

MINUTES OF THE SPECIAL MEETING
OF THE
ADMINISTRATIVE RULES REVIEW COMMITTEE

Time of
Meeting

The special meeting of the Administrative Rules Review Committee was held Tuesday and Wednesday, June 6 and 7, 1989, Committee Room 24, State Capitol, Des Moines, Iowa. This meeting was held in lieu of the statutory date of June 13 and 14, 1989.

Members
Present

Senator Berl E. Priebe, Chairman; Emil S. Pavich, Vice Chairman; Senator Donald V. Doyle; Representatives David Schrader and Betty Jean Clark. Not present: Senator Dale L. Tieden, who was on vacation. Staff present: Joseph A. Royce, Counsel; Phyllis Barry, Administrative Code Editor; Vivian Haag, Executive Secretary. Also present: Barbara Brooker Burnett, Governor's Administrative Rules Coordinator.

HUMAN
SERVICES
DEPARTMENT

Chairman Priebe convened the meeting at 10:05 a.m. and called for the following rules of the Human Services Department:

Refugee cash assistance, conditions of eligibility, 60.1(3), 60.8(1)"f," 60.9(1)"e" and "f," 60.9(3) to 60.9(6), 75.1(11)"b" ARC 9886	5/31/89
Service management, social casework, 130.2(4), 130.6, 130.6(2), 130.6(3), 130.7, 130.7(3), ch 131 title 131.1 to 131.4, 182.5, 182.5(1)"c," 182.5(4)"a" and "e," 182.5(5)"b," "c," and "e," 182.5(6), 182.6, 182.9(1), 182.10, 182.11, 183.5, 183.5(1), 202.2(6), 202.4(6), 202.15(1), 202.15(3), 206.2(2), 206.4(2), 206.4(4), 206.4(6), 207.1, 207.3(1) ARC 9891	5/31/89
Fair hearings and appeals, collections, 7.1"g," 95.13 ARC 9910	5/31/89
Commodity distribution programs, 73.4(3)"d"(2), filed emergency ARC 9886	5/31/89
Conditions of eligibility rescind 75.1(21) ARC 9888	5/31/89
Medicaid program, 75.1(29)"b," 75.5, 75.16, 75.25, 75.10(1)"f," 78.12(6), 80.5(3), 81.4(2), 81.10(3), 82.9(2), 82.14(3), 83.4(1), 85.4, 86.9(2), 86.9(3) ARC 9919	5/31/89
Compensation for nursing home administrators, assistant administrators and nursing directors: dietitian licensure; plan of correction, 81.1, 81.6(4), 81.6(11)"h," 81.13(1), 81.13(1)"h," 82.2(22)"m," 82.3(1)"h," 82.5(1)"c" ARC 9887	5/31/89
Training requirements for licensure of foster family homes, process for training approval, method of financial support, 113.8(1), 113.8(3), 117.1(2)"g," 117.3, 117.3(2), 117.3(5), 117.4 to 117.8, 166.18 ARC 9909	5/31/89

Those present were Mary E. Imlau, Anita Smith, Suzanne Boyde, Cynthia Tracy, Rita Vodraska, Douglas Howard, Carl L. Meisel and Alice Fisher.

Imlau gave brief overview of each filing and there were no recommendations.

Wild
Turkeys

Chairman Priebe brought up the matter of fall hunting for wild turkeys and it was his opinion that Natural Resources interpretation of H.F. 88 [1989] differed from Legislative intent for out-of-state hunters. It was noted that rules on the subject would be on Wednesday's agenda.

COMMUNITY
ACTION
AGENCIES
DIVISION

Maggie Itrich presented the following:

HUMAN RIGHTS DEPARTMENT 1421 "umbrella"
Emergency community services homeless grant program, 23.2, 23.5, 23.5(5), 23.6(1), 23.7(3), 23.7(4) ARC 9911

5/31/89

According to Itrich, major changes since the Notice focused on allowances in subrules 23.5(5) and 23.7(4). Federal amendments will be implemented. There were no questions.

Minutes

Representative Schrader moved approval of the minutes of the May ARRC meeting. Motion carried.

CAMPAIGN
FINANCE
DISCLOSURE
COMMISSION

Kay Williams, Executive Director, explained the following:

Reporting requirements, 4.5 to 4.7, 4.23 to 4.28 ARC 9865 *FA* 6/17/89.

Williams called attention to a public hearing to be held in Cedar Rapids June 7, 1989, and one in Des Moines on June 14, 1989. No formal action.

LABOR
SERVICES
DIVISION

Walter Johnson was present for review of:

EMPLOYMENT SERVICES DEPARTMENT 1311 "umbrella"
Construction contractor registration, 1.3, 150.6(3), 150.9(2), 150.12, filed emergency ARC 9864 *FA* 6/17/89
Construction contractor registration, 150.9(1), 150.11(2) ARC 9867 *N* 6/17/89

Priebe challenged the emergency filing of 1.3 et al. According to Johnson, changes were made to update Code references. One substantive change was rescission of paragraph d in 150.6(3) as recommended by the ARRC. No questions.

Johnson recalled opposition by the Association of Business and Industry to 150.9(1) and 150.11(2) but Johnson thought agreement had been reached. The investigative activity and notice prior to revocation provisions were clarified. A hearing will be held at the request of the Inspections and Appeals Department. No Committee action.

AGRICULTURE
& LAND
STEWARDSHIP

The following agenda was before the ARRC:

Agricultural revitalization program, notice ARC 9475 terminated ARC 9863 *N* 6/17/89
Pesticides, amendments to ch 45 (formerly 30—ch 10), economic impact statement ARC 9877 *N* 6/17/89
Pesticides, amendments to ch 45 (formerly 30—ch 10), regulatory flexibility analysis ARC 9878 *N* 6/17/89

The Department was represented by Daryl Frey and Charles Eckermann. Also present: William Greiner; Shirley Peckosh, Iowa Nurserymen's Association; Charles R. McIntyre, Quaker Oats Company, Cedar Rapids; E. Bordell Rudin, National Oats Company, Cedar Rapids; Roger Ginder, Iowa State University Economist; Winton Etchen, Iowa Fertilizer and Chemical Association.

Economic
Impact &
Flexibility
Analysis

Frey provided history on the Department's proposed rule making pertaining to certification of pesticide applicators. These rules were evaluated with interests of small businesses in mind. Frey continued that an Economic Impact Statement had been requested by the ARRC, the Iowa Grain and Feed Association and the Iowa Fertilizer and Chemical Association. He pointed out that the groundwater protection Act provided, in most instances, clear cut statutory mandates in areas of certification, licensing and registration--the Analysis reflects that. At the suggestion of the ARRC, the Economic Impact Statement was expanded to include all businesses and compliance costs. A public hearing had been held earlier today with 12 in attendance.

