

MINUTES OF THE REGULAR MEETING
OF THE
ADMINISTRATIVE RULES REVIEW COMMITTEE

Time of Meeting

The regular meeting of the Administrative Rules Review Committee was held Tuesday and Wednesday, October 14 and 15, 1986, in Senate Committee Room 24, State Capitol, Des Moines, Iowa.

Members Present

Senator Berl E. Priebe, Chairman; Representative James D. O'Kane, Vice Chairman; Senators Donald V. Doyle and Dale L. Tieden; Representative Edward G. Parker.
Not present: Representative Betty Jean Clark, excused because of illness. Staff present: Joseph Royce, Committee Counsel; Phyllis Barry, Deputy Code Editor; Vivian Haag, Executive Administrator. Also present: Barbara Booker Burnett, Governor's Administrative Rules Coordinator.

Convened

Chairman Priebe convened the meeting at 10:10 a.m.

COLLEGE AID COMMISSION

The following agenda was presented by Scott Galenbeck, Assistant Attorney General, and Patricia Paddock of the Commission:

Tuition grant institutional eligibility requirement, 4.2 ARC 6927.....F. 9/10/86
Guaranteed student loans, 10.24, notice amended—public hearing change ARC 6898N. 9/10/86

Also present: Jim Grove, President, Spencer School of Business; John Huston, President, American Institute of Commerce; Mary Loven, Director, Hamilton Business College; Ray Buchli, Business Institute of Technology; John V. Hartung, Iowa Association of Independent Colleges.

According to Galenbeck, the rules effectuate Iowa Code section 261.9 which sets forth standards for qualification of institutions for the tuition grant program.

Chairman Priebe recognized Barry who indicated that Clark had called to express her reservations about business colleges being precluded from tuition grants, and she wondered about the possibility of smaller grants.

Galenbeck responded that the rules provide mechanism for application and eligibility criteria but do not discriminate among types of institutions.

Huston presented concerns of the business schools and distributed copies of a prepared statement with supporting documents. He spoke on behalf of the American Institute of Commerce, Hamilton Business Colleges, and Spencer School of Business and their approximately 1500 students. He emphasized the gravity of the matter for the students and labeled the rule as "detrimental to the business colleges." Huston continued that input by

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COMMISSION

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business school administrators had been severely limited with only "lip service" from the Commission. He contended that the original intent was to equalize the tuition between private and public postsecondary institutions allowing freedom of choice and access to students who desire to further their education. Certain private specialized schools have been included in the grant program through the "three-letter" route, i. e., receiving transfer credit letters from three North Central Accredited Institutions in Iowa. He called attention to the structure which creates loopholes to prevent these schools from gaining accreditation from the North Central Association. Huston pointed out that they were accredited by a nationally known accrediting agency having the same credibility and recognition as the NCA. He urged rejection of rule 4.2.

Huston called attention to a potential loss of federal funds under the new tax law which precludes counting of students in surveys for funds which they are ineligible to receive.

There was discussion of the requirement for letters from three NCA accredited Iowa institutions. Huston contended it would be unlikely that any of the business schools could obtain the three letters, but made the point that the colleges readily accept students as transfers.

Galenbeck pointed out the requirement for three letters was statutory but that it was only one of four ways to qualify for the tuition grant program. Galenbeck added that the Commission has allowed time for the institutions to obtain NCA accreditation.

At Parker's request, Royce had compared the rules and the statute. He viewed the rules as clarification of the statute. Galenbeck said the "three-letter" statute--261.9(5)c--had been in existence since 1969 or 1970. Royce wondered why the problem had not surfaced years earlier, if there were one.

Buchli described the experience of BIT over the past year in being granted approval to participate in the program only to have the letters rescinded. He suspected "a deliberate, straight-forward" attempt to remove schools from the program. Buchli referenced legislative actions since 1975 and reduced funding. It was his opinion that the law had not changed--only its interpretation which makes application more difficult. He concluded that "every college has a loophole."

Galenbeck commented that remarks by Huston and Buchli seemed to illustrate need for the rules to avoid confusion and to provide equal application. He reiterated

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Continued

that the rules reflect statutory mandate and, if schools are dissatisfied, the route of complaint would be to the legislature, not the Commission.

O'Kane and Priebe concurred that the argument lies with the legislature. Priebe discussed the possibility of notifying the appropriate legislative committees of the questions raised by business schools. He suggested that business schools pursue a change in the statute. Galenbeck informed the Committee that the BIT application was the first in several years and, in the course of that review, he realized the need for rules. Galenbeck disagreed with Tieden's opinion that "some of the circumstances were rather suspect."

Galenbeck advised Parker that the Commission would be acting illegally if BIT were accepted. Huston observed that the application from BIT had been revoked under the new rules. Huston spoke of the general inconsistencies, cost in fees to NCA, and of the important role of the institutions he represents in the education scene.

Royce was of the opinion that, by custom over the last ten years, the law had been interpreted to exclude business schools. The new rule, quite accurately, implements the statutory provisions. Priebe recognized inconsistency if applications are being accepted for private college students. Hartung commented that transfer credits from nonaccredited institutions are not accepted on a blanket basis.

Motion

Tieden moved to notify the Lieutenant Governor and the Speaker of the House that previous policy has now changed because of rules to implement the statute. Motion carried unanimously.

10.24

No recommendations were offered for rule 10.24.

CORRECTIONS
DEPARTMENT

The following rules were before the ARRC with Fred Scaletta in attendance.

Institutions, visiting hours, tours, 23.2(1) to 23.2(10), 23.3(1) to 23.3(2), 25.1(3), 26.1(2), 27.2	ARC 6912	.....	<i>F</i>	9/10/86
Organization and procedures, institutions administration, medium security facility, 1.1, 1.6(1)"a" and "d."				
1.9(2)"a" (4), 1.6(2)"b" (8), 1.6(3)"c", 1.6(4)"a", 20.1, 20.4(4)"c", 24.2	ARC 6913	.....	<i>N</i>	9/10/86
Iowa state penitentiary, 21.1 to 21.5, also notice	ARC 6906 terminated ARC 6915	.....	<i>MT</i>	9/10/86
Community-based corrections administration, ch 47	ARC 6961	.....	<i>N</i>	9/24/86

No questions re 23.2(1) et al, 20.4(4) and 21.1 to 21.5.

ch 47

Scaletta gave brief overview of chapter 47, scheduled for public hearing today. At O'Kane's request, Scaletta agreed to provide the ARRC with results of the hearing.

