Joseph Bervid and Paul Moran represented Job Service for the following rules:

Employer's contribution and charges, 3.12(1), 3.12(2), 3.47(3), 3.63, 3.71(3)"a" ARC 2001 ...F.....4/29/81
Claims and benefits, 4.1(39), 4.1(58), 4.5(2), 4.8(7), 4.31(4) ARC 2002 ...F.....4/29/81
Fraud control special investigation unit, 5.3(1)"a", 5.6(7) ARC 2003 .....F.....4/29/81
Job placement, implementation clause, 7.1(24), 7.2(23), 7.3(18), 7.4(16), 7.5(5), 7.9 ARC 2004 .F.....4/29/81
Forms, 10.4, 10.7(4), 10.7(10) ARC 2005 ...F.....4/29/81

In response to Holden, Bervid explained it was a federal requirement that if an employer had not had employment for 8 quarters and had no intention of continuing business, the account was terminated. No further questions re employment security.

Real Estate

Holden urged a strong report to the Governor of the ARRC's deep concern re the tying rules.

Recess

Schroeder recessed the Committee at 9:05 a.m. to be reconvened Wednesday, May 20, 1981.

Reconvened — Schroeder reconvened the Committee at 7:30 a.m. All members present. Also present: Royce and Oakley.

June Meeting — Priebe moved that ARRC meet Tuesday and Wednesday, June 2 and 3, 1981 in lieu of the statutory date of June 9. Motion carried. Issues which have been deferred will be placed on the June agenda.

COMMERCE COMMISSION Ch 15 — Schroeder reiterated ARRC dissatisfaction with the Commission in that a public hearing was not held after the full text of the rules was developed. Discussion of chapter 15 was resumed.

Commerce was represented by David Conn, Robert J. Latham, Twila Morris, and Andrew Varley, Commissioner. Also present: Don Schroeder, Interstate Power Co.; Bob Haack, Iowa-Illinois Gas and Electric; Jerry Parkin and Pamela Prairie, Iowa Power and Light Co.; Steven C. Goodrich and Wes Ehrecke, Iowa Bankers Association; Kathleen Bean, Legal Services Corporation; Loren E. Dorr, Midland Financial Savings and Loan; Kathy Cashman, Iowa Savings and Loan League; Richard Cool, C/LEC; Representative Sue Mullins, House Energy Committee; John Lewis, Utility Companies; and John Pelton, State Representative.

In response to Tieden, Conn said the rules set forth standards by which utility systems would interconnect. If an individual with a wind generator believes he has met the standards and the utility company disagrees, the individual would ask the Commission for a decision in the matter. He continued there is a requirement that the cogenerator have a switch which is accessible to the utility at all times.

Holden opined that any agreement should be mutually beneficial. He was inclined to believe the operation could be at the discretion of the cogenerator. Conn suggested the cogenerator could agree to sell electricity whenever he had an excess and he would receive whatever expense the utility avoids. If the cogenerator consented, by contract, to supply "X" amount of capacity continuously, he would be entitled not only to the avoided fuel costs, but also to some credit for the capacity sold to the utility.

Chiodo doubted there would be many small homeowners in the cogeneration field because of costs. He visualized the practice would be limited to manufacturing plants.

Holden took the position that utilities must protect the integrity of the system. They provide the service, surplus or reserve power. Extensive use of the cogenerator system could be very disruptive to the utility.

COMMERCE COMMISSION cont'd ch 15

Chiodo contended the utility would be out avoidance cost -- not the fixed cost. Priebe could see problems for those operating on windpower exclusively.

Tieden pointed out the rules were in effect today and no Committee action could be taken. No further discussion.

20.10

There was brief discussion of 20.10(3). No recommendations were offered.

27.11

Chairman Schroeder announced review of 27.11 would be resumed. Prairie referred to a prepared statement and addressed the Committee re Iowa Power's opposition to the rule. She urged objection on the basis the rule was arbitrary, capricious and beyond authority of Chapter 476.