Peckosh estimated costs for their business of \$100 to \$500 to prepare reports and \$40,000 for scanners to track pesticides. She declared that this costly approach for small businesses would be meaningless since the volume of retail sales would differ in each store because of different pricing. Frey responded that the statute requires a fee to be assessed on the amount of sales and the Department knew of no other alternative to determine the license fee.

AGRICULTURE
& LAND
STEWARDSHIP
Continued

Responding to Clark, Frey said that a study had been done relative to certification of applicators for possible development of "palatable" rules. Frey mentioned the possibility of a two-tiered system for certification. This would require a "full-blown certification" for supervisory employees and establish a technician class for those who apply pesticides. It was Priebe's opinion that the supervisor should take the test. He took the position that some flexibility should be provided for emergency situations.

Etchen recalled that when the bill was passed, provision for "under the direct supervision of..." was deleted. Similar language is in the federal Act. Schrader indicated that the House had pondered over the meaning of "direct supervision." He asked, "Is it 10 miles from the plant or is it over the hill?" General discussion. Schrader reasoned that the two-tiered system might alleviate some problems--the person in the field should know safety precautions.

Responding to Priebe, Frey declared that it would be ridiculous to require every retail clerk to be certified. In most instances, those individuals are not making recommendations. He reiterated that the rules would be reevaluated before the final adoption. Priebe could see the advantage of a one-day meeting before the next legislative session to work out differences.

Etchen cited cost to the industry as a concern. Frey indicated that there was no deliberate understatement of cost to the industry. Ginder estimated reporting costs at approximately two percent of sales.

Schrader was interested in the number of hours required for study prior to taking the examination. Ginder responded that hours were based on a survey of firms in Iowa taken from population frame supplied by the Department of Agriculture. Out of one thousand questionnaires sent, approximately six hundred were returned. Schrader contended a significant part of the impact statement was based on time to study. Ginder suspected that the large business estimate was greatly overstated while the small business estimate was more realistic. Priebe noted that the medium-sized business had not been considered even though they were probably in the majority. Ginder agreed the point was well taken.

Etchen voiced opposition to the reduced fee for natural pesticides as a blanket group. Frey stated that the law requires the Department to grant exemptions to the minimum fee. He added that the statute, in most instances, is clear, but exemption provisions are "extremely broad." Priebe questioned the rationale for preferential treatment for application of natural

6-6-89

AGRICULTURE
& LAND
STEWARDSHIP
Continued

pesticides. Frey pointed out that exemptions had not been adopted and, at least, everyone pays the minimum fee. Frey agreed to look at that area again.

In discussion of a natural pesticide, Frey described it as a product formulated or comprised of naturally occurring substances including, but not limited to, plant or animal derivatives. Eckermann added that it was the Department's understanding that the intent was to promote the use of less toxic pesticides. Discussion of toxicity factors in general. Schrader was informed that revised rules would be renoticed in four to six weeks. No questions on termination of ARC 9475.

AGRICULTURAL William Greiner presented the following and there
DEVELOPMENT were no ARRC recommendations:
AUTHORITY

AGRICULTURE AND LAND STEWARDSHIP DEPARTMENT (21 "umbrella"
Individual agricultural development bond program, 2.11, also notice ARC 8897 terminated ARC 9861 ... *NT* 5/17/89
Public records and fair information practices, ch 8 ARC 9802 *F* 5/17/89

ELDER
AFFAIRS
DEPARTMENT

David Ancell and Lois R. Haecker appeared on behalf of Elder Affairs to review:

Area agency on aging planning and administration, 6.14 ARC 9850 ... *F* 5/17/89

Also present: William Angrick, Citizens Aide/Ombudsman, and H. G. "Herb" and Diane Schoenbaum of Dubuque.

6.14

Chairman Priebe recognized Angrick who commented that his office had received many complaints about individuals being treated unfairly in competition with governmental entities. He cited as an example the Schoenbaums, publishers of a specialty newspaper, who were experiencing competition from the Heritage Area Agency on Aging and Kirkwood Community College to the extent of jeopardizing their business.

Schoenbaum explained they began publication of the Senior News and Views and, subsequently, that was changed to Over 49 News and Views. In an attempt to distinguish their publication from the Area Agency version, the paper was renamed. Copies were distributed to the Committee for their perusal. Schoenbaum had contacted the Director of Heritage Agency on Aging with the suggestion that much of the information from the Agency could be printed in the News and Views at a savings to the AAA. After that, Schoenbaum failed in his many attempts to converse with the director.

In October 1987, the AAA distributed a 24- to 28-page four-color, full-fledged newspaper, which was mailed directly to 36,000 homes throughout the area and paid for by taxpayers. Mrs. Schoenbaum commented that the AAA was actively soliciting advertising, etc.

In response to Schrader, Ancell said the Department was aware of the situation through two letters from the Schoenbaums. However, at this point, Ancell was unsure

ELDER
AFFAIRS
DEPARTMENT
Continued

of the content of the letters which had been discussed with the Attorney General. He continued that AAAs were basically autonomous entities which receive government funding. The local board makes decisions on expenditure of funds and activities. Clark did not support the practice of the AAAs but she saw a problem as to how they fit into state government. She was unsure whether the ARRC had jurisdiction but wondered if the Legislature could expand the law.

It was Royce's opinion that Iowa Code chapter 23A, anti-competition law, did not apply to Area Agencies. He noted that chapter 249D delegates responsibility for establishing a statewide plan to the Department of Elder Affairs and that law could possibly include some limit on competition. General discussion.

Ancell took the position that the Department could not get involved since the process at the local level had not been followed in terms of an appeal to the state agency. Schoenbaum said they had appealed to the Area Agency which voted to continue with its free paper. Schoenbaum had tailored his paper for those over 50 and now the AAA was following that guideline. He had lost 18 advertisers to the AAA paper.

Motion After further discussion, Pavich moved that rule 321--6.14(249D) be referred to the General Assembly for study with recommendation that the issue be reviewed by the appropriate Legislative Committees. Motion carried.

Motion Pavich moved that the Citizens Aide be requested to conduct a brief investigation of the 13 Area Agencies to determine the extent of their business activities in competition with private enterprise. Motion carried. Angrick was amenable.

Recess Chairman Priebe recessed the Committee for lunch at
Reconvened 11:47 a.m. Reconvened at 1:30 p.m.