EDUCATION DEPARTMENT

Kathy Collins appeared for the Department of Education and the following was considered:

Educational aides, 670-3.4(5) ARC 6925 F 9/10/86
Extracurricular interscholastic competition, 670-9.20(2), 9.20(8) ARC 6926 N 9/10/86

3.4(5)

Discussion of educational aides--3.4(5). Priebe and O'Kane shared the opinion that new language was meaningless.

Collins explained that the function of aides was to relieve teacher time and question has been raised as to whether aides could be on the playground without the presence of a teacher. The Department interpreted the old rule to imply that a teacher was needed to supervise. Collins cited an Ottumwa court case where the school district was sued as a result of problems on the playground when only an aide was in charge. The Court found the rules to be unclear and the Department is attempting to show that an aide can function in the absence of a supervising teacher. O'Kane was informed that liability of an aide and a teacher was the same.

Collins pointed out that the words "professional instructional" should be transposed in line 3.

9.20

In review of 9.20, Tieden questioned statutory authority relative to use of "contiguous" and Collins agreed to verify it before adoption of the amendments.

COMMERCE DEPARTMENT Insurance Division

The following agenda was reviewed by Sharon Henry and Craig A. Goettsch of the Insurance Division:

Insurance holding company systems, 510-45.5, 45.6(2), 45.7, 45.9, 45.10(3), 45.10(6) ARC 6894 F 9/10/86
Registration and operation of broker-dealers, uniform limited offering exemption, 510-50.16 ARC 6895 N 9/10/86
Registration and operation of broker-dealers, reports, rescinds 510-50.21 ARC 6896 N 9/10/86

No questions re 510--45.5 et al. Goettsch advised O'Kane that complex rule 50.16 was evolutionary--the first Act of Congress was in 1980, the first NASA draft was in 1982 and the final draft, in 1984--North America Securities Administration Association. Goettsch said much effort was devoted to development of the rule. Tieden noted that the preamble indicated the federal footnotes were not adopted. Goettsch said that federal law provided two broad exemptions.

Utilities Division

Ray Vawter and David Lynch appeared for rules of the Utilities Division as follows:

Natural gas, transportation service, 250-19.13 ARC 6930 F 9/10/86
Telephone, intrastate billing and collection services, 250-22.14(3) ARC 6932 F 9/10/86
Intervention deadlines, 250-7.2(8) ARC 6929 N 9/10/86
Natural gas and electric customers, flexible rates, 250-19.12, 20.14 ARC 6931 N 9/10/86

Also present: John Lewis, Iowa Utilities Association.

19.13

No questions re 19.13, 22.14(3), or 7.2(8). Lynch called attention to the fact that the Division had inadvertently submitted amendments to 19.12 and 20.14 under Notice when they were actually adopted rules--9-10-86 IAB. No Committee action.

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WATER, AIR, &
WASTE MANAGE-
MENT DEPT.

Mark Landa, Darrell McAllister, Dennis Alt, and
Diana Hansen represented WAWM for the following:

Federal effluent and pretreatment standards, federal toxic effluent standards, 62.4, 62.5 ARC 6907 F 9/10/86
Special monitoring for pesticides and synthetic organic chemicals, 40.1, ch 42, filed emergency ARC 6908 FE 9/10/86

Hansen concurred that a date certain should be added to 900--62.5, federal toxic effluent standards. Landa explained that rule 40.1 and Chapter 42 were intended to implement HF 2303 [1986 Acts] relative to a one-time testing of water supplies in Iowa for the presence of organic chemicals and pesticides.

The Department, in consultation with UHL Chemical and Pesticide Association, EPA, University of Iowa, Iowa State University, and a number of other organizations, supplied the list of 35 synthetic organic chemicals and 35 pesticides which could be prevalent in Iowa waters.

Alt explained that the pesticides listed by trade name were basically one compound--there was no intent for duplication.

In response to Tieden, Alt said a few of the chemicals and pesticides have health advisory limits or limits set by EPA, or they are being developed. The Department has been in contact with EPA, but Iowa has not adopted specific limits.

42.4

Tieden questioned the significance of rule 42.4 re analytical methods and Alt responded that the methodology was set for degree of accuracy to reach a quantitative level. A specific method would be necessary. O'Kane was told that chlorinated hydrocarbons had been banned but still exist in the natural environment. Tieden was informed that the synthetic organic compound list was endless and would be modified. Tieden wanted to know if Alt were satisfied. According to Alt, it was difficult to assess the effectiveness of testing of water at this time. He concluded that the risk of carcinogens alone is an ever debatable issue on which even experts fail to agree.

Recess
Reconvened

Chairman Priebe recessed the Committee for lunch at 11:50 a.m. and reconvened the meeting at 1:30 p.m.

AGRICULTURE
DEPARTMENT
Soil Conser-
vation Div.
5.5(1)f

Ken Tow represented the Soil Conservation Division for the following:

Iowa financial incentives program for soil erosion control, 5.5(1)"f," 5.56, 5.60(1)"b," 5.64(5), 5.82(1), 5.82(2), 5.84(12) to 5.84(16) ARC 6909 F 9/10/86

Tow stated that 5.5(1)f provides an increase from 10 to 30 per cent for cost share allocation for management practices by a local district.

Soil
Conservation

Priebe quoted from 5.56(2)... "failure of all participating landowners in a particular project to show progress during the first year will result in loss of authorization..." He was concerned about the person who has a crop failure because of unforeseen weather. Tow saw no problem and pointed out that the rule did not address compliance. The watershed projects would be funded by cost share money for terraces. He said the law provided 60 per cent could be allowed for group projects of an entire watershed. In this instance, the Department took the position that all in a group should be committed toward implementing conservation practices. Priebe thought one landowner could spoil the program for all. He favored clarification of the rule. Tow agreed to convey Priebe's sentiments to the state committee and to monitor the program.

HEALTH
DEPARTMENT

Mike Guely, Bureau Chief, Don Kerns, GMS Program Manager, Irene Howard, Division of Professional Licensing, Keith Rankin, Barber Board Administration, Roger Chapman, Bureau Chief, and Susan Osmann represented the Public Health Department. Also present: William Vanderpool, Board of Medical Examiners. The agenda follows:

Advanced emergency medical care, 132.1, 132.8(1)"b" and "n," 132.8(4)"a" to "e," 132.9(10), 132.9(7) ARC 6939 F 9/24/86
 Medical examiners, board of, 135.301(7), 135.301(15), 135.101(4), 135.204(11) ARC 6946 F 9/24/86
 Barber examiners, board of, schools of barbering, 470-152.6(1), 152.6(4), 160.6, 152.214 ARC 6905 F 9/10/86
 Barber examiners, board of, barbershops, 470-153.5 ARC 6906 F 9/10/86
 Birth defects institute, 470-4.1, 4.6 ARC 6960 N 9/24/86
 Hearing aid dealers, board of, 470-145.6, 145.11, 145.12, 145.204 ARC 6904 N 9/10/86

132.1

Guely explained that amendments to chapter 132 were limited to advanced care which does not impact the basic care ambulance service. Brief discussion of the remaining agenda with no recommendations.

