

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 11 and 12, 1988, Committee Room 22, State Capitol, Des Moines, Iowa.

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

Convened AGRICULTURE & LAND STEWARDSHIP DEPARTMENT Chairman Priebe convened the Tuesday meeting at 10:10 a.m. The Department of Agriculture was represented by Daryl Frey and Charles Eckerman. Pesticides, 45.22(2), 45.22(4) e and f, ARC 9213, filed, IAB 9/7/88 were before the Committee.

Ch 45 According to Frey, amendments to Chapter 45 extend certification of 20,000 private applicators for one year and establish a three-year certification fee of \$15.00. There was no opposition from the public to the rules which will become effective October 12, 1988.

45.22 With respect to question by Tieden, Frey explained that certification was either by training or by examination--45.22(2). Frey continued that under the groundwater protection Act, private applicators are required to take an examination for initial certification. In 1988, Senate File 2055 provided for reexamination of commercial, public or private applicators every three years.

SECRETARY OF STATE Sandy Steinbach and Paulee Lipsman appeared on behalf of the Secretary of State. They reviewed the following:

Election forms and instructions, 21.7, 21.8 ARC 9288	9/21/88
Voter registration in state agencies, ch 23 ARC 9287	9/21/88

Changes from the Notice of 21.7 and 21.8 were made in response to an attorney general's opinion.

Ch 23 Provision for voter registration in state agencies had been modified to reflect comments from the hearing. According to Steinbach, the rules encourage voter registration activities required in Code section 48.20. Priebe expressed concern that registration forms were not readily available to everyone. Clark also had problems with "pushing registration." She suspected that many who registered would not actually vote.

23.3 Tieden thought 23.3, paragraphs a and b were contradictory and inquired as to a penalty. Steinbach said there was none.

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SECRETARY
OF STATE
Continued

Discussion as to whether "all state agencies" included the legislative branch. Steinbach indicated that forms had been widely distributed throughout state government. No formal action.

ECONOMIC
DEVELOPMENT

Melanie Johnson presented the following:

Community development block grant nonentitlement program, ch 23 ARC 9204	F.....	9/7/88
Satellite centers, 41.2, 41.16 ARC 9205	N.....	9/7/88
Iowa export trade assistance program, 61.3 <u>filed emergency</u> ARC 9206	FE.....	9/7/88

Ch 23 Johnson stated that Chapter 23 was intended to benefit low and moderately low income individuals.

23.6(8) There was discussion of 23.6(8). Parker suspected that the possibility of communities under 2500 population obtaining a large grant was "very slim."

Ch 41 A public hearing re satellite centers was being held today. No questions.

Ch 61 Priebe expressed dissatisfaction with the fact that Chapter 61 had been an emergency filing. Johnson responded that the Department wanted to ensure that funds were available during the period when most trade missions and trade shows occur--between July 1 and December or January. The program was designed to encourage exporting by small companies. No formal action.

INSURANCE
DIVISION

Kevin Howe and Roger Strauss, Life and Health, represented the Insurance Division for the following:

Unfair trade practices — advertisements, 15.15(1), 15.25(1), 15.45(1) ARC 9265	N.....	9/21/88
Confidentiality — self-insurance plan administrators, 35.20(4) ARC 9267	N.....	9/21/88
HMO deposit requirements, 40.12(2), 40.12(3) ARC 9266	N.....	9/21/88
Transitional requirements for the conversion of Medicare supplement insurance benefits and premiums to conform to Medicare program revisions, ch 41, <u>filed emergency</u> ARC 9190	FE.....	9/7/88

Also present: John Schachterle, Iowa Association of HMOs.

Ch 15 Amendments to Chapter 15 clarify procedure used in advertising of life and health products by insurance agents, brokers and solicitors. The name of the actual insurer must appear on all advertisements for a specific policy or type of policy.

35.20(4) There was brief discussion of 35.20(4). Third party administrators will be required to maintain confidentiality of records relating to claims. No questions.

40.12(2) Amendments to Chapter 40 raise the minimum deposit requirements for new and existing HMOs from the current \$100,000 to \$300,000. Strauss assured ARRC that Division action was within their statutory authority. Priebe had problems with the large increase and Strauss recalled they had considered an increase to \$1,000,000.