Oakley commented on the vagueness of 27.11(8)d with respect to rates and terms for financing. Schroeder explained that testimony given last week had indicated that the utility should be only the guarantor of a loan, with the loan being made through a financial institution.

Conn responded that the Commission had announed the policy of quoting the prevailing rate to assume a loan. He said the interest rate on refunds is presently tied to the rate for consumer loans. Clark opined those who are credit risks should pay a higher rate.

Conn pointed out that the rule applies to homeowners and he was doubtful there was a prevailing rate for a $1000 loan in that category. General discussion of interest rates.

Goodrich spoke from a typed statement on behalf of Iowa Bankers Association. He contended the ICC lacked jurisdiction under Chapter 476 to compel utilities to engage in consumer lending services.

Mullins supported the Commerce Commission's position that it does have ample authority in 476.1 and .2 to order utility financing of energy conservation measures to lenders of last resort. She emphasized that the financing was not a welfare program. Beneficiaries would be primarily aged poor, who while on limited incomes, often own their homes. She reported that her subcommittee, after two months of study, had determined there was no need for additional legislation.

Tieden questioned Mullins as to which other states have similar rules. She thought Minnesota was one.

COMMERCE COMMISSION Cont'd

Chiodo had problems limiting the program to those who cannot finance on their own. He thought there was statutory authority and doubted the rule was unreasonable because the default rate becomes so excessive that it erodes any benefit. In his opinion, the program would be more acceptable if it were braod enough to include clients other than those of last resort.

Clark suspected, in that event, it would not be the utilities who would "fight the rules" but the banks, S and L's and all other lending institutions because they don't want the good credit risks going through utilities for financing.

Holden and Priebe concurred in Chiodo's theory. Mullin stressed the poor pay their bills.

Dorr commented on behalf of the Iowa Savings and Loan League and expressed opposition to mandating utility companies to be in the loan business. He added the S and L's support the I-SAVE program 100% and are willing to make loans to homeowners of our state. They have been interested in conservation of energy and have promoted various programs.

Clark failed to understand how financial institutions would lose any business.

Chiodo reminded the Committee it was not their prerogative to make policy. Their function was to decide whether the Commission had authority under their statute for the rule. Priebe and Clark opined they could say it was unreasonable. Clark recalled some of the points made as to "vagueness" of the rule and thought it should be clarified.

In response to Oakley, Dorr indicated potential borrowers who are turned down have "slipped in their financial capability, had job change or have more bills than income, and would be unable to meet time payments." Dorr could not provide percentages for turn-down ratio.

Cool, Citizen Labor Energy Coalition, presented extensive written comments and briefly reviewed them. Coalition supports, in part, rules adopted by Commerce as being a minimal first-step toward implementation of a cost-effective energy plan. For that reason, Coalition has requested a public hearing in an effort to expand the rules so that utility investments in conservation can be included. He reviewed Iowa's energy situation. Cool had studied rules of Pennsylvania and Michigan, which lack specific statutory language contained in SF 2209, ch 93, The Code [enacted in 1967]. He had found several cases where these Commissions--based on the just and reasonable rate argument--have mandated conservation programs. He discussed

COMMERCE COMMISSION Cont'd

the question of whether or not utilities had been mandated as lenders of last resort. Wisconsin Public Service Commission, prior to 1979, mandated a gas utility conservation program that included financing and loans. He concluded by urging ARRC to support adoption of rules implementing agressive utility conservation investment programs.

Royce commented Coalition had placed inordinate emphasis on SF 2209 which gives complete authority in the area of solar energy regulation, unrelated to utility financing.

Cool argued that SF 2209 set a specific precedent and legislative intent was in Chapter 93, The Code.

Holden envisioned this as a first step to utilities providing money for ranges or conversion to gas, etc. He quipped, "What is wrong with making insulation companies, gas range companies, storm windown companies, etc. responsible?"