DENTAL Constance Price appeared for Dental Examiners Board to
EXAMINERS review the following:

PUBLIC HEALTH DEPARTMENT "umbrella"

Definitions -- duties performed by licensed dental hygienists, I.1 ARC 9890...*N*..... 6/31/89

Price explained that the proposed amendment was intended to clarify duties of the dental hygienists with respect to prohibition of the administration of local anesthetics--historically, they have never performed this function. It was Royce's understanding that hygienists would be requesting a hearing on the amendment. Price had no knowledge of controversy.

PUBLIC
HEALTH

The following agenda was before the ARRC:

Advanced emergency medical care -- conditional paramedic pilot project, 132.16(7), filed emergency ARC 9884 *CE*..... 5/31/89
Notification and surveillance of reportable diseases, 1.2(1)"a." I.9 ARC 9883...*E*..... 5/31/89

Mike Guely, Cheryl Christie and Rose Vasquez, Assistant Attorney General, represented the Department.

PUBLIC
HEALTH
Continued

Guely gave a brief overview of the amendments. No comment re 132.15(7).

Clark reiterated her problems with use of "suspected" before "contagious or infectious disease" in 1.9(2). According to Guely, OSHA is requiring procedures to ensure that precautions are taken and the word "suspected" was from the statute. Royce thought a doctor would automatically include "suspected" on a death certificate. General discussion. Guely admitted the issue of AIDS precipitated this action but that written notification would not identify the disease. Priebe stressed the importance of protecting the innocent person and he reasoned that this would be accomplished under the rule. Christie, responding to Royce, described "universal precaution" as wearing gloves, face shields, and eye goggles whenever there is contact with any body fluid. Morticians wear coveralls for hygienic purposes. No other questions.

BOARD OF
MEDICAL
EXAMINERS

William Vanderpool, Cheryl Brinkman, and Dennis M. Carr were present for the following:

PUBLIC HEALTH DEPARTMENT(641) "umbrella"
Discipline, 12.50(2), 12.50(8)"c", 12.50(38) ARC 9851 ... *N* 5/17/89
Physician assistant supervision, 21.4(3), 21.4(4) ARC 9879 ... *N* 5/31/89
Medical examiners, licensure requirements, 10.1 to 10.3, 10.6, 10.7, 11.1(3), 11.1(6), 11.7, 11.8, 11.11(3), 11.30, 11.30(1), 11.31(2), 11.31(10) to 11.31(13), 11.33 to 11.35 ARC 9862 ... *N* 5/17/89

Also present: William C. Smith, Iowa Podiatric Medical Society.

12.50

Vanderpool gave brief explanation of the amendments to rule 653--12.50 and stated that no comments had been received.

21.4

Vanderpool said that amendments to 21.4 are final changes which the Medical Examiners Board is willing to make. Vanderpool spoke briefly of the negotiating efforts between the Physicians Assistants Board and the Medical Examiners Board. He predicted that some issues would never be resolved. Subrule 21.4(3), relative to geographic proximity, will be deleted as requested by the PA Board. No questions on amendments to Chapters 10 and 11. Pavich in the Chair.

Chs 10 &
11

PROFES-
SIONAL
LICENSURE
DIVISION

Carolyn Adams and Susan Osmann were present for the following:

PUBLIC HEALTH DEPARTMENT(641) "umbrella"
Optometry examiners, 180.12(1)"a" and "b", 180.12(2), filed emergency ARC 9849 ... *FE* 5/17/89
Podiatry examiners, 220.3(1), 220.5 ARC 9896 ... *N* 5/31/89
Respiratory care practitioners, 260.6(3)"c" ARC 9897 ... *N* 5/31/89

Ch 180

No questions re amendments to Chapter 180.

220.5

Discussion of new rule 220.5 on declaratory rulings. Royce and Burnett questioned Osmann as to why the model rules were not followed. Osmann replied that the language was developed by Rose Vasquez--Assistant AG--possibly prior to availability of the model language.

PROFES-
SIONAL
LICENSURE

Osmann pointed out that the proposed version was being used for other Boards in professional licensure. Royce and Burnett would pursue the matter.

260.5

According to Osmann, amendment to 260.5(3)c addresses the fact that a national testing service will be used for the state certification examination.

Following a short recess, Pavich called on Insurance Division representative Kevin Howe for the following:

COMMERCE DEPARTMENT (1111) "umbrella"

Regulation of insurers -- general provisions, 5.7 to 5.9 ARC 0917 .. X 6/21/89

Howe pointed out that the amendments to Chapter 5 were the Division's response to California's Proposition 103. The rules were written in a generic form and could apply to any similar law of another state. Companies were required to lower rates by 20 percent for one year. The California Supreme Court upheld the 20 percent rate hold back but ruled that companies could apply for immediate rate relief. As a result, almost every company doing business in California has made application to return to their original rates. The California Insurance Commissioner must review and approve all requests.

The proposed Iowa rules prohibit insurers from passing any losses in California to Iowa ratepayers. Also, the Insurance Commissioner can order a company to cease doing business in California if their solvency is threatened as a result of Proposition 103. Royce was advised this was applicable for Iowa's domestic companies.

According to Howe, the Iowa Insurance Institute essentially supports this approach. Some concern had been expressed that the Commissioner might be trying to make business decisions which is not the intent. Schrader recalled the gender balance insurance issue when he had received literature from the industry wherein they viewed the concept as "catastrophic." Howe estimated that 90 percent of insurance is nongender based.

Priebe resumed the Chair.

ECONOMIC
DEVELOPMENT

Kathleen Berry reviewed Chapter 66, rural development projects, ARC 9858, Filed, IAB 5-17-89. Priebe questioned "uniqueness" of a project as criteria for scoring points in 66.6(2). Berry said they were looking for different models in rural areas with contention being that economic development is perceived somewhat differently from urban development. Berry viewed the five different ranking criteria in 66.6(2) as being weighted equally. County-based development groups are fairly new in the state and are gaining strength. She also mentioned unique tourism plans, e.g., bed and breakfast, antiques, bike trails, etc. The Department views management, flexibility, and creativity as important factors in developing models.

JOB SERVICE
DIVISION

6-6-89

Paul Moran, Bureau Chief, and Joseph Bervid were present for consideration of:

EMPLOYMENT SERVICE'S DEPARTMENT (1511) "Umbrella"

Employer records and reports, employer's contribution and charges, claims and benefits, 2.3(6)"c," 3.43(11),

4.1(18), 4.1(40), 4.1(76), 4.1(90), 4.2(2)"a," 4.7 to 4.10, 4.23(40), 4.24(16), 4.34(8)"b," 4.38(1)"c," 4.46, 4.50(3)

ARC 9874//

6/17/89

Bervid described amendments to Chapters 2, 3 and 4 as basically clarification.

2.3(5)

Discussion focused on 2.3(5)c(1) pertaining to "leased employees." Priebe questioned paragraph "3" which stated that if an individual is the employee of an employee leasing service, the contract must specify that the leasing service has exclusive right to direct and control the individual in the performance of the service.