Committee
Business

Discussion of ARRC meetings with decision being made to remain with the statutory dates. Barry spoke of heavy workload in publication of administrative rules to implement state government reorganization. Burnett and Barry will advise the Committee if it becomes necessary to revise the publication schedule.

REVENUE &
FINANCE
DEPARTMENT

Carl Castelda was present for review of the following:

Practice and procedure, taxation—excise, individual income, corporation, franchise, generation skipping, hotel and motel, 7.17(6), 7.21, 7.24(2), 11.6(2), 13.14, 18.45(1), 18.45(6), 43.2, 53.10, 55.2, 58.5, 60.2, 88.3(1), 88.3(3), 103.6(2), 103.14 ARC 6962 F 9/24/86
 Taxation—excise, use, individual income, corporation, franchise, motor fuel, property, inheritance, fiduciary, hotel and motel, penalty and interest, 10.2 to 10.5, 12.10(4), 12.10(5), 30.10(1) to 30.10(3), 44.2(4) to 44.2(7), 46.5(2), 46.5(3), 52.6(5), 52.6(6), 58.6(5), 58.6(6), 63.2(4) to 63.2(6), 75.2(2), 75.2(3), 81.2(1)"b" and "c," 81.2(2)"b" and "c," 86.2(19), 86.2(20), 89.6(7), 104.8(3), 104.8(4) ARC 6963 F 9/24/86
 Sales and use tax exemptions, 17.20, 18.46, 32.4, 32.5, 32.6, 32.7 ARC 6918 F 9/10/86
 Taxes—individual income, corporation income, local earnings, 38.9, 40.9, 40.26, 42.5, 42.6, 43.5, 46.1(1)"e," 46.4(1) to 46.4(3), 46.4(5), 47.1(1), ch 49, 52.4(3), rescinds ch 113 ARC 6917 F 9/10/86
 Taxes—individual, corporation, franchise, fiduciary, 39.2(2), 39.2(3), 52.2(4), 52.2(5), 58.2(3), 58.2(4), 89.5(1) to 89.5(4) ARC 6918 F 9/10/86
 Corporations—minimum tax, additions to federal taxable income, 52.5, 53.9 ARC 6964 F 9/24/86
 Corporation income tax, consolidation, basis, abatement of tax, 53.15(1), 53.15(3)"c," 53.15(6), 53.15(8), 54.1, 55.4 ARC 6919 F 9/10/86
 Motor fuel, special fuel, 63.10, 64.3, 64.9, 64.15, 64.15(2), 65.15, 65.15(1) ARC 6920 F 9/10/86
 Property tax, board of review, homestead tax credit, 71.20(1)"e," 71.20(4)"a," 80.1(1)"a," ARC 6921 F 9/10/86
 Inheritance tax, estate tax, 86.4, 87.3(7) ARC 6922 F 9/10/86
 Taxation, permits, delinquent in payment, 13.16, 30.1, 30.1(3), 63.2(6), 81.13 ARC 6965 N 9/24/86
 Tangible property, sales by trade shops to printers, 18.3(2) ARC 6966 N 9/24/86
 Appeals, cigarette and tobacco tax, 81.1(3), items 1 and 2 of notice ARC 6734 terminated ARC 6923 NT 9/10/86
 Local option sales and service tax, 107.9, 107.11 ARC 6967 N 9/24/86

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REVENUE &
FINANCE
Continued

Impact of new federal legislation was discussed. Castelda summarized all of their amendments and committee concerns were addressed. With respect to 10.4(1)e, Castelda told Doyle that Iowa's laws piggyback federal. He added, "there is a frivolous return penalty in the state's amnesty law."

In the matter of income tax refunds, Castelda said that Revenue tries to finish by November 1 in order to prepare for the next season. Records of interest paid are maintained. Castelda clarified that income averaging was never allowed for state tax. However, payment of more federal tax will provide a larger deduction on state returns. The Department will analyze this situation for possible impact. Doyle asked if the removal of the deduction for working couples would impact the state tax receipts. Castelda said they could fall into a lower bracket which makes projection of figures difficult. Castelda agreed to provide Committee and Staff with copies of the Department's handbook on the Tax Reform Act. It was noted that bingo rules would be administered by the Department of Commerce under re-organization.

ch 53

Castelda reviewed amendments to chapter 53. Tieden asked if there had been requests for hearing and Castelda responded that the Department rarely receives such requests.

63.10 et
al

Re motor fuel, special tax amendments, 63.10 et al, O'Kane recalled that both public transit system and regional transit system were defined in the Code. He thought, for purposes of the motor fuel tax, one definition could be used. Castelda indicated that DOT recommended this definition used in rules and there had been no problem.

13.16
et al

Responding to Tieden's question re 13.16--denial of permit to applicant who is delinquent in payment of tax--Castelda said the Department tried to create a standard. Facts will be gathered and analyzed to determine whether or not there exists legal substance on which to base a decision. Castelda pointed out that the last paragraph of 13.16(422) should read..."1986 Iowa Acts." There was brief discussion of 18.33(2).

Castelda and O'Kane discussed local option tax elections. The tax must be imposed or repealed at the beginning of a quarter. Effective date for ballots in January would be March 1. O'Kane raised question in 107.9, paragraph 5, as to applicability in Sioux City which pays a franchise fee. According to Castelda, if a franchise fee is imposed on electric utilities, then local option tax cannot be imposed on those charges. No action taken on Revenue rules.

HUMAN SERVICES DEPARTMENT

Don Herman, Bureau Chief, advised ARRC that Mary Ann Walker was ill and would not be present. Department representatives present for the following Human Services rules were:

Organization, refugee cash assistance, refugee services program, medical assistance, 1.3(8), chs 60 and 61, 75.1(1), 75.1(17), 75.1(22), rescinds 715--chs 1 to 8	ARC 6970	.....	F	9/24/86
ADC, application, granting assistance, 40.1, 41.6(8)	ARC 6952	.....	F	9/24/86
Health maintenance organizations, ch 88	ARC 6971	.....	F	9/24/86
Eldora training school, standards, advisory committee, 103.20, 103.21	ARC 6953	.....	F	9/24/86
ADC, shared living arrangements, 41.7(3), filed emergency after notice	ARC 6941	.....	FEAN	9/21/86
ADC, unemployed parent, 42.7	ARC 6965	.....	N	9/21/86
Medical assistance, eligibility, 75.1(7), 75.1(23), 75.1(24)	ARC 6940	.....	N	9/21/86

Title XIX reimbursement for Nurse-Anesthesiologist..... Selective Review

Don Kearney, Nancy Haigh, Cynthia Tracy, Lorena Griffith, Dan McKeever, C. Ballinger, Dan Gilbert, Clark McDonald, John Fairweather; Patti Cale and Marv Weidner, Refugee Programs. Also present: Rebecca Reznicek, Richard Mishler, Marty Owen, Iowa Association of Nurse Anesthetists; Merlin G. Osborn, M.D.; Jack Moyers, M.D.; John Wilson, M.D., Iowa Society of Anesthesiologists; M. Chris Jensen, Blue Cross-Blue Shield; D. Jackson, Iowa Board of Nurses; Timothy Gibson, Iowa Medical Society; Jeanine Freeman, Iowa Hospital Association.