Cool said some of the points raised by Holden were now being implemented in a number of states. Minnesota has set up a program where a utility will actually allow rebate to the purchaser of a more efficient air conditioner. Cool stressed that utilities are monopolies--the individual cannot go down the block and buy gas from another company.

Pelton informed the Committee that it was the intent to give the Commerce Commission very broad discretion. He believed the question of jurisdiction was clear--whether or not they are reasonable is the decision of ARRC. Pelton stated that Iowa has been very progressive. However, they are deficient in areas of energy tax credits and conservation loss. He urged cooperation by all concerned to gain true public service while conserving energy.

Royce quoted from §476.1 which provides the Commission shall have "programs designed to promote the use of energy conservation strategies..." He reasoned the language was not exactly words of a permissive or mandatory nature.

MOTION TO OBJECT, 27.11

Holden moved to object to 27.11 on grounds there was no authority and it was unreasonable. He fully agreed with Chiodo that ARRC lacked authority to "set policy."

Oakley discussed history of the legislation which was to "take a measured approach and send a signal to the utilities." As to the question of service on demand he noted some utilities have time-of-day rates. In his judgment, it was a modest program and it was not onerous to the stockholders.

COMMERCE COMMISSION Cont'd

Oakley was satisfied the legal authority was there and he thought the influence of cut-off rules would have a wider impact. He expressed his own disappointment that the modest program had generated so much concern.

27.11

Clark preferred that the program be assessed after one or two years. She hesitated to object on the grounds that Commerce lacked authority. However, in her opinion, portions of the rule were unreasonable.

Substitute Motion

Tieden moved a substitute motion to the Holden motion on the grounds that the rules were unreasonable. Formal language for the objection was prepared by Royce as follows:

Pursuant to the provisions of §17A.4, the Code, the committee objects to the provisions of ARC 2000, relating to utility financing of energy conservation measures, on the grounds it is unreasonable. ARC 2000 appears as amendments to 250 Iowa Administrative Code 27.11(1) & (8) in III Iowa Administrative Bulletin #22 (4-29-81).

In essence ARC 2000 requires Iowa utilities to provide financing for energy conservation home improvements for homeowners who are unable to obtain financing from conventional sources. In the opinion of the committee this requirement is unreasonable because:

1) It does not allow utilities to charge interest commensurate with the risk involved in loaning money to persons who cannot obtain funds from traditional sources, and;

2) It allows persons to "double dip" by pledging what collateral they may have to obtain partial financing from a traditional source, and then obtain the balance of their funding by requiring the utility to provide up to $1,000.

ARC 2000 creates a guaranteed line of credit up to $1,000 for homeowners who have neither the collateral or the reputation to be considered an acceptable risk by traditional lenders. It compels an unwilling industry to provide this credit even without collateral. In exchange for the assumption of this risk the utility is allowed the same rate of return that utility customers are entitled to when the utility must make refunds. This rate of return has no rational relationship to the risk involved. The interest rate for utility refunds in calculated to provide the customer with a fair rate of return for the money the customer is entitled to have refunded. this interest rate is unreasonably low when measured against the possibity of a default by a person with absolutely no credit. The principle that the rate of return should reflect the rink involved is exemplified by the banking department.

COMMERCE COMMISSION Cont'd 27.11

140 Iowa Administrative Code 21.8 sets the interest rates for small loan companies as "...thirty-six percent per annum on any part of the unpaid principal balance of the loan not exceeding five hundred dollars, and twenty-four percent per annum on any part of the loan in excess of five hunred dollars, but not exceeding twelve hundred dollars...". This provision reflects the fact that lenders of last resort assume considerable risk when they extend credit to persons without adequate collateral or who have no reputation for credit worthiness. Those lenders are allowed a return based on the risk. Under ARC 2000 those persons who cannot obtain credit even from a small loan company may obtain credit from the utility at roughly two-thirds the interest rate. ARC 2000 ignores the high risk of loss these persons represent and is unreasonable.