Bervid explained that the individuals being leased would be employees of their original regular employer unless the requirements set out in c(1) were met. If the leasing company has "direction and control," then the individuals would be employees of the leasing company. Bervid cited examples. On either coast, it is not uncommon for a doctor to hire a secretary/receptionist and a nurse who become employees of a leasing company. The doctor pays a fee to the leasing company and the leasing company is responsible for the FICA and unemployment tax at a lower rate because they are "new, experienced employer."

Responding to Doyle, Bervid said that a temporary fill in would be an employee of the leasing company. Iowa statute speaks to direction and control which is the important area. There is much subterfuge in "setting up dummy companies."

Evelyn Hawthorne, Senate Research Staff, interjected that leasing companies are notorious for failing to pay in a timely manner. However, Kelly services and similar organizations are not the problem groups.

3.43

Responding to Schrader's question on extended benefits in 3.43(11), Bervid said that prior to this rule making there was a one-week waiting period and the federal government would pay for the first week for the 50 percent. Because the Legislature removed the one-week waiting period, under federal law, the federal government will not pay the 50 percent of the first week of benefits. Therefore, the Division proposed to take that 50 percent and charge it up to the general fund. Moran added that the person's weekly benefit cannot be cut by half because the law requires that benefit to be paid. Moran also advised Schrader that one letter had been received from the Association of Business and Industry in support of amendment to 4.34(8)b relative to lockout. Bervid added that both labor and management had input in the drafting of this provision.

4.34(8)b

JOB SERVICE
DIVISION

Discussion of extended benefits which are paid to eligible individuals with Moran offering explanation of the "on" and "off" indicators. No Committee action.

REAL ESTATE
COMMISSION

K. Marie Thayer and Ken Smith presented the following:

Professional Licensing and Regulation Division (83)

COMMERCE DEPARTMENT (181) "umbrella"

Business conduct, 1.36, notice ARC 8440 terminated ARC 8880 ... *N.T.* 6/31/89

Business conduct, 1.36, 1.37 ARC 8863 6/17/89

Smith pointed out that the procedure proposed in the November 16, 1988, IAB was included in the statute by '89 Acts, H.F. 380, thus, the rule making will be terminated. There were no questions on new rules.

Pavich in the Chair.

INDUSTRIAL
SERVICES
DIVISION

David E. Linguist, Commissioner, and Clair R. Cramer were present for the following:

EMPLOYMENT SERVICES DEPARTMENT (30) "umbrella"

Contested cases; settlements and communications, 4.8(2)"e." 4.8(2)"g." 4.24, ch 6 title, 6.2(9), 6.6, 6.7 ARC 9912 ... *N.* 6/31/89

Substantive and interpretive rules, 8.8, filed emergency ARC 9913 ... *A.E.* 6/31/89

Linguist reported that the rules had been approved by the Advisory Committee. They include clarification of the filing fees, rehearings, limitations on the number of pages in material filed, and amount of liens.

6.2, 6.6

Clark observed that conflicting language appeared in 6.2(9) and 6.6 with respect to the number of pages allowed for filing. Linguist spoke of instances when a deposition requires more than 20 pages to provide information which Industrial Services needs to complete a good settlement. This would need authorization from the Commissioner or Deputy. Clark and Doyle contended the word "unauthorized" was unnecessary and asked that it be stricken from 6.2(9) and 6.6. Linguist was amenable.

4.8(2)e

Clark questioned use of "toll the statute" in 4.8(2)e. Doyle saw no reason for the words.

Linguist pointed out that the rule states the commissioner may accept for filing an original notice and petition without prepayment of the filing fee.

6.7

Linguist spoke of the problem when someone files a petition--no deferral--with no money and no attempt to comply with rules or the statute. He said that Labor had approved 4.8(2)e. He did not envision a problem in the situation where a person seeks deferral. Linguist added that problems are created when attorneys file cases with total disregard for the law and rules. These situations have increased tremendously and the Commission is trying to eliminate them. Doyle referred to 6.7 on legal services liens and wondered about advanced costs and expenses such as telephone calls. Linguist was unsure but thought most claimants would "pay as they go." Some attorneys had raised question regarding area of medical bills. Many times, an attorney will not take a fee on a \$1000 case, for example. Most consider one-third to be a good lien and many attorneys never file a lien in the Industrial Commissioner's office.

INDUSTRIAL
SERVICES
DIVISION

Doyle referenced cases where investigators are hired and the client lacks the money. He thought cost should be included and Linquist recalled instances when attorneys have asked for a lien of one-half and other amounts. As a practical matter, the agency selected one-third as a reasonable amount and anything above that would leave the claimant "out in the cold." General discussion. There were no questions re 8.8 which updates the payroll tax tables. Priebe resumed the chair.

ENGINEERING
EXAMINERS
BOARD
2.5

Chairman Priebe called up for special review rule 2.5 (114) relative to standards for land surveys. Present for the review were K. Marie Thayer; Pat Peters; Dale Wight, Board Chairman; E. Kevin Kelly and Tom Hanson, Attorneys.

Wight offered background on the rule. The issue before the Committee was the application of these standards to "mortgage survey." In 1988, the Board removed the disclaimer which allowed the surveyor and client to exclude certain aspects of the survey by mutual agreement. A group of land surveyors from Des Moines appeared before the Board and reported that certain land surveyors were ignoring this and said it did not pertain to "mortgage surveys." At that time, the Board suspended all disciplinary actions with regard to these mortgage surveys. In April 1989, the Board, on its own motion, issued a declaratory ruling that the Mortgage Surveys fell within the definition of property survey. Wight emphasized that this was a nationwide problem handled differently by various states.

Hanson advised that, in order to sell, the property must be surveyed. Essentially, lenders have been hiring surveyors. Others hire civil engineers or people with no qualifications. Lenders have treated the requirement of a survey as pure formality and the ultimate borrower is billed as part of the closing costs. With increasing frequency, these surveys are incorrect or inaccurate. The Board has had lawsuits and repeated disputes over the issue. Recognizing that the answer was not obvious, the Board devoted about 18 months to study of the issue after it changed the rules in January 1988. Hanson maintained that the law appears to be clear and he cited Code section 114.2 which defined "land surveying documents." Rules on minimum standards have been in existence for 10 years.