- chs 1 to 8 Weidner briefed the Committee with respect to 715-- chapters 1 to 8. Public hearings had been offered, but no one expressed interest. In response to Priebe, Weidner described "appropriate work"--60.9(2)--as any job that pays a legal wage and is appropriately registered with the IRS. A refugee would have the same rights as anyone to refuse a job but refusal would make them ineligible for government cash assistance, all federally funded. Iowa has one of the lowest ratios of cash assistance by refugees in the country. Primarily, those refugees are widows with children or unaccompanied minors that have entered the United States without parents. Weidner said that 11,000 refugees have resettled in Iowa over the last 11 years and 9500 remain.
- 61.3 Doyle referred to 61.3 and learned that the refugee program staff work flexible hours to maintain the 7: a.m. to 5: p.m. office hours without overtime.
- 41.7 Griffith reported that 41.7(3) was clarified for compliance with federal requirements. Terminology was changed without change of policy. Tieden found that statement to be confusing. Griffith said that funds commingled to cover mutual expenses in a shared living arrangement will not be counted as income to the ADC household. Clients will not be affected since current policy will not change. Griffith had no figures on the amount of funding.
- 42.7 McKeever indicated that amendment to 42.7 would eliminate paperwork for local Human Services offices. According to
- 75.1 Haigh, three federally mandated changes were implemented in 75.1. Additional cost will be minimal since only 65 more persons would be eligible.

HUMAN
SERVICES
DEPT.
Continued

McDonald reviewed chapter 88 governing HMOs intended to implement a statewide medical service program for Iowa Medicaid recipients. Controversy developed over mandatory enrollment provisions and the Department will submit a plan to the Human Services Council in 1987 regarding mandatory demonstration counties. They anticipated the need for two quarters of demonstration before reporting the experience to the Council. McDonald stressed that various protections have been built into the rules to ensure fairness to all parties concerned.

Priebe, speaking for Clark, commented that the program should be voluntary and there should be a choice. McDonald discussed pros and cons on mandatory vs voluntary. Without mandatory enrollment, the program will not be cost effective. He contended that mandatory enrollment differed little from happenings in the health care system generally. Major purchasers of care are moving from first dollar coverage.

O'Kane observed that many counties listed in 88.3(1) did not have HMOs. Department officials said the list was devised by using counties with HMOs and those counties that will have HMOs. With respect to bordering states, an HMO would have to be licensed to do business in Iowa. A mandatory enrollment demonstration project could currently be implemented in Polk, Dubuque, and Clinton counties.

Gibson was doubtful that the effectiveness of a mandatory HMO concept could be evaluated in two quarters. The Medical Society had presumed the Department would conduct a pilot project for at least a year. They were very much opposed to a mandatory HMO concept without adequate testing.

Parker suspected that patients to be covered would be those without a high degree of mobility. McDonald discussed criteria for doing business with any HMO. He stressed that the Council would make the decision on length of the test program. McDonald advised Tieden that Wisconsin is the only state with statewide enrollment but approximately 10 states have demonstration projects. No Committee action.

Special
Review

Chairman Priebe recognized Mishler, who read from a prepared statement wherein he reiterated his position that certified registered nurse anesthetists should receive direct reimbursement from Iowa's Medicaid system.

Moyers took the position anesthetizing was practice of medicine and should be supervised by persons making judgments and planning the care of the patient. He argued against direct reimbursement. Tieden referenced a letter from the American Society of Anesthesiologists who also oppose direct reimbursement.

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HUMAN SERVICES Special Review Mishler contended his Society was also professional and that reimbursement, not supervision, was the issue. Priebe wondered why rules could not provide for direct supervision by physicians with direct reimbursement of nurse anesthetists.

Freeman spoke in support of the Department of Human Services denying the request for direct Medicaid reimbursement to nurse anesthetists. She maintained it would be a costly program. The bill to Medicaid does not reflect just the cost for hiring NAs. Herman concurred there was potential for increasing program costs, e.g., there would be additional administrative costs in processing and paying two claims. Discussion of costs and billing in general. Priebe took the position that until federal legislation is enacted, the Department or ARRC can take no action.

Recess Committee was recessed at 4:05 p.m.

10-15-86

Reconvened Chairman Priebe reconvened the Committee, Wednesday, October 15, 1986, 9 a.m. Members not present: James D. O'Kane and Betty Jean Clark, both excused.

Committee Business There was brief review of Royce's recommendations to update ARRC Rules of Procedure. Re special meetings, it was decided that "four days' notice" should be eliminated. With respect to availability of minutes, it was consensus that the sentence, "They are available on request." should be omitted. In the fifth paragraph, Doyle recommended addition of rules of the Iowa General Assembly in addition to Mason's Manual of Legislative Procedure. The Committee deferred final action to a subsequent meeting.

No Agency Reps No agency representatives were requested to appear for the following:

- CREDIT UNION DIVISION[189]
Name change and transfer, chs 1 to 15. filed emergency ARC 6893 FE 9/10/86
- EXECUTIVE COUNCIL[420]
Deferred compensation program, HMOs, chs 5 and 6. filed emergency ARC 6890 FE 9/10/86
- HIGHER EDUCATION LOAN AUTHORITY[480]
Rulemaking, rescinds 180-2.3 ARC 6897 N 9/10/86
- REGENTS, BOARD OF[720]
Purchasing, South Africa divestiture, 8.2(5) ARC 6947 N 9/24/86
- VOTER REGISTRATION COMMISSION[815]
Voter registration forms and instructions, 2.1(2), 2.1(3), 2.1(5) to 2.1(8), 2.2(1) ARC 6959, also filed emergency ARC 6958 N x FE 9/24/86

AGRICULTURE & LAND Bette Duncan, Chuck Eckerman, Wally Dick, and Donna Gwinn represented the Department for the following:

- Pesticides, 30-10.46 ARC 6935 F 9/24/86
- Bonded warehouses, licensed grain dealers and agents, grain indemnity fund, name change and amendments, 250-chs 12 to 14 transferred to 21-chs 60 to 62 ARC 6968 F 9/24/86
- Bonded warehouses, temporary storage facilities, 60.27(1), 60.27(6), filed emergency ARC 6892 FE 9/10/86

AGRICUL-
TURE &
LAND
STEWARD-
SHIP
10.46

Also present: Steven Schoenbaum, Iowa Fertilizer and Chemical Association; Stephen Moline, Assistant Attorney General.