ARC 2000 is also unreasonable because the $1,000 limit can be circumvented. Persons with only marginal credit can obtain partial funding from a traditional source and them obtain the balance, up to $1,000, by requiring the utility to furnish that amount. The provision contains no safeguards against such abuse and actually encourages persons to dangerously over-extend what credit is available to them.

General discussion as to whether the rule would conflict with the Iowa Banking and Consumer Credit laws.

Holden would support the substitute motion but reminded the ARRC that the alternative was to make loans available for everyone. He had "watched the bureaucracy enough to know they will go away from here saying, 'Well, we got away with that, I wonder what we can do next?'"

Vote on 27.11(1) & (8)

The Tieden substitute motion carried with 6 ayes.

19.4, 20.4

Conn briefly explained rules 19.4 and 20.4 concerning the shut-off. The shut-off moratorium was initiated as a result of petition from outside Commerce. Oakley indicated he planned to carefully peruse these amendments since, in effect, they prevent the alternative of discontinuing service to anyone. It was noted a public hearing would be June 15.

Discussion by Varley about the cogeneration rules and method used by Commerce in writing and presenting them. Disagreement between Oakley and ARRC about proper procedure to follow. The Committee urged that, in the future, the Commission should publish the completed text under Notice. Oakley reminded ARRC the practice of summarizing as opposed to setting out full text had been followed by DEQ.

Recess

Meeting recessed at 9:20 a.m. to be reconvened at 7:30 a.m. Thursday, May 21, 1981.

Reconvened — Chairman Schroeder reconvened the Committee at 7:40 a.m. Holden and Chiodo not present for roll call. Chiodo arrived later. Royce and Oakley present.

FAIR BOARD — James Taylor, Executive Secretary, and Jerry Coughlan reviewed complete revision of chs 1 to 7, ARC 1952, Notice, IAB 4/15/81.

According to Taylor, general revision was to eliminate requirements to enter competition and programs at the fair in general rules which apply to use of the fairgrounds throughout the year.

4.8 — Schroeder raised question as to authority in 4.8 re liens upon property. Oakley recalled he had requested the Board to review this rule with the Attorney General last year.

2.2 — Discussion of 2.2(2)b with respect to violation of parking restrictions. Schroeder questioned the $15 charge for towing and impoundment. Taylor replied it was intended to defray expenses. Oakley pointed out there were two charges--one for towing and one for impoundment--different practice during the fair than when the fair is not in operation.

1.2 — Clark noted 1.2 lacked quorum requirements for the Board.

Although Oakley cited 17A.2 and commented requirement was not necessary in the rules, the Committee members preferred to include it.

1.2(5), 1.2(6) — Priebe questioned allowing the board president discretion in the matter of presentations on agenda items. He opposed the fourteen-day requirement for submitting appearance request to the board's office. Oakley suggested it would be acceptable to include a time request for those wishing to submit advance materials. He thought a time should be provided for people who wish to make last-minute presentations.

7.15(1) — Schroeder questioned the ten-day limit for any camper in a thirty-day period. He was advised chapter 7 addressed interim events, which did not include fair time. Schroeder could envision problems with the ten-day rule for persons operating concessions during fair time. Priebe thought chapters 3 and 7 were in conflict. Taylor said, because of health standards, campers cannot be permitted to stay longer than 14 days. Clark suggested the fair could be exempted in chapter 7.

Clark pointed out areas where grammar and composition corrections were needed and requested that 7.16(6) be rewritten.

AIR BOARD ont'd .4(2)a — Discussion of the number of free show admissions allowed for board members. Schroeder favored allotting 4 tickets to each board member, but Priebe thought the general public would oppose

Oakley, who had to be excused, reminded ARRC that ARC 1569, DEQ, instruction for wastewater treatment facilities, had been published under Notice without the complete text.

7.22 — In re 7.22(1)c , Priebe discussed the use of the verb "must" as opposed to "shall." No action was taken.

Priebe also thought 7.20(4) needed clarification--to allow vehicles in the buildings for short periods of time in order to load and unload animals. No formal action taken.