The issue, from a legal standpoint, was, "Do the minimum standards apply to these kinds of documents?" After further study, the Board was convinced that their rules should apply. Increased costs to comply with minimum standards was the one issue of concern to the Board. Hanson continued that, by statute, there are several public interests which must be protected. From the Board's standpoint, it is the ultimate buyer who should

ENGINEERING
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BOARD
Continued

be able to rely on an accurate survey. Those who buy these mortgages on the secondary market want assurance of good security. Hanson declared that the long-term effect is that the mortgage surveys fail to comply with anyone's requirement--all are at risk with no protection. The Board sought to protect the public and the declaratory ruling was intended to announce the Board position.

Schrader expressed his opinion that the Board's action to effect a change of policy by declaratory ruling was inappropriate. Particularly, since it had not been requested by the banking or real estate industries and the surveyors would stand to benefit financially. Hanson knew of no problems in this area. Schrader asked Royce for his opinion. Royce commented that aside from whether or not it was lawful to mandate mortgage surveys to be performed in the normal fashion, there was the question of using the declaratory ruling process. Generally, that would be an alternative to a contested case. The Board would rule on a specific fact situation requested by an affected party. Royce concluded that the ruling should have been adopted through the 17A rule-making process.

Hanson disagreed contending that a rule was in force which requires land surveying documents to meet minimum standards for property surveys. He saw the question as being, "Do those minimum standards apply to a certain class of document?" He quoted from Code section 17A.9 on declaratory rulings.

Royce recalled ARRC review of the plat rule in 1980 where mortgage surveys were an ancillary point of the discussion. Hanson disagreed, saying that the Board had attempted to address the problem by rule. Kelly interjected that was a different situation in 1980. The Board received numerous complaints from consumers and Hanson cited a case involving a registered chemical engineer who was disciplined.

Priebe took the position that problems were minimal when considering the amount of property involved. Pavich asked why the problem was not presented to the Legislature. Priebe indicated that he planned to introduce legislation on aerial surveys. ARRC members had not been contacted regarding problems. General discussion of the action to be taken. Priebe favored referral of the issue to the Legislature.

Responding to Doyle, Patrick Jury, Iowa Association of Realtors, suspected that there were few instances in tens of thousands of transactions where someone may misunderstand the difference between the two surveys. He could envision definitions of "property survey" and "mortgage survey" which would permit the home buyer to select the type of survey. Jury opined that most increased costs would occur with agricultural land.

ENGINEERING
EXAMINERS
BOARD
Continued

There was discussion of costs for surveys on acreages. Hanson clarified that the purpose of these surveys was to locate a house on a lot. The ruling referred to a class of documents not used in the conveyance of agricultural land. Hanson urged that "all of the villainy should not be reflected against the Board." Schrader pointed out that acreages would be sold in a secondary market. He reiterated his concern about the process followed by the Board which precluded ARRC oversight. Schrader preferred legislative referral over an attorney general's opinion. Burnett reminded that implementation of the ruling had been delayed by the Board.

Wight wondered about the possibility of a committee to provide guidelines. Chairman Priebe stated that the ARRC could not direct that.

Motion Pavich moved that the issue of property mortgages be referred to the Legislative committees. Carried.

Motion Pavich moved that a letter be sent to the Board of Engineering apprising them of Committee concerns and requesting that the declaratory ruling be deferred until the 1990 General Assembly has an opportunity to review it. Motion carried.

Recess Committee was recessed at 3:55 p.m.

Wednesday Chairman Priebe reconvened the meeting in Senate Committee Room 24 at 9:04 a.m. All members and staff were present.
June 7
Reconvened

Committee Chairman Priebe called attention to use of the word "must" in Job Service Division subrule 2.3(5), p. 1951, May 17, 1989 IAB and asked that the Division be requested to substitute "shall" or "may".
Business

REGENTS Ann Rhodes and Julia Mears, University of Iowa, represented the Board of Regents for the following:
BOARD

Policy on competition with private enterprise, 9.4, regulatory flexibility analysis ARC 9889 *N* 5/31/89.

Also present: R. David Nelson, Audiologist; Paul Woodard, Hearing Aid Dealer; Kenneth L. Lowder, Audiologist; and Patricia L. Gourley, President, Iowa Hearing Aid Society.

9.4 Rhodes spoke to the philosophy of the Board and the impact of the rules proposed under HF 529 [Code ch 23A] which were intended to regulate activities within the Board of Regents institutions, not the small businesses.

Royce explained that a regulatory flexibility analysis was specifically designed for the purpose of determining whether the regulatory control over the private business was too harsh. Today the discussion would focus on whether the Board unfairly competes with small business although this was not addressed in the Regulatory Flexibility Analysis.

REGENTS
BOARD

Pavich assumed the Chair. He recognized Lowder who offered background on his audiology training from the University of Iowa and his subsequent employment by the University for ten years. Lowder left there in 1981 and started his own audiology business in the Iowa City area. He mentioned the clinic located within the University, the Wendell Johnson Speech and Hearing Center, where audiology students work with the hearing impaired. He had no complaint with this operation but, in 1987, he learned that the University Hospital--a separate institution--was also considering the possibility of dispensing hearing aids. Lowder could foresee this as unfair competition and wrote to the Governor to protest and an assistant had advised him that the University had no plans for such a project. However, the hospital program was in full force last year resulting in two facilities at the University of Iowa performing the same services that Lowder offers.

Lowder emphasized the impact on his practice and said he longer receives referrals from the Hospital since their clinic opened. Lowder was aware of the University's legitimate reason to train audiologists but questioned whether they had an unlimited right to expand activity in Iowa City and take business from those who pay taxes.

Woodard stated that 13 hearing aid centers were located in central Iowa. He had been in business for 43 years but last year, fewer than 20,000 hearing aids were sold in Iowa--less than 200 per county. According to Woodard, the Wendell Johnson Speech and Hearing Center dispenses about 180 hearing aids in a 12-month period. In total, the University handles about 500 hearing aids each year which has a great financial impact on small business. According to Woodard, the National Conference for Small Business considers this to be their third most important issue. Also, the Iowa Association of Business and Industry ranks unfair competition from government as one of the main issues. In conclusion, Woodard questioned the accuracy of the Regents statement: "The proposed rules will not have an impact on small business except to the extent that business opportunity for private enterprise may increase."

University of Iowa officials were aware of some of these concerns and would follow up. Pavich was informed that other practitioners in dentistry, pharmacy, etc. were experiencing similar problems with competition.

Nelson spoke of his frustration in attempting to work with Regents officials. Gourley expressed concern of the 150-member Iowa Hearing Aid Society that the University of Iowa cannot be challenged.

Clark wondered why the University needed both programs. Rhodes responded that two distinct professions and patients were involved. The Speech Pathology Audiology Department

REGENTS BOARD trains in audiology; the Otolaryngology students study in the medical school and also need training. General discussion. Priebe resumed the Chair.