Duncan indicated that the Department had received numerous complaints about use of Command--10.46. Several persons attended the hearing on the rule and adverse comments recommended that registration be revoked. However, the rule does not provide that. Priebe commented that Iowa cannot be more restrictive than the federal government. Duncan responded that no action had been taken at the federal level. Mention was made of possible delay of the rule for further study. According to Duncan, the herbicide will be changed and a new product will satisfy complaints. Doyle was concerned about possible civil suits. Royce advised that the emergency rule would not be terminated until this rule is adopted under normal rulemaking. Tieden thought the regular course would have to be followed.

According to Eckerman, they plan to review new product registration for the chemical formulation in Command. After further discussion, no formal action taken.

Bonded
Warehouse

No questions with respect to chapter 12 et al. Priebe raised question re new language "unless an extension is granted after examination" in 60.27(1). He wondered why it was necessary to include "after examination" and asked if all of the temporary storage facilities would be examined. Dick said that, at the time the license terminates, it would be necessary to examine them. He cited instances of spoiled grain in conventional facilities, so spoilage in temporary facilities was inevitable. Priebe viewed the temporary storage to be a "farce."

Motion

Parker moved that an economic impact statement be prepared as to the extent crops placed in temporary storage deteriorate. Motion carried. Clark and O'Kane not present.

There was discussion of the indemnity fund which Priebe felt was likely to be depleted.

Priebe questioned Dick as to his opinion on legislation to preclude grain in temporary storage from qualifying for the indemnity fund.

Dick thought it would be almost impossible since a large share of that grain will be under loan and the federal government would not accept it. As a result, grain warehouses would go out of business.

No other action taken.

ALCOHOLIC
BEVERAGES
DIVISION
of
Commerce
Department

Patrick Cavanaugh, Department Director; Richard Morrell, Division Director; William Armstrong, Licensing Section and Lynn Walding, Assistant Attorney General, were present for the Division to review:

Liquor licenses and permits, advertising, 150-4.5, 4.7(6), 4.7(9), 4.20, 5.11(7), 6.11(1), 185-ch 17 ARC 6902. *N. + FE* 9/10/86
also filed emergency ARC 6901 *N.* 9/10/86
Class "E" liquor control licenses, 17.1(4) and "a," 17.1(1), 17.4(2) ARC 6903..... *N.* 9/10/86

4.5 et al

In re 4.5 et al, Cavanaugh gave brief overview of what he considered to be a key set of rules to implement that portion of [1986 Acts] HF 2484 relating to the establishment of private retail alcoholic beverage or liquor outlets in the state. No one appeared at the September 30 hearing on the rules. He distributed copies of a progress report on "privatization" of state liquor stores.

Cavanaugh enumerated the five statutory requirements for issuance of a new class "E" liquor control license to those desiring to sell alcoholic liquor at retail. He addressed questions which have been asked frequently. In the case of a premise already licensed for on-premise sales, such as a tavern, bar or restaurant, the licensee may also get an "E" license. However, it must be in a separate premise and the rules define "separate premises"--17.1(5). An individual with a license for off-premise sale of beer and wines, such as a grocery store, may also be licensed for the same store to sell alcoholic liquor unless gasoline is sold there. The Department interprets the statute to allow those already licensed as beer and wine wholesalers to also hold Class E licenses.

Cavanaugh reviewed the Class "E" fee schedule based on square footage of the retail establishment and population of the community.

The Department has estimated that 415 to 450 of those licensees would generate about \$2.4 million which compares favorably to the estimate of \$2.8 projected by the legislature. Although not statutorily designated, the Division has also set up a sliding scale for application to address concerns of landlords, outplacement for employees and other issues. No license fee need be submitted for applications received by December 1, 1986. The Department will bill in January for payment in February. The incentive for prospective licensees to file as soon as possible will enable the Division to notify those affected by the transition and provide information to the Legislature and the Governor.

Cavanaugh referenced a key element of the statute which provides that on March 1 and thereafter, when a private store opens, the state store in the store's "market area" shall close. Definition of "market area" was left to the Department and Cavanaugh took the position that the one in 17.1(2) was clear and concise. Cavanaugh could see no serious problem with application of the 15-mile radius rule--an issue which had been addressed by the news media.

ALCOHOLIC
BEVERAGES
DIVISION
(Cont.)

A 1983 map showing location of state stores was distributed and Cavanaugh pointed out that the Division is required to maintain state stores irrespective of profitability until March 1. Cavanaugh continued that responsibility of the Department to interpret the term "premises at which gasoline is to be sold" was another key issue. They have proposed a definition in 17.1(4) as a "premises where payment for gasoline is made." Cavanaugh admitted that it was a difficult definition to apply but he explained "if payment for gasoline is not made within the four walls of the licensed premise, then it is not a premise at which gasoline is sold and that would be an eligible class "E" licensee. If gasoline is sold outside, somehow attached to or associated with the same place, but no payment for any gasoline is made inside the premise, it would be eligible." Discussion followed.

Parker was interested in derivation of the definition and Department officials indicated it had been drafted by the Alcoholic Beverages Commission. Cavanaugh commented that information provided here today had been presented to the Legislative Oversight Committee three weeks earlier. The "premises" rule was submitted as Notice only since the Commission has reservations about that portion of the statute.

Parker recalled the prohibition in the statute was to provide a completely open system with no franchises to help ensure some selection. He urged a more explicit definition, e.g. an enterprise which has gasoline such as "if they were a corporation--their company licensed by agriculture, for instance." This would tend to discourage "building a little island in order to put in a cash register."

Cavanaugh thought legislative intent was to reduce the danger of drinking and driving, not to exclude certain retailers from the market. Parker declared, "This does nothing in terms of eliminating the ability of someone to buy gasoline and alcohol at the same time in a limited geographical area."

Cavanaugh and Parker discussed the matter of revenue. Cavanaugh indicated that the \$2.4 million estimate included elimination of gasoline stations. There are approximately 850 convenience-type stores, gas stations, and grocery stores across the state. The Department assumes that most convenience and gasoline stores would fall into the smallest square footage category. On the other hand, they assume that about 90 per cent of the 200 stores with more than 5,000 square feet would apply for Class "E" licenses.