Howe expressed concern for the financial solvency of existing HMOs. He said that all HMOs have \$100,000 on deposit. The additional money required will be the difference between present deposit and \$300,000. Priebe

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INSURANCE
DIVISION
Continued

was concerned for rural areas and viewed the \$300,000 deposit as a means to eliminate competition. He recommended use of a sliding scale. Clark would have preferred \$200,000.

Howe briefed the ARRC with respect to HMO activity in other states. The National Association of Insurance Commissioners is rewriting the model HMO law and the proposal is based upon that model. The net worth requirement will be changed from \$100,000 to \$1.5 million; the deposit requirement, from \$100,000 to \$500,000 in two steps--\$250,000, the end of the first year after effective date, \$250,000 during the second year, bringing the total to \$500,000. Howe concluded that some states require \$2 million for deposit. General discussion. Tabor arrived.

Schachterle voiced support of the proposed increase in the minimum deposit requirement. Clark wondered about increasing net worth. Strauss stated that in order to establish a life or health company, a \$2 million capital surplus would be required.

40.12(3) Doyle questioned 40.12(3) paragraph 1, "...uncovered expenditures." Howe responded that in the event there is no hold harmless clause and the HMO becomes insolvent, services provided cannot be charged to the enrolled member. Strauss mentioned the concern of two groups as to the time frame.

Parker was advised that no new applications for HMOs were received in the last six months. No formal action.

Ch 41 There was brief discussion of new Chapter 41 that requires all insurance companies which sell Medicare supplemental insurance to adjust policies to conform with the Federal Catastrophic Care Coverage Act of 1988.

EDUCATION
DEPARTMENT The Education Department was represented by John Hartwig, Charles Moench and Kathy L. Collins. Also present: Kristi Johnson, Intern. The agenda follows:

High school equivalency diploma -- minimum score, 8.3 ARC 9189 *N* 9/7/88
Postsecondary enrollment options, ch 22 ARC 9188 *N* 9/7/88
Procedures for charging and investigating incidents of abuse of students by school employees, ch 102 ARC 9187 *N* 9/7/88

8.3 Hartwig explained that proposed amendment to 8.3 would increase the minimum standard score of 35 to 40 on each test for a high school equivalency diploma. Based on national "norms," Hartwig estimated that only two percent of the population would be affected.

Question was raised as to the possibility of a holder of a General Education Diploma being allowed to earn a diploma through any high school. Department officials pointed out that the particular high school determines the amount of credit to be allowed for GED. Doyle was aware of discrimination against some GED students in the job market. He favored a uniform policy for high schools to follow.

EDUCATION
DEPARTMENT
Continued
Ch 22

Moench described proposed Chapter 22 as being patterned from Minnesota, since Iowa law, to some extent, parallels theirs.

In response to a question from Tieden, Moench stated that the high school is responsible for up to \$200 per course, which includes tuition, fees, and textbooks. Moench cited cost of the textbooks as a concern since Code chapter 261C does not require the student to pay for them.

Ch 102

Collins reviewed Chapter 102 pertaining to procedures for charging and investigating incidents of student abuse by school employees. According to Collins, representatives of Parents for Quality Education took the position that emotional or mental abuse should also be included. She pointed out that Iowa Code section 280.17 was specific as to the child abuse laws to be addressed. Protection advocacy services wanted assurance that special education students who can be served past the age of 21 would be covered under these rules.

102.8(2)

Other comments from the hearings came from those who contended that sexual abuse was not adequately defined. It was their opinion that five days was too long to wait for an investigation--102.8(2).

102.10

With respect to training for investigators, Collins informed Doyle that the rules provide for in-service training for the investigators and alternates by the school districts. Doyle and Collins discussed use of "preponderance of the evidence" in 102.10.

Doyle expressed concern as to disposition of the records created by investigations. Collins said the Department was reluctant to mandate what should be done with records since this issue would be addressed in collective bargaining agreements. Collins suggested Doyle's concern should be considered by the ISEA. When an investigation is made by a "less than professional investigator," Collins was not totally convinced that the finding of no likelihood of abuse took place was a fair enough basis upon which to "throw out evidence." She thought it was important for the Department to be aware of all allegations.