SECRETARY OF STATE Sandy Steinbach appeared for review of:

Forms, 4.3 ARC 9859	<i>N</i>	5/17/89
Excursion boat gambling elections, 21.9, filed emergency ARC 9881	<i>FE</i>	5/31/89
Election forms and instructions, 21.9(1) to 21.9(3) ARC 9882	<i>N</i>	5/31/89

21.9 No questions re 4.3. Steinbach said that amendments to 21.9 were filed to provide for the petition process to request elections regarding riverboat gambling games on an excursion boat. Much interest had been expressed soon after the enabling legislation was passed. Priebe questioned the emergency filing and it was pointed out that an election must be held first. The amendments describe the form of ballot and time frame for holding the election. No Committee action.

PERSONNEL DEPARTMENT Clint Davis was present for consideration of the following:

Separations, disciplinary actions and reduction in force; grievances and appeals; leave; political activity.		
11.1(1)"d," 12.2(5), 12.2(6), 14.6, 14.9, 16.1(6) ARC 9860	<i>N</i>	5/17/89

Chs 11,14 Minor revisions have been made to Chapters 11 and 14 with respect to employees' rights to military leave. Clark

Ch 12 questioned 12.2(5) and 12.2(6) regarding the 30-day provision. Davis stated that 30 days was correct in either instance and another subrule further requires notification of appeal rights when hearing is scheduled. No further questions.

TRANSPORTATION DEPARTMENT Steve Westvold and Peggy Baer were present on behalf of DOT to review the following:

Tourist-oriented directional signing, 119.1 to 119.6 ARC 9878		<i>FE</i>	5/31/89
Rail assistance program, 830.1 to 830.6 ARC 9848		<i>N</i>	5/17/89

Ch 119 Westvold told the Committee that the tourist-oriented signing was now a permanent program and the rules were rewritten to address problem areas. There were no questions.

Ch 830 According to Baer, rail assistance rules were amended to provide flexibility to deal with the two types of rail assistance. Several limitations on eligible costs were eliminated. Priebe asked that 830.6 be clarified with respect to administration expenses. There was brief discussion of 1989 Acts, S.F. 157, which requires the Department to adopt rules relative to "hardship" exemptions for student driver permits. It was consensus of the Committee that the rules should be adopted under emergency provisions with simultaneous notice. Baer agreed to relay that request to the appropriate officials.

UTILITIES DIVISION Representatives present were Allen Kniep, Diane Munns, Vicki Place and Gary Stump. The agenda follows.

COMMERCE DEPARTMENT (1981) "umbrella"			
Purchased gas adjustment and annual review of gas, 19.10(1) to 19.10(8), 19.11(1), 19.11(1)"b," 19.11(2), 19.11(3) ARC 9866		<i>FE</i>	5/17/89
True-up of deregulated investment and expenses -- telephone, 7.4(6)"e"(1), 7.4(6)"e"(2) ARC 9899		<i>N</i>	5/31/89
Uniform system of accounts -- telephone, 16.5 ARC 9900		<i>N</i>	5/31/89
Lowest rate quotes -- telephone, 22.4(1)"a" ARC 9898		<i>N</i>	5/31/89
Access tariffs -- mirroring, 22.14(2) ARC 9865		<i>N</i>	5/17/89
Low-income telephone connection assistance requirements, 22.18(3) to 22.18(5), 22.18(9) ARC 9864		<i>N</i>	5/17/89

Ch 19 Munns gave brief explanation of amendments to Chapter 19.

6-7-89

UTILITIES
DIVISION
Continued
7.4

General concurrence by ARRC that new format for utilities bills was more complex. In re 7.4, Kniep discussed the proposed true-up procedures to implement deregulation of telephone utilities. Doyle asked about increased cost of business telephones and was advised that it was accomplished through a rate case. Each class of service is justified by the costs allocated to that class of service and this is controversial in every rate case with the Consumer Advocate arguing that business rates should be higher than residential rates.

Ch 16

Brief review of amendments to Chapter 16. Clark recommended deletion of "board" from 16.5(2)a. Kniep was amenable.

Ch 22

Stump summarized amendments to Chapter 22. Doyle mentioned difficulty experienced in attempting to get information on utilities costs and the REC would not provide it. Munns indicated there was a rule on the subject which she would provide to Royce. No Committee action.

Committee
Business

Priebe asked that Royce send a letter to the Department of Agriculture and Land Stewardship informing them that the ARRC has gone on record to request that all fertilizers be treated equitably until legislation can address the issue in January.

Recess

Committee was in recess for 10 minutes.

ENVIRON-
MENTAL
PROTECTION
COMMISSION

The Department of Natural Resources was represented by Mark Landa, Pete Hamlin, Morris Preston, Daryl Howell, Richard Bishop, Al Farris and Rick McGeough. The following EPC agenda was considered:

NATURAL RESOURCES DEPARTMENT [661] "umbrella"
Standards for construction, operation and maintenance of hydrologic monitoring systems in sanitary landfills, 100.2, 103.2(1) to 103.2(10), 103.3(1)"a" and "b," 103.4(1)"a," 103.5(1)"c" and "d," 103.6(1)"e," "f," and "g," ch 110
ARC 9879 5/17/89
Water quality standards, definitions, 60.2, 61.2(1), 61.2(2), 61.2(4), 61.2(5), 61.3(1) to 61.3(4), notice ARC 9345
terminated ARC 9869 5/17/89
Sanitary landfill closure, postclosure and leachate control and treatment, 101.3, 102.2, 102.2(4), 102.7, 102.12(10), 102.12(11), 102.13(9), 103.2(1) to 103.2(6), 103.3(1)"c," 103.3(2)"b," 103.4(1)"b," 103.5(1)"e," 103.6(1)"h," 104.11, 105.3, 106.4 ARC 9868 5/17/89

100.2

Landa said that technical rules have been adopted relative to groundwater monitoring systems at sanitary landfills. No questions. Mention was made of problems created by garbage bags along highways. Six public hearings had been held on the rules and efforts were made to resolve complaints. Discussion of the impact of landfills on underground water tables and aquifers.

Hamlin spoke of allegations by residents near the landfills in general. Preston pointed out that these rules would also apply to the one in Polk County.

Discussion of sludge which had been spread by the City of Des Moines and Priebe voiced his opposition to what he suspected was inconsistent imposition of penalties for violations. Hamlin advised Schrader that recycling operations do exist at landfills and he mentioned Lee County as one example.

ENVIRON-
MENTAL
PROTECTION
Continued

A permit is needed to ensure that proper methods and time frames are followed.

In re 60.2 et al., Royce reported that the agency representative was informed that it would be unnecessary to appear for the terminated notice. It will be renoticed in the near future. No questions re amendments to Chapters 101 to 106.