Parker noted that 17.8(1) provided that the license fee for outside the city limits would be calculated on population of the closest city. Armstrong pointed out the same

ALCOHOLIC
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DIVISION
(Cont.)

process was followed for current retail licenses Class "C." Responding to Parker, Cavanaugh said the Department had considered using the metropolitan statistical areas around the state so a city such as Bondurant might be included in Des Moines. However, they opted to follow standards now applicable in other areas which are legislatively defined.

Parker could foresee problems with restrictive provisions for market area when the statute gave broad authority to take into account complexities of the transition period.

It was noted that Parker is the only legislator without a liquor store in his district. Cavanaugh said the 15-mile radius was the minimum and would be easy to apply. He maintained that confusion would prevail without a definition of "market area."

The Department anticipates that private stores will be set up where state stores are now located. They are attempting to locate prospective licensees to take over existing stores. Cavanaugh predicted the number of stores would double.

More information will be available by January and at that time, the "market area" provision could be modified, if necessary. Cavanaugh stressed the importance for Class "E" licensees to have specific information re state stores. Parker contended that "market area" was not defined by statute to avoid anything that would be detrimental to an orderly transition of the law. Cavanaugh reiterated the need for rules to provide "certainty for people affected by the transition." General discussion of store locations.

Doyle asked for clarification of 4.7(6) which seemed to imply that bottles could be taken from the premises except "during the holiday season." Armstrong stated that Class "C" can sell only for on-premise consumption and intent was to prohibit taking miniature bottles from premise any time. Cavanaugh agreed to clarify the rule.

Motion
to Delay

Parker moved to delay 17.1(2) and 17.6(1) until the close of the next General Assembly.

Royce advised that emergency rules already in effect could not be delayed, but could be objected to or referred to the General Assembly for study. It was noted that rules cited by Parker would not be applicable until March 1. Moline pointed out that leases would be canceled before that time. Parker asked and received unanimous consent to withdraw his motion.

Motion
Referral
to G.A.

Parker then moved to refer rules 17.1(2) and 17.6 to the next General Assembly. Motion carried.

17.1(4)

Parker suggested that the Department reconsider the definition of "Premises at which gasoline is sold"--17.1(4).

Alcoholic Beverages Division Continued Doyle asked if there were rules re posting of notices in both types of establishments and his answer was in the affirmative. Cavanaugh agreed to provide a sample of the Notice.

ATTORNEY GENERAL Earl Willits and Richard Cleland, Assistant Attorneys General, were present for review of:

Iowa Farmer Creditor Mediation Program, ch 17 ARC 6933, also filed emergency ARC 6924 N.F.F.E 9/10/86
 Regulation of price discrimination in the sale or lease of motor vehicles by motor vehicle manufacturers, distributors or wholesalers, ch 18 ARC 6900, also filed emergency ARC 6899 N.F.F.E 9/10/86

Also present: Laverne Schroeder, Farm Equipment Dealers; Keith Luchtel, Iowa Auto Dealers Association; Lyle Scheelhaase and Marie K. Whiteing, Middle America Network; Mike Thompson, Mediation Service; Sharm Sievers and Wes Ehrecke, Iowa Bankers Association.

ch 17 Willits summarized chapter 17 which addressed procedures for a mandatory and voluntary mediation program for farm borrowers and creditors. At the time of publication, 3800 requests for the rules had been received. Thompson informed Priebe that intent in 17.18(1) was to reflect that the fee should be computed on the "time actually spent." Clarification would be made when the rules are adopted following the Notice.

17.6 Tieden expressed concern about reliance on regular mail-- 17.6(1). Thompson cited lack of funds for certified mail. The appropriation is \$100,000 annually and the regular mailing costs amount to sixty cents per borrower.

17.4 Discussion of hourly compensation of \$25.00 for mediators-- 17.4(3). The hourly rate is assessed to each lender or borrower to supplement the program. In September, collections amounted to \$31,000 and expenses were \$61,000. Thompson advised Priebe that in the event a land bank representative fails to appear, foreclosure would not be possible. He added that prior negotiations might occur without knowledge of the mediator.

Scheelhaase saw the importance of separate sessions for effective mediation. Also, in many instances, people are unaware of the service and others are inadequately prepared for the session. Premediation is taking place by telephone and in a "laxadaisical way." Scheelhaase continued that mediators are untrained re tax ramifications, in particular, the new federal law. He voiced opposition to lack of a right of appeal.

17.14 Willits called attention to 17.14 where a mediator can be removed but Scheelhaase pointed out that could apply only if all parties agree. Willits stated that the law authorizes good faith mediation but does not mandate success.

ATTORNEY
GENERAL
Continued

Scheelhaase was not opposed to mediation or the bill but opposed the manner in which it was being implemented. He also voiced objection to the \$25 fee for each participant as being beyond the statute.

Willits took exception to the contention that the law had been exceeded. Tieden interjected, "In all due respects, I think you are stretching intent of the legislature." Willits declared the program could not be carried out with \$100,000. Tieden suspected that without voluntary funds, the program would become completely dependent on state funds. Willits emphasized that the legislation has "teeth" in it since creditors are required to utilize mediation service prior to instigating legal proceedings. Willits added that mediation service employees cannot become state employees without funding by the Legislature.

Thompson recommended that a time frame for effectiveness of the release should be considered by the General Assembly. Ehrecke stated that he had talked at length with Farm Coordination Service. From the standpoint of the compensation, three areas of the statute were interpreted in the rule; automatic waiver, memorandum of understanding, and compensation--possibly more than legislative intent. He viewed preparation as the key factor.

Whiteing spoke of confusion surrounding the process. Willits defended the rules and pointed out that borrowers are apprised of availability of mediation service.

Royce raised question as to authority for the director to delay a mediation meeting for good cause. In addition, he took the position that "memorandum of understanding" could be confused with the final mediation agreement and other terminology should be used. In response to Committee questions re the \$25 per person fee, Royce had problems with it but noted that legal proceedings cannot go forward without mediation. The fee was born of necessity to carry out the mandate. No formal action.

ch 18

Cleland described chapter 18 as attempt by the AG to effectuate legislative intent which was to prohibit price discrimination among Iowa dealers and purchasers. No recommendations.

HUMAN
RIGHTS
DEPT
Community
Action
Agencies

James Smith and Sue Downey appeared on behalf of the Community Action Agencies Division of Human Rights to review:

Weatherization assistance program, ch 5, 380—ch 15 rescinded ARC 6991. also filed emergency ARC 6956 *N.F.F.E* 9/24/86
Low-income home energy assistance program, ch 10, 610—ch 14 rescinded ARC 6992. also filed
emergency ARC 6957..... *N.F.F.E* 9/24/86

No recommendations were offered for the rules which were unchanged from the Noticed version.