Doyle thought it should be conclusive with a follow-up by a county attorney's office. Collins was willing to review Committee concerns. Doyle suggested that unless there is a criminal action filed as a result of an investigation, the issue should be left to the courts to "prove beyond a reasonable doubt, not by preponderance of evidence."

Chairman Priebe recognized William Angrick II, Citizens' Aide/Ombudsman, who offered recommendations for amendments to the proposed rules. (A copy is on file in the office of the Administrative Code Editor.)

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EDUCATION
DEPARTMENT
Concluded

Collins stated that the Department had not been informed of concerns of the Citizens' Aide. She noted that the deadline for public input had passed but she wanted time to study the recommendations and to respond.

Ch 102
Rules
Carried
Over

Priebe explained that the Committee had no formal procedure for accepting suggestions and comments. Members concurred that Chapter 102 would be carried over to their November meeting for further review.

MANAGEMENT
DEPARTMENT

Amendments to contract compliance, 4.3(3), 4.4, 4.5(4), filed emergency, ARC 9249, IAB 9/21/88, were presented by Lawrence T. Bryant. No action.

INSPECTIONS
& APPEALS

L. Michaela Funaro and Xenda Lindel-Prine explained proposed revision of Chapter 25, Iowa Targeted Small Business Certification Program, published in 9/7/88 IAB as ARC 9167. Department officials said that the Human Rights Commission in Mason City had submitted extensive comments. Question had been raised as to why "family-owned business" was defined when such a business could not be certified under the rules.

Lindel-Prine stressed that participation in the program is limited to women and minorities. She added that clarifying amendments would be published at the end of October.

FOSTER CARE
REVIEW BOARD

DeAnn L. Jones, Board Director, presented the following:

Purpose and function, rules and operation for the board, local foster care review boards, 1.1, 1.1(2), 2.1(4)"3" and "8," 2.3, 2.4"12," 2.5(2), 2.6(3), 3.1, 3.1(1)"c," 3.4(1)"c" to "e," 3.4(2), 3.4(3), 3.5(1)"a"(3), 3.6(1), 3.6(3) ARC 9248 ..F..... 9/21/88
Public records and fair information practices, ch 4, filed emergency after notice ARC 9166 9/7/88

No comments.

Recess

Chairman Priebe recessed the meeting at 11:45 a.m. and reconvened it at 1:30 p.m.

NATURAL
RESOURCE
COMMISSION

The Natural Resource Commission, Natural Resources Department, Energy and Geological Resources Division and Environmental Protection Commission were represented by Mike Murphy, Richard Bishop, and Teresa Hay Cusack. The agenda follows:

NATURAL RESOURCE COMMISSION[571]
NATURAL RESOURCES DEPARTMENT[561]"umbrella"
Public records and fair information practices, ch 2, filed emergency after notice ARC 9278 ..FEAN..... 9/21/88
Rules of practice in contested cases, ch 7 ARC 9173F..... 9/7/88
Contracts for public improvements and professional services, ch 8; rescind 290--ch 62; renumber 571--ch 8 as
571--ch 10 ARC 9279F..... 9/21/88
Waterfowl and quail hunting seasons, 91.1 to 91.3 filed emergency after notice ARC 9281 ..FEAN..... 9/21/88
Pheasant, quail and gray (Hungarian) partridge hunting seasons, 96.1(1), 96.2, 96.3 ARC 9280 ..F..... 9/21/88
Wild turkey spring hunting regulations, ch 98 ARC 9282.....N..... 9/21/88
NATURAL RESOURCES DEPARTMENT[561]
Public records and fair information practices, ch 2, filed emergency after notice ARC 9164 ..FEAN..... 9/7/88
Rules of practice in contested cases, ch 7 ARC 9175F..... 9/7/88
Groundwater hazard documentation, 9.1(4), 9.2(2), 9.2(3) ARC 9191F..... 9/7/88
ENERGY AND GEOLOGICAL RESOURCES DIVISION[566]
NATURAL RESOURCES DEPARTMENT[561]"umbrella"
Engineering analyses -- Interest-free loans, 6.4(1) ARC 9192F..... 9/7/88
ENVIRONMENTAL PROTECTION COMMISSION[567]
NATURAL RESOURCES DEPARTMENT[561]"umbrella"
Rules of practice in contested cases, ch 7 ARC 9176F..... 9/7/88
Grants for solid waste comprehensive planning, ch 201 ARC 9174.....N..... 9/7/88
Underground storage--ch 135IAC