NATURAL
RESOURCE
COMMISSION

NATURAL RESOURCES DEPARTMENT (561) "umbrella"
Development and management of recreation trails on state lands, 67.2 ARC 9906 N 5/31/89
Common snipe, Virginia rail and sora, woodcock and ruffed grouse hunting season, 97.1 to 97.4 ARC 9902 F 5/31/89
Wild turkey fall hunting, 99.1(2) to 99.1(4), 99.2(1)"f," 99.4, 99.5 ARC 9892 F 5/31/89
Falconry regulations for hunting game, 102.3 ARC 9901 F 5/31/89
Deer hunting regulations, 106.1, 106.1(2), 106.2, 106.4, 106.6(2)"d" and "e," 106.6, 106.7(4), 106.7(5), 106.8
ARC 9904 F 5/31/89
Rabbit and squirrel hunting, 107.1 to 107.3 ARC 9905 F 5/31/89
Mink, muskrat, raccoon, badger, opossum, weasel, striped skunk, fox (red and gray), beaver, coyote, otter and
spotted skunk seasons, 108.1, 108.1(2), 108.2 to 108.5 ARC 9893 F 5/31/89
Scientific collecting and wildlife rehabilitation, ch 111 ARC 9903 F 5/31/89

67.2 Bishop said that dates were changed at the request of the public. Doyle observed that a family of five would be precluded from riding together on a trail. Bishop stated that the Department plans a reasonable approach to enforcement but the intent of the rule is to limit large groups.

Ch 97 There were no questions on Chapter 97.

Ch 99 Bishop reviewed changes from the Notice of Chapter 99. Priebe commented on a newspaper report that there would be no out-of-state wild turkey fall hunting season and questioned the reason for that decision. Farris discussed the Department's interpretation of 1989 Acts, H.F. 88, which, in their judgment, would preclude issuing the out-of-state licenses in 1989. Discussion focused on the following new language which was added to Code section 110.7:

NEW SUBSECTION. 3. A nonresident hunting wild turkey is required to have only a nonresident wild turkey hunting license and a wildlife habitat stamp. The commission shall limit to five hundred licenses the number of nonresidents allowed to have wild turkey hunting licenses for the year 1989 and establish application procedures. For subsequent years, the number of nonresident wild turkey hunting licenses shall be determined as provided in section 109.38. The commission shall allocate the nonresident wild turkey hunting licenses issued among the zones based on the populations of wild turkey, but nonresident wild turkey hunting licenses shall not be issued for a zone that has an estimated wild turkey population of less than one hundred ten percent of the minimum population required for a biological balance to exist. The hunting zones for wild turkey shall be the same as for deer. A nonresident applying for a wild turkey hunting license must exhibit proof of having successfully completed a hunter safety and ethics education program as provided in section 110.27 or its equivalent as determined by the department before the license is issued.

Farris contended that the underscored language would render it impossible to issue out-of-state licenses and attain the biological balance of 110 percent. Priebe and Farris disagreed concerning the intent of subsection 3.

ARRC members recalled the debate on the bill and legislative intent to allow 500 turkeys and 1000 deer to be taken in 1989 by nonresidents. Although some legislators recognized the need for clarifying language, they thought it could be done next year.

NATURAL
RESOURCE
COMMISSION

Discussion of whether "hunter safety" would be required for nonresident turkey and deer hunting. Farris thought it was perfectly clear that the "for subsequent years" statement applied specifically to the number of licenses and not to the remainder of the paragraph. Clark failed to see any logic in assuming that the safety requirements were not applicable to 1989. Priebe agreed.

Priebe reiterated that intent was to allow 500 and 1000 in 1989 with the 110 percent provision applicable in 1990. This was a condition for Senator Husak to release the bill. Bishop interjected recommendations had been addressed and were in process before H.F. 88 was passed, but Bishop concurred with the Department's interpretation.

Motion

Doyle moved that Royce be instructed to request an opinion from the Attorney General concerning interpretation of H.F. 88. Motion carried.

Bishop said they would not ask for fall licenses for wild turkey but would revise the structure to provide those licenses for spring of 1990. Priebe questioned the Department officials as to why they had requested provision for nonresidents this year. Bishop responded that the Department had hoped for something definitive earlier. It was Priebe's opinion that the Department's legislative liaison lacked communications skills and failed to work with leadership. Farris did not agree with that assessment and pointed out that he and Bob Fagerland had met with Senator Kibbie before that bill was passed out of committee. They explained the Department's problem with the 110 percent provision and advised of the ramifications. Priebe pointed out that Senator Kibbie was not Chair of the Committee or in a leadership position. No other Committee action.

102.3

Priebe and Bishop discussed the growing deer population and the "carrying capacity" of the land. Priebe reiterated his preference for a nonresident deer license. Bishop emphasized that the turkey and deer recommendations were in place before the legislation passed. Bishop commented that the vast majority of farmers do not believe there are too many deer. In conclusion, Bishop stressed that the Department considers H.F. 88 to be important legislation. No Committee action.

Chs 107,108

No questions on Chapters 107 and 108.

Ch 111

McGeough explained changes in Chapter 111 and no negative comments had been received. Schrader recounted a personal experience when a deer hit his car last night. He found it difficult to locate the required salvage permit. It was noted that forms are available to state troopers and sheriffs deputies. Schrader suggested that temporary forms be made available at local departments. He urged that everything be done to

NATURAL
RESOURCE
COMMISSION
Continued

discourage waste of the deer hit by cars. Priebe took the position that any investigating officer should have temporary permits available and he suggested such a proposal to the Commission. McGeough thought a good system was in place but perhaps additional training for officers was needed. He would pursue the matter. No formal action on Chapter 111.

INSPECTIONS
& APPEALS

Xenda Lindel-Prine explained the following:

Field survey administration, 30.6 ARC 9871... <i>AE</i>	5/17/89
Field survey administration, food service establishment inspections, 30.6, 32.1, 32.3(3) ARC 9896	5/31/89
Medications for residents on leave from health care facilities, 67.19(2)"m," 68.21(11), 69.26(11), 62.15(7), 63.18(2)"m," 64.27(6)"c" ARC 9872	5/17/89

There were no questions or comments.