10-15-86

TRANSPORTA- Al Chrystal, Norris Davis, Julie Fitzgerald, T. E.
TION DEPT McElherne, and Don East appeared for Department of
Transportation to review:

City requests for closure of primary road extensions. (06.L) 2.1(1), 2.1(3), 2.1(4), 2.1(6) ARC 6938	F	9/24/86
Motor vehicle equipment. (07.E) 1.1, 1.1(3), 1.1(4)"b" and "c." 1.2, 1.3 ARC 6945	F	9/24/86
Organization of the department. (01.A) 1.1 to 1.3, 1.6 to 1.8 ARC 6943	N	9/24/86
Administrative rules and declaratory rulings. (01.B) 1.1(1), 1.1(2), 1.2(1), 1.3(3)"b." 1.2(5) ARC 6944	N	9/24/86
General requirements and covenants for highway and bridge construction. (06.G) 1.1. <u>emergency after notice</u> ARC 6937	EAN	9/24/86
Transportation regulation board, division 12 rescinded, filed <u>emergency</u> , ARC 6936	FE	9/24/86

[06,L]ch 2 East said amendments to [06,L], chapter 2, delete obsolete references to Class III and IV highways to be consistent with the Code and DOT access control policies. No comments had been received at the public hearing.

[07,E]ch1 According to Chrystal, amendments to [07,E], chapter 1, implement the 1986 Acts, SF 499, the seat belt law.

[01,A] Re [01,A]1.1 to 1.3, 1.6 to 1.8, Fitzgerald said the amendments would implement 1986 Acts, SF 2175. The Transportation Regulation Board was eliminated by that legislation; functions have been combined, duties changed, and all hearings will be under the new department of Inspections and Appeals.

In response to Doyle, Fitzgerald said that interstate systems are officially called "interstate defense highways." However, the DOT mission statement is patterned from their budget. Priebe asked Fitzgerald to have Warren Dunham contact Roger Linde re highway 9 from Swea City to Estherville.

[01,A] Priebe asked why "or designee" had been removed and
1.1 et al Fitzgerald replied that "director" was defined to include "designee." Priebe voiced preference for use of "or designee."

[06,G]1.1 According to McElherne, amendments to [06,G]1.1 would lessen paperwork to be included with the bid. The contractor will now have four days to submit designated haul routes for consideration. Priebe observed that black top roads used as haul routes usually have to be resurfaced at county expense. McElherne said such roads are repaired before they are returned to county jurisdiction. He added that the state makes final determination on repairs but an agreement between state and county is preferable.

McElherne also provided response to questions raised by Priebe at a previous meeting with respect to use of "pilot cars" in road construction areas and on the condition of a highway north of Mason City where high moisture content creates problems. It was noted that contractors build by specification. No other questions.

Recess Chairman Priebe recessed the Committee for lunch at
Reconvened 11:50 a.m. and reconvened the meeting at 1:07 p.m.

EMPLOYMENT SERVICES DEPARTMENT

Joseph Bervid, Paul Moran, and Rick Hemming were present for Employment Services rules as follows:

Administration, ch 1, filed emergency, ARC 6928 FE 9/10/86
 Petitions for rulemaking, declaratory rulings, chs 3 and 4, filed emergency, ARC 6976 FE 9/24/86

Bervid gave brief outline of Chapter 1. Priebe raised question in 1.2(4) as to why purchasing was not delegated to one area. Bervid indicated that intent was for the administrative service bureau to be responsible for all divisions of the Employment Services Department. He agreed to clarify the rule.

Doyle recommended clarification of 1.2(5)p that the Legislative Service Bureau writes legislation, while the Department proposes. No other questions.

Industrial Services Division

Barbara Bartz, Legal Analyst, was present for purpose and function, forms, 1.1, 3.1, filed emergency, ARC 6934. IAB 9-10-86. No recommendations.

Job Services Division

The following rules were presented by Bervid and Moran:
 Name change, chs 1 to 7 and 10, filed emergency, ARC 6972 FE 9/24/86
 Administration, benefit payment control, placement, chs 1, 5 and 7, rescinds 370—chs 1, 5 and 7, ARC 6993, also filed emergency, ARC 6973 N.Y.F.E. 9/24/86
 Employer's contributions and charges, claims and benefits, 3.43(10), 4.40(3)c to "g," 4.43(96), 4.44(96), 4.55(96), 4.56(96), filed emergency, ARC 6975 FE 9/24/86

Bervid stated that the public hearing had been held on the rules but no comments were received.

5.2(96)

Royce raised question in 5.2(96) on behalf of William Angrick, Citizens Aide. Angrick was concerned about application of the words "...'aggressive' action to prevent, detect, and deter benefits paid through error...". He contended that in the absence of all else, the money would be recovered regardless of where the fault lay. Bervid defended the provisions since there was general feeling they should take "aggressive" action to recover any overpayment. However, he agreed to refer the matter to the Director.

1.3
3.43

Doyle recommended substituting "a" for "the applicable" before "district court" in 1.3(2)c(2). No questions re 3.43(10) et al.

Labor Services Division

Walter Johnson represented the division for the following agenda:

Name change, transfer of rules, gender changes, other amendments to 1.1, 1.3 to 1.7, 2.1 to 2.6, filed emergency, ARC 6990 FE 9/24/86
 Procedures for occupational safety and health inspections, 3.1(1), 3.1(3), 3.4(2), 3.6(1), 3.6(2), 3.11(1), 3.13(2)e, 3.14, ARC 6977 N.Y. 9/24/86
 Reporting and recordkeeping, 4.4, 4.5(2), 4.6, 4.7(1), 4.7(2)b, 4.12(3)e and "f," 4.16 to 4.18, ARC 6978 N.Y. 9/24/86
 Procedures for variances from occupational safety and health rules, 5.2, 5.4, 5.6(2), 5.9(1)e to "e," 5.10(2), 5.13, 5.14(3), 5.20(3)a, "c," and "d," 5.21(2), 5.22(1), 5.22(4), 5.22(5), ARC 6979 N.Y. 9/24/86
 Consultative services, 8.1 to 8.6, ARC 6980 N.Y. 9/24/86
 Discrimination against employees, 9.1(1), 9.2, 9.5(2), 9.12(1), 9.12(3), 9.15(2), 9.18(1), ARC 6981 N.Y. 9/24/86
 General industry safety and health rules, 10.1, 10.2(1), 10.3, 10.19(5) to 10.19(7), 10.20, ARC 6982 N.Y. 9/24/86
 Construction safety and health rules, 26.1, ARC 6983 N.Y. 9/24/86
 Protective clothing for firefighters, 27.10(1)a, 27.10(2), 27.10(4), ARC 6984 N.Y. 9/24/86
 Occupational safety and health rules for agriculture, 28.1, ARC 6985 N.Y. 9/24/86
 Name change and other amendments, transfer rules of employment agency licensing commission 350—chs 1 to 10 to division of labor services, 347—ch 38, filed emergency, ARC 6989 FE 9/24/86
 Name change and other amendments, transfer rules of athletic commissioner, 110—chs 1 to 4 to division of labor services, 347—chs 96 to 99, filed emergency, ARC 6988 FE 9/24/86
 Hazardous chemical risks right to know, community right to know, 110.1(2), 110.1(3), 110.1(5), 110.1(7)e, 110.2, 110.6, ARC 6986 N.Y. 9/24/86
 Hazardous chemical risks right to know, public safety/emergency response right to know, name change in chs 110 to 110, 110.2, 110.5(2)g, 140.1(3), filed emergency, ARC 6987 FE 9/24/86