NATURAL
RESOURCE
Continued

No recommendations re 571--Chapters 2, 7, 561--Chapter 2, 571--Chapter 7, 561--Chapter 7, 567--Chapter 7 or 571--Chapter 8.

- Ch 91 In review of Chapter 91, Bishop spoke of the waterfowl shortage. He continued that the Fish and Wildlife Service canceled the September duck season and also discontinued the point system option. The Commission protested this action.
- Priebe called attention to the following sentence in 91.1(1): "During the last 23 days of the hunting season, the season on pintails is closed." Bishop explained that the words were inadvertently included in the new language. There was concurrence of the Committee that an emergency amendment should be filed to delete the sentence. [See 11/2/88 IAB, ARC 9389]
- Ch 96 Discussion of amendments to Chapter 96 with Bishop informing the Committee that pheasant hunting in Northwest Iowa was probably the "best in 15 years."
- Ch 98 Bishop stated that major changes were made in zone boundaries for wild turkey spring hunting. He added that next year, the Commission plans to recommend that second season hunters be allowed to buy a second license. This would not be applicable to landowners. Clark offered suggestions for clarification of 571--98.1(2).
- Ch 9 Kennedy pointed out that changes from the Notice of amendments to 561--Chapter 9 were necessary to implement 1988 Acts, Senate File 2250, §16. No recommendations re 565--
- 6.4(1) 6.4(1).
- EPC Cusack explained proposed 567--Chapter 201 which sets out criteria for grants to local governments to assist in preparation of comprehensive solid waste plans. The one-time grants program will be funded from solid waste tonnage fees collected between July 1, 1987, and June 30, 1988. The Department's goal is good geographic distribution around the state for the various planning areas. Clarification of selection criteria will be made when the rules are adopted.
- Priebe questioned Cusack as to the largest possible grant. Cusack said that approximately \$283,000 was available. For every additional county above a two-county planning area, the Department could add an additional five percent state money up to a maximum of ninety percent.
- Motion Brief discussion of rule 45.4(2)b, reviewed at the 9/13/88
15.4(2)b ARRC meeting, which will allow unrestricted horsepower at no-wake speed on Lake McBride from September 8 to May 20. Tieden moved that the rule be sent to the Lt. Governor and Speaker of the House for referral to the appropriate Committee for study. Carried.
- With respect to 571--8.6, IAC, Doyle suggested that Departments of Public Safety and Natural Resources confer on the feasibility of one auction for disposal of weapons.

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Minutes Doyle moved that minutes of the September meeting be approved. Carried.

Community Action Agencies Doyle moved to delay the following for 70 days:

COMMUNITY ACTION AGENCIES DIVISION[427]
HUMAN RIGHTS DEPARTMENT[421] "umbrella"
Community services block grant, 22.3(2), 22.3(4), 22.5(4), 22.7(5) ARC 9303 F 10/5/88

NURSING BOARD[655]
PUBLIC HEALTH DEPARTMENT[641] "umbrella"
Licensure to practice — RN/LPN, fees 3.1"16" ARC 9296 F 10/5/88

PUBLIC SAFETY DEPARTMENT[661]
Identification section of the division of criminal investigation — fees, 11.15 ARC 9324 F 10/5/88

Motion carried.