EDUCATION
DEPARTMENT

The Education Department was represented by Kathy L. Collins, Terry Voy, Susan Miller, Orrin Nearhoof and Tom Andersen. The following agenda was considered:

Extracurricular interscholastic competition, 36.1, 36.3(2), 36.5, 36.14(1), 36.15(6)"d" ARC 9916... <i>AE</i>	5/31/89
Extracurricular interscholastic competition, 36.15(6)"f" ARC 9914... <i>AE</i>	5/31/89
School buses, 44.3(3)"c"(2), 44.3(7)"d"(1), 44.3(46)"d," carried over from May meeting ARC 9822... <i>AE</i>	5/3/89
Standards for teacher education programs, 77.10"5," 77.12"3" and "4," 77.14(6), 77.14(7), 77.15 ARC 9856... <i>AE</i>	5/17/89
Extracurricular interscholastic competition, 36.1, 36.3(2), 36.5, 36.14(1), 36.15(6)"d," carried over from May meeting ARC 9768... <i>AY</i>	4/5/89
School buses, 44.2(5)"g"(1), carried over from May meeting, filed emergency ARC 9821... <i>AE</i>	5/3/89
Equal employment opportunity and affirmative action standards, ch 95 ARC 9870... <i>AY</i>	5/17/89

Ch 36

Collins indicated that both sets of amendments to Chapter 36 address extracurricular interscholastic competition. She cited Code section 280.15 as statutory authority.

Schrader asked if parents who send children to nonaccredited schools were in violation of state law and Collins did not believe so. She added that compulsory attendance is required through 8th grade and these rules address grades 9 through 12. Schrader was concerned about the legality of this approach but Collins pointed out that nonaccredited, nonpublic schools would have insufficient number of students for a team.

Responding to Priebe, Collins said that 36.15(6)f was rescinded because of allegation of recruiting. Students, at 9th grade level, lose 90 days of eligibility if they move to another high school.

Ch 44

Voy gave brief overview of revision of Chapter 44. Priebe was advised that split sash windows would reduce the danger of children falling out. Priebe had been contacted by a school superintendent who opposed the requirement. Voy commented that he would bring up the issue at the National Minimum Standards meeting to be held in April 1990. Voy reported that a survey was being conducted on the type of seats in buses. A fall inspection revealed 1400 pre-1977 buses in use without high back seats. These will be phased out.

Doyle brought up the problem of lack of inspection for school buses being used for nonschool purposes, e.g., detasslers. He was advised that inspection was not required.

EDUCATION
DEPARTMENT
Continued
Motion to
Refer

Doyle suggested that Royce send a request to the President of the Senate and the Speaker of the House for referral to the Transportation Committees to determine if standards should be developed for old school buses used to transport groups of people. Pavich considered this an important issue and asked that it be discussed at the April conference.

Pavich moved Doyle's suggestion and the motion carried.

Ch 77

Nearhoof presented amendments to Chapter 77. No questions.

Ch 95

In review of proposed Chapter 95, Doyle inquired about reverse discrimination and Andersen responded that whether male or female, you would be "protected class" depending upon the situation. No Committee action.

REVENUE &
FINANCE
Special
Review

Carl Castelda, Deputy Director, appeared for special review of rule 701--18.28, pertaining to tax on casual sales. Also present: Steve Wilson.

701--18.28

Royce provided background on the law, which was amended last July 1 to remove an exemption from the sales tax for the casual sale of an aircraft. As part of the legislation, the Department of Transportation, prior to registration of any aircraft purchased, was to ensure the appropriate documentation of sales tax before the aircraft could be registered. That was not done when Wilson purchased a small aircraft last November and was unaware of the law change. Wilson was later notified of his obligation and was assessed a penalty. The question posed, "Is the buyer legally obligated to pay the tax when the delinquency resulted because of agency error?" The Department of Revenue assumed that Wilson was a victim of incomplete registration but said there was no way to avoid the tax and penalty.

Royce concurred that the law was specific and that the penalty could not be waived.

Clark reasoned that an exception provision was needed. Castelda noted under an exception in the Code, the individual must show that he relied on written advice by a state agency. He indicated that the Department wants to change the way penalties are assessed and a committee has been formed to prepare a proposal for the General Assembly. The Department would have acted sooner but waited for a National Study being conducted by the Internal Revenue Service. The federal government has deferred action. Castelda summarized the proposal which includes a noncompliance penalty. Castelda continued that it is extremely costly and time consuming to administer penalties but they provide incentive to pay the tax. He reiterated that the Department had no authority to waive the tax due in Wilson's case. The penalty is 7 1/2 percent of \$600 plus interest.

REVENUE
& FINANCE
Continued

Royce suggested that Wilson could file a claim against the state under Code chapter 25 and the claim would be reviewed by the State Appeal Board. The ARRC could refer the issue to the Claims Committees of the House and Senate. Doyle asked for unanimous consent for Royce to send letters to the House and Senate Claims Committees advising of this issue. He also asked that the Ways and Means Chairs be apprised. So ordered.

Cigarette
Stamps

Doyle and Castelda discussed the reduction in cigarette stamps from 34 to 31 cents, effective July 1. Doyle's concern was for wholesalers who may have large inventories. Castelda cited two situations when refunds are possible--unused rolls of stamps and unsaleable cigarettes. According to Castelda, the reverse would apply for a price increase. Castelda said the Department has made an inventory at wholesale level. Retailers will not be required to pay the difference on cigarettes on the shelf at the lower rate and sold at the higher rate.

Agenda
Format

There was unanimous consent to authorize Barry to change the format for publishing the agenda in the IAB. Agencies will be arranged in alphabetical order with all types of rule making listed in one place under a given agency.

August
Meeting

Chairman Priebe announced that the August meeting was scheduled for Thursday and Friday, the 3rd and 4th.

No Reps

No agency representatives were requested to appear for the following:

CULTURAL AFFAIRS DEPARTMENT[221]
Museum property, ch 7 ARC 9916 F 5/31/89
HISTORICAL DIVISION[223]
CULTURAL AFFAIRS DEPARTMENT[221] "umbrella"
Rescind 490--chs 1 to 21 and 223--ch 13; renumber 223--chs 25 to 27 as 223--chs 65 to 67; adopt 223--chs 1 to 64
ARC 9918 F 5/31/89
LOTTERY DIVISION[705]
REVENUE AND FINANCE DEPARTMENT[701] "umbrella"
Lotto America, amendments to ch 12, replace ARC 9671 terminated ARC 9857. AZ 5/17/89
SECRETARY OF STATE[721]
Rules of practice, 2.3, 2.5 ARC 9875 F 5/17/89
Administrative hearings, ch 3 ARC 9907 F 5/31/89
Forms, 4.2(4), rescind ch 41 ARC 9908 F 5/31/89
LAW ENFORCEMENT ACADEMY[601]
Certification of law enforcement officers, 3.1, 3.9 ARC 9920 F 5/31/89

Next Meeting The next meeting was scheduled for July 11 and 12, 1989.

Adjourned Committee was adjourned at 12:15 p.m.

Respectfully submitted,

Phyllis Barry
Phyllis Barry
Assisted by Vivian Haag

APPROVED:

CHAIRMAN