SOCIAL SERVICES — Judith Welp, Rules and Manual Specialist, and Harold Poore, Social Services, represented the Department for review of the following rules:

ADC, reporting changes, 40.7(4)"e" and "f" ARC 1983 ..N.....4/29/81
ADC, work incentive program, 41.3(7), filed emergency ARC 1932 ...N.....F.E.....4/15/81
ADC, need standards, 41.8(2), 41.8(3), 41.8(5), filed emergency ARC 1934 ..N.....F.E.....4/15/81
ADC-unemployed parents, remedial eye care, 42.8, 85.7, filed emergency ARC 1958..N.....F.E.....4/15/81
Supplementary assistance, residential care, 51.3(3), 51.3(5) ARC 1984 ..N.....4/29/81
Intermediate care facilities, reimbursement rate, 81.6(16)"e" ARC 1985....N.....4/29/81
Intermediate care facilities for mentally retarded, reimbursement rate, 82.5(16) ARC 1986 N.....4/29/81
Eligibility requirements, 130.3(1) ARC 1987 ....N.....4/29/81
Child day care services, 132.3(3)"a" ARC 1988 ....N.....4/29/81
Payments for foster care, 137.6, 137.9 ARC 1989.....N.....4/29/81
In-home health related care, 148.3(7) ARC 1990.....N.....4/29/81
Sheltered work/work activity services, 155.2(4) ARC 1991 ...N.....4/29/81

OCIAL SERVICES DEPARTMENT[770]
ADC, 40.7(4)"e"(8), 40.7(4)"f"(8), 40.7(5), filed without notice ARC 1931..F.W.N.....4/15/81
ADC, exempt resources and income, 41.6(1)"h", 41.7(7) ARC 1935.....F.....4/15/81
ADC, earned income, 41.7(2), 41.7(9)"b" and "i", filed without notice ARC 1933 ..F.W.N.....4/15/81
Food stamp program, 65.3 ARC 1936.....F.....4/15/81
Medical assistance, screening centers, 78.18 ARC 1937 ..F.....4/15/81
Medical assistance, eliminates payments, 79.8 ARC 1938 ...F.....4/15/81
Periodic screening, diagnosis and treatment, 84.2 ARC 1939 ....F.....4/15/81
Home management services, 158.4(1) rescinded ARC 1940 .....F.....4/15/81
Client assessment/case management services, ch 159 ARC 1941 .....F.....4/15/81

132.4(3)a — In re 132.4(3)a, Welp explained the major change would permit a single parent, who is in vocational training, to receive day care assistance.

Schroeder and other Committee members expressed amazement at the concept and could forsee many problems with the approach. They envisioned day care costs at $40 to $50 a week which could conceivably create greater problems. Welp could not provide estimated savings. Poore thought there would be some savings rationale if one parent had to be working, the other parent could remain at home with the child. Clark preferred it if restrictions could be imposed.

Priebe inquired if students from other countries could qualify. Welp responded in the affirmative. Committee urged DSS to give the rule further study before adopting it.

SOCIAL SERVICES Cont'd

In re 137.6(1), Priebe opposed striking the last sentence. Welp said DSS thought it to be useless--since the legislature has specified amounts in the last few years. Rate changes could be made through rulemaking process. Priebe suspected "DSS does everything they can to cut back on foster care" but he favored helping foster parents. He contended, with the language stricken, it could not be adjusted for such things as cost of living. Clark noted Priebe was expounding a philosophy which differed from that of the present appropriations committee. In response to Chiodo, Welp cited 234.38 as authority. Tieden recommended that the language in question be reinstated before adoption of the rules.

83.7

Discussion of rule 83.7 re remedial eye care. Priebe thought it to be an important program.

In response to Schroeder, Welp said the Title XX plan was publicized. She said client assessment case management service was being included as a separate service under Title XX in order to keep better records.