HUMAN SERVICES DEPARTMENT The Department was represented by Mary Ann Walker, Barb Momberg, Debborah Ozga, Margaret Ward, Alice Fisher, Charlie Y. Parrish, Mary Helen Cogley, Harold Poore, Marie Thiesen, Nancy Haigh, Dan McKeever, and Joe Marenholz. The following agenda was before the Committee:

Selective Home child day care--ch 110..... IAC
Standards for individual case management services, standards for the service coordination system, state community mental health and mental retardation services fund, chs 24, 25, 32.2(1), 32.2(3) ARC 9268 F 9/21/88
Transitional child care assistance program, ch 49, filed emergency after notice ARC 9274 F.E.A.N. 9/21/88
Medicaid program, 77.23, 77.28, 78.25, 78.31(1), 78.31(3), 78.31(4) "g," 78.32, 79.1(2), 79.1(8) "f," 80.2(2) "aa" to "cc," 85.1(2), 85.2(4), 85.3, 85.4(1), 85.5(1) "j" to "l," 85.5(2), 85.7(2), 85.7(3), 85.8 ARC 9273 F 9/21/88
General provisions, social services block grant, 130.3(1) "d"(2), 130.3(6), 130.5(1) "i," 153.5(6), 153.5(7) ARC 9238 F 9/21/88
Foster home insurance fund, ch 158 ARC 9277 F 9/21/88
Resource and referral grants program, ch 159 ARC 9239 F 9/21/88
Foster care project grants, 164.1, 164.2, 164.4(1), 164.4(2) "l," "n," "n," and "o," 164.9, 164.16 ARC 9240 F 9/21/88
Dependent adult abuse, 176.1, 176.3, 176.4, 176.6(1), 176.6(4) "a" and "a," 176.10 ARC 9276 F 9/21/88

Standards for services to persons with mental retardation, developmental disabilities, or chronic mental illness.
22.1, 22.5 ARC 9278 9/21/88
Standards for individual case management services, standards for the service coordination system, chs 24 and 25, 32.2(1), 32.2(3), ARC 9269, also filed ARC 9268 N. X. F. 9/21/88
Fund stamp income exclusion, 65.3, filed emergency ARC 9247 F.E. 9/21/88
Options for curtailing Medicaid expenditures, possible amendments to chs 75, 77, 78, 79, notice ARC 9078 terminated ARC 9271 N.T. 9/21/88
Medicaid program, 77.29, 77.30, 78.1(6) 78.28(7) to 78.28(9), 78.31(4) "d"(7) and (10), 78.33, 78.34, 79.1(1) "d," 79.1(2), 79.1(5) "c," 80.2(2) "d" and "ee" ARC 9270 N. 9/21/88
Child care centers, family and group day care homes, 109.3(6), 109.10, 110.7(4), 110.7(5) ARC 9163 N. 9/7/88
Options for curtailing foster care expenditures, possible amendments to chs 156, 202, notice ARC 9079 terminated ARC 9272 N.T. 9/21/88
Family development and self sufficiency program, ch 165, ARC 9242, also filed emergency ARC 9241 N.X.F.E. 9/21/88
Dependent adult abuse, 176.16 ARC 9193 N. 9/7/88

Ch 24 et al. Ward reviewed the changes that were made following Notice of amendments to Chapter 24, et al. An attempt was made to balance need and cost. Adopted version will be renoticed. Pribe was interested in "monitoring of services and living arrangements" by the case manager. Ward responded that was a function of the case manager and one area which addressed staff/client ratio. The Commission's position was that the 1 to 45 ratio should be an agency average and that it be for the county or consortium of counties. Public comments were considered and decision was made that the contact should occur no less than quarterly. It should be spelled out in the individual program plan so that frequency of contact is based on need for clients. Ward continued that staffing qualifications generated suggestions of a master's degree down to the high school with five years' experience. The rules require that the provider have training experience pertinent to abilities and needs of the population being served--60 semester hours with the majority being in behavioral science, health care, human service administration, or social science. Also required is a minimum of three years' experience in the delivery or coordination of human services. Credit is allowed for experience.

HUMAN
SERVICES
Continued

Ward continued that rather than addressing qualifications of supervisors, they required specified functions of supervision by the provider of case management. She stated that a significant change was made in time frames for scheduling evaluations. Ward discussed final authority on the contents of the individual program plan. The Commission stated that if there were a dispute among members of the interdisciplinary team, the case manager would develop the initial plan based on the information made available through the team. Anyone not satisfied with the outcome could initiate the provider's dispute resolution procedure.