Labor
Services
Division

No questions raised re amendments to chapters 1, 2, 3, 4, and 5, which were basically cleanup rules as a result of reorganization. Chapter 8 was intended to conform state rules to federal requirements. There was review of chapters 9, 10, rules 26.1, 27.10 et al, and 28.1.

Amendments to chapter 38 transfer regulatory authority of private employment agencies to the Labor Commissioner. Chapters 96 to 99 transfer responsibility for professional boxing and wrestling from the Athletic Commissioner to the Labor Commissioner as a result of reorganization.

Provisions for consumer products exemptions were contained in amendments to Chapters 110 to 140. No formal action.

PERSONNEL
DEPARTMENT

Clinton P. Davis appeared on behalf of the Personnel Department and explained that new Chapter 15 sets out rules for administration of HMOs and deferred compensation programs for state employees. The programs were transferred from the Comptroller's Office. The rules were filed emergency as ARC 6891 and appear in 9-24-86 IAB.

The ARRC was amenable to including Personnel rules from the November 5 IAB on the November agenda. This would enable the Department to make any modifications and include the rules in a booklet for wide distribution.

Tieden expressed his concern for the increasing number of emergency filings which precludes formal action by the ARRC. General discussion of emergency filings.

Minutes

Doyle moved approval of the September minutes. Motion carried.

Nursing
Board

Decision was made to schedule nurse education rules [ARC 6822] 8-13-86 IAB for the November meeting.

Uniform
Rules

There was brief discussion of the model uniform rules developed by the Governor's Task Force. The Governor has accepted the Task Force recommendations on Petitions for Declaratory Rulings and for Rule Making. It is anticipated that the uniform rules will be suitable for adoption by all or most agencies. Barry suggested placing them in Volume I of the Iowa Administrative Code with a green identification tab. The rules could be referenced by agencies and any necessary modifications set out in a rule making.

Motion

Tieden moved that the Uniform Rules be placed in the IAC for reference purposes. It was agreed that the IAB should also include a comment on the matter. Priebe wanted assurance that ample time would be given to agencies which have problems with uniform rules.

ECONOMIC DEVELOPMENT

The following agenda was presented by Richard Webb and Mike Doyle:

Export finance interest buy-down program, ch 15 ARC 6955, also filed emergency ARC 6954 M/FE 9/24/86
Iowa rental rehabilitation program, 630-26.1, 26.3(1), filed emergency ARC 6942 FE 9/24/86

In re chapter 15, officials explained that the program was to assist Iowa manufacturers who are competing in the export market.

Tieden questioned the five per cent interest buy-down rate in 15.4(3) and the \$25,000 minimum sale that will be financed in 15.4(2). Department officials stated that the figures were determined by a task force made up of DED personnel, private sector, and financial institutions. The \$150,000 figure in 15.4(4) was set in order to finance a \$2,000,000 sale for the 3-year program.

15.3

Parker referred to 15.3(2) on allowable uses and thought that would compensate the seller for possible discounts. Webb replied that covered "swapping of transactional paper." Responding to Parker, Webb said the industrial base in the state was wide in scope and the Department of Economic Development had been unable to target one specific industry that could use this volume of funding. General discussion.

26.1
26.3(1)

Webb explained that 26.1 and 26.3(1)a were technical amendments. He discussed entitlement communities and the fact that some became eligible to participate in the state program. No formal action.

CONSERVATION COMMISSION

Richard Bishop, Bill Crews, and Jim Mayhew were present for the Commission to review:

Pheasant, quail, and gray (Hungarian) partridge hunting seasons, 103.1 to 103.3 ARC 6948 F. 9/24/86
Trotlines, 20.1 ARC 6950 N. 9/24/86
Waterfowl and coot hunting seasons, 107.1 to 107.3, filed emergency after notice ARC 6949 FEAN. 9/24/86
Wild turkey spring hunting regulations, ch 111 ARC 6951 N. 9/24/86

In re 103.1 to 103.3, no questions.

In review of 20.1, Tieden commented that he had received complaints from those who favor outlawing trotlines. Mayhew responded that channel catfish are abundant throughout state waters and the rule is directed at that species. No action.

ch 107
ch 111

No recommendations re chapter 107. Chapter 111 was considered with Bishop noting there were few changes from last year. Priebe noted that 111.1(1) provided for only one combination shotgun-or-archery license per year. He wondered why that were not applicable for deer. It was his opinion that archery enthusiasts had received a break in deer hunting. Priebe was informed there were no plans for a second season in deer hunting. Bishop discussed corn crop damage which could be severe if the weather remains wet and corn is not harvested. No formal action.

10-15-86

PUBLIC SAFETY

Connie White and Mike Rehberg appeared on behalf of the Department of Public Safety for the following:

Devices and methods to test blood for alcohol or drug content. 7.1, 7.7. ARC 6911, also filed emergency, ARC 6910. NAFE 9/10/86

White reported on comments received by the Department from a prosecuting attorney's counsel. There was reluctance to advise law enforcement officers to use preliminary breath testing devices for public intoxication since the rules were unclear in this respect. Modifications will be made when the rules are adopted following Notice. [See 11-5-86 IAB] No action taken.

Ad- Chairman Priebe adjourned the Committee at 2:30 p.m.
journe Next meeting scheduled for November 11 and 12, 1986.

Respectfully submitted,

Phyllis Barry
Phyllis Barry, Secretary
Assisted by Vivian Haag

APPROVED:

Beal E. Priebe
CHAIRMAN