No Representatives

No agency representative requested to appear for any of the following:

AUDITOR OF STATE[130]
Consumer loans and certain securities, ch 9 ARC 1981 ...F.....4/29/81

COLLEGE AID COMMISSION[245]
Scholarships, tuition grants, advisory council, due process, 2.1(4)"b"(1), 2.1(5)"b"(1) and (4), 2.1(7)"d", 2.1(6)"b", 4.1(4), 5.1(3), 6.1, ch 11 ARC 1969....N.....4/29/81

CONSERVATION COMMISSION[290]
Safety equipment, sailing vessels, 27.7, 27.8 ARC 1973 ..F.....4/29/81
Areas designated for industrial and commercial use, 55.2, filed without notice ARC 1974 ..F,W,N.....4/29/81

CONSERVATION COMMISSION[290]
Crow hunting season, ch 101 ARC 1975 ..N.....4/29/81

HEALTH DEPARTMENT[470]
Advanced emergency medical technicians, 132.3(6) ARC 0984 terminated, ARC 1978..N,S,NT.....4/29/81
Temporary pilot program for advanced EMT-D study, 132.12, filed emergency ARC 1957...FE.....4/15/81
Ophthalmic dispensers, ch 159 ARC 1929 ...N.....4/15/81
Cardiac catheterization and cardiovascular surgery, 203.2(5)"c", filed emergency ARC 1977....FE.....4/29/81
Standards for obstetrical units, 203.9 ARC 0857—Item 3 terminated, ARC 1960 .....4/15/81
Standards for obstetrical units, 203.9 ARC 1961 ...N.....4/15/81

HISTORICAL DEPARTMENT[490]
Historical board election, 2.2 ARC 1971 ..N.....4/29/81

MERIT EMPLOYMENT DEPARTMENT[570]
Certification, 7.6(1), 7.6(2), 7.8 ARC 1950 ..N.....4/15/81
Vacation and leave, ch 14 ARC 1951 ..N.....4/15/81

HEALTH DEPARTMENT[470]
Reportable diseases, 1.2(1) ARC 1970.....F.....4/29/81

MERIT EMPLOYMENT DEPARTMENT[570]
Pay plan, 4.5(1)"c"(2) ARC 1949 .....F.....4/15/81

REGENTS, BOARD OF[720]
Purchasing, 8.6(4) ARC 1953 ...N.....4/15/81

SOIL CONSERVATION DEPARTMENT[780]
Financial incentive program, soil erosion control, 5.30 to 5.33, filed emergency after notice ARC 2008 ..F,E,A,N.....4/29/81
Financial incentive program, maintenance agreements, 5.34(5)"e", filed emergency after notice ARC 2009 .F,E,A,N.....4/29/81

SOIL CONSERVATION DEPARTMENT[780]
Surface coal mining and reclamation operations, 4.35(13) ARC 2007 ..F.....4/29/81

VETERINARY MEDICINE, BOARD OF[842]
License fees, certificate renewal, continuing education, name of board change, 2.2, 4.4, 8.1 ARC 1992 ..F.....4/29/81

ENGINEERING EXAMINERS, BOARD OF[390]
Licensing, forms, property surveys, 1.2, 1.8, 2.1(2), 2.5 ARC 2006...N.....4/29/81

PUBLIC INSTRUCTION DEPARTMENT[670]
Administration and finance, rescinds ch 1 ARC 1963 ..F.....4/15/81
Standards for instructional materials, rescinds ch 2 ARC 1964 F.....4/15/81

Committee Request — The Committee requested the Secretary to draft a request to all agencies requesting them to plan their rulemaking in months other than February to May.

Minutes — Chairman Schroeder called for disposition of minutes of the April Meeting. No additions or corrections were offered and the Chairman ordered them approved as submitted.

Committee Business — The Committee agreed to hold a special meeting June 2 and 3 in lieu of the regular statutory meeting.

Adjourned — Chairman Schroeder adjourned the meeting at 8:48 a.m.

Respectfully submitted,

Phyllis Barry

Phyllis Barry, Secretary
Assisted by Vivian L. Haag

APPROVED:

Laverne Schroeder
CHAIRMAN