In response to Priebe, Ward said that if the Department were not the provider, it would be the county which could subcontract. Priebe favored written policies and could foresee confusion with differing policies. Ward also commented on appeals and complaints, as well as the service coordination system. She clarified that these services are not mandated. Counties must show that funds are budgeted and appropriated. Ward estimated a potential population of 7000 to be served, but the actual demand this first year is approximately 2000.

Ch 110

Chairman Priebe announced special review of Chapter 110, "Family and Group Day Care Homes." He called on Representative Darrell Hanson to make a presentation. Hanson observed that some of the day care rules which were intended to protect children have had the negative impact of discouraging people from entering the day care profession or from seeking licensure. This has created a "crisis" for working families and many children are becoming "latch key kids." He cited restrictive standards as an example of deterrent to providers. It was his understanding that the ARRC could refer the issue to the Legislature for study and possible revision of the statute.

The following mothers and day care providers were also present: Penny Sands, Chris McDowell, and Emily Hill. Hill reasoned that providers cannot afford to take part-time children when demand is so great for providers of full-time children. Providers do not want the responsibility of maintaining health records on each child. Hill also criticized the smoke detector requirements, contending that providers cannot afford reconstruction of their homes when they receive only \$1.00 an hour per child.

Sands spoke of giving up her job to stay home with her children and of her intent to become a day care provider before and after school. Red tape, limitations, and restrictions discouraged her.

Hanson referred to situations when day care providers thought of themselves as "sitters" caring for one or two children and gradually increasing the number. When complaints were raised, many of these people decided to pursue another line of work.

HUMAN
SERVICES
Continued

Poore introduced Bettie Bolar and Sandy Poock, State Day Advisory Committee members, and acknowledged that the day care problems were statewide. He added that more recruitment would be necessary for family day care and group day care homes. The statute limits to six the number of children for family day care homes and the group day care limit is seven to eleven. When the number increases, the risk to the children increases. Poore provided statistics re child abuse reports for 1987. Physical examination reports were reviewed for the ARRC. Poore stressed the importance of this to the providers and gave examples.

Hanson reiterated his interpretation of the rules and discussed health reports for the care centers. There was some discussion of physicians who sign a report without seeing the child.

Tieden mentioned the fact that many rural children are left alone and he expressed the need for more day care centers in those communities.

Motion

Parker moved to refer this subject to the Speaker of the House and the Lt. Governor for review by the appropriate Committees. Carried.

Priebe recognized the importance of safety for children but stressed the need for a "happy medium" approach. Poore told Clark that there were no federal regulations.

Ch 49
et al.

No questions re Chapters 49, 158, 159, 164, 24, 25, 75, 77, 78 and 79 or 77.23 et al., 176.1 et al., 22.1, 22.5, and 65.3.

77.29
et al.

Amendments to the Medicaid program address Medicaid payment for case management service. The rules are under Notice to permit public comment.

109.9
et al.

Walker gave brief overview of 109.9(6) et al., Chapter 156 and Chapter 202. No substantive questions. Amendment to 176.16, dependent adult abuse, establishes a payment mechanism for medical and mental health examinations for subjects of a dependent adult abuse report. A Department employee arranges for the examination, and advises the doctor of the amount paid by the state. Brief discussion.

Ch 165

Chapter 165 establishes the Family Development and Self-Sufficiency Council within the Department of Human Services. Grants will be administered by the Department of Human Rights under contract to the DHS. It was Clark's opinion that 165.10(3) should be clarified and Walker agreed to redraft the second sentence.

Recessed

Chairman Priebe recessed the meeting at 3:55 p.m. to be reconvened Wednesday, October 12, 1988.

Reconvened Chairman Priebe reconvened the meeting at 9:02 a.m., Wednesday, October 12, 1988. All members and staff were present.

PUBLIC
DEFENSE
DEPT
Disaster
Services

The Department was represented by Ellen Gordon, Disaster Services Administrator and Chair of the State Emergency Response Commission, and Walter Johnson, Deputy Labor Commissioner, and Vice Chair of the Commission. The following was considered:

State emergency response commission -- local emergency planning committees, ch 103, notice ARC 7880
terminated ARC 9257 N 9/21/88
Local emergency planning committees, ch 103 ARC 9256 N 9/21/88

No comments on termination of Notice and proposed new Chapter 103.

LAW
ENFORCE-
MENT
ACADEMY

Ben Yarrington, Director, LEA, and William J. Callaghan, reviewed the following:

Mandatory in-service training requirements, 1.1, ch 8 ARC 9158 N 9/7/88

Yarrington reported that the definition of "regular law enforcement officer" had been requested. Many law enforcement officers in the state receive considerably more hours than the academy requires which is a maximum of 12 per year or 36 for a three-year period.

Yarrington commented on the proposed rules which the academy had wanted for some time. Minor changes are anticipated as a result of the public hearing held September 17. He noted that education as well as training would count toward the requirements. The cost of in-service training programs is very minimal. There are a number of regional programs throughout the state.

Callaghan said an exemption will be added in 8.1(1) for those officers (most county conservation officers) who do not carry firearms.

Parker took the Chair. Yarrington advised Royce that these officers take an abbreviated course through which they receive only limited certification and they are aware of additional training requirements if they transfer to a sheriff's department.

Parker referenced a memorandum from William Angrick II, Citizens' Aide/Ombudsman, who recommended that topics of racial and ethnic problems and sensitivities be considered for continuing education for law enforcement officers. Parker requested that Royce advise the Ombudsman to apprise the respective agency in a timely manner of concerns relative to any rules. Royce commented that the Ombudsman had been short of staff recently.

8.2(1)

Tabor raised question re 8.2(2) as to hour-for-hour credit a peace officer instructor may earn toward the in-service training requirement for the subject taught. Yarrington stated that the rule limits this credit to 12 hours per year with a different subject each of the three years. Yarrington was willing to clarify the subrule.

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LABOR
SERVICES
DIVISION

Walter Johnson presented the following agenda for Labor Services Division:

Administrative hearings, 14, 15, ch 7 note, ch 78, 130 10(2), 130 10(3), 140 8(3), ch 200 ARC 9227	F	9/21/88
OSHA rules for general industry, 10 20 ARC 9228	F	9/21/88
Citizens' aide - access to agency records, 1 59(2)h ARC 9223	N	9/21/88
OSHA discrimination - dangerous condition, 9 12(3) ARC 9224	N	9/21/88
OSHA rules for general industry, 10 10(8), 10 20 ARC 9222	N	9/21/88
OSHA rules for construction, 20 1 ARC 9221	N	9/21/88
Correction of form numbers and address, 38 2(1), 38 9(1), 38 10(1), 38 10(2), 38 10(3), 38 10(4), 41 2(9), 41 2(10)	filed	
emergency ARC 9230	F	9/21/88
Employment agency licensing, 38 10(1) ARC 9226	N	9/21/88
Boilers and pressure vessels, 41 2, 41 5, 41 6, 41 12, 43 2, 44 1(1), 44 1(1), 44 1(1)c, 44 1(1)d, 44 1(1)e, 44 1(1)f, 44 1(1)g, 44 1(1)h, 44 1(1)i, 44 1(1)j, 44 1(1)k, 44 1(1)l, 44 1(1)m, 44 1(1)n, 44 1(1)o, 44 1(1)p, 44 1(1)q, 44 1(1)r, 44 1(1)s, 44 1(1)t, 44 1(1)u, 44 1(1)v, 44 1(1)w, 44 1(1)x, 44 1(1)y, 44 1(1)z, 44 1(1)aa, 44 1(1)ab, 44 1(1)ac, 44 1(1)ad, 44 1(1)ae, 44 1(1)af, 44 1(1)ag, 44 1(1)ah, 44 1(1)ai, 44 1(1)aj, 44 1(1)ak, 44 1(1)al, 44 1(1)am, 44 1(1)an, 44 1(1)ao, 44 1(1)ap, 44 1(1)aq, 44 1(1)ar, 44 1(1)as, 44 1(1)at, 44 1(1)au, 44 1(1)av, 44 1(1)aw, 44 1(1)ax, 44 1(1)ay, 44 1(1)az, 44 1(1)ba, 44 1(1)bb, 44 1(1)bc, 44 1(1)bd, 44 1(1)be, 44 1(1)bf, 44 1(1)bg, 44 1(1)bh, 44 1(1)bi, 44 1(1)bj, 44 1(1)bk, 44 1(1)bl, 44 1(1)bm, 44 1(1)bn, 44 1(1)bo, 44 1(1)bp, 44 1(1)bq, 44 1(1)br, 44 1(1)bs, 44 1(1)bt, 44 1(1)bu, 44 1(1)bv, 44 1(1)bw, 44 1(1)bx, 44 1(1)by, 44 1(1)bz, 44 1(1)ca, 44 1(1)cb, 44 1(1)cc, 44 1(1)cd, 44 1(1)ce, 44 1(1)cf, 44 1(1)cg, 44 1(1)ch, 44 1(1)ci, 44 1(1)cj, 44 1(1)ck, 44 1(1)cl, 44 1(1)cm, 44 1(1)cn, 44 1(1)co, 44 1(1)cp, 44 1(1)cq, 44 1(1)cr, 44 1(1)cs, 44 1(1)ct, 44 1(1)cu, 44 1(1)cv, 44 1(1)cw, 44 1(1)cx, 44 1(1)cy, 44 1(1)cz, 44 1(1)da, 44 1(1)db, 44 1(1)dc, 44 1(1)dd, 44 1(1)de, 44 1(1)df, 44 1(1)dg, 44 1(1)dh, 44 1(1)di, 44 1(1)dj, 44 1(1)dk, 44 1(1)dl, 44 1(1)dm, 44 1(1)dn, 44 1(1)do, 44 1(1)dp, 44 1(1)dq, 44 1(1)dr, 44 1(1)ds, 44 1(1)dt, 44 1(1)du, 44 1(1)dv, 44 1(1)dw, 44 1(1)dx, 44 1(1)dy, 44 1(1)dz, 44 1(1)ea, 44 1(1)eb, 44 1(1)ec, 44 1(1)ed, 44 1(1)ee, 44 1(1)ef, 44 1(1)eg, 44 1(1)eh, 44 1(1)ei, 44 1(1)ej, 44 1(1)ek, 44 1(1)el, 44 1(1)em, 44 1(1)en, 44 1(1)eo, 44 1(1)ep, 44 1(1)eq, 44 1(1)er, 44 1(1)es, 44 1(1)et, 44 1(1)eu, 44 1(1)ev, 44 1(1)ew, 44 1(1)ex, 44 1(1)ey, 44 1(1)ez, 44 1(1)fa, 44 1(1)fb, 44 1(1)fc, 44 1(1)fd, 44 1(1)fe, 44 1(1)ff, 44 1(1)fg, 44 1(1)fh, 44 1(1)fi, 44 1(1)fj, 44 1(1)fk, 44 1(1)fl, 44 1(1)fm, 44 1(1)fn, 44 1(1)fo, 44 1(1)fp, 44 1(1)fq, 44 1(1)fr, 44 1(1)fs, 44 1(1)ft, 44 1(1)fu, 44 1(1)fv, 44 1(1)fw, 44 1(1)fx, 44 1(1)fy, 44 1(1)gz, 44 1(1)ga, 44 1(1)gb, 44 1(1)gc, 44 1(1)gd, 44 1(1)ge, 44 1(1)gf, 44 1(1)gg, 44 1(1)gh, 44 1(1)gi, 44 1(1)gj, 44 1(1)gk, 44 1(1)gl, 44 1(1)gm, 44 1(1)gn, 44 1(1)go, 44 1(1)gp, 44 1(1)gq, 44 1(1)gr, 44 1(1)gs, 44 1(1)gt, 44 1(1)gu, 44 1(1)gv, 44 1(1)gw, 44 1(1)gx, 44 1(1)gy, 44 1(1)gz, 44 1(1)ha, 44 1(1)hb, 44 1(1)hc, 44 1(1)hd, 44 1(1)he, 44 1(1)hf, 44 1(1)hg, 44 1(1)hi, 44 1(1)hj, 44 1(1)hk, 44 1(1)hl, 44 1(1)hm, 44 1(1)hn, 44 1(1)ho, 44 1(1)hp, 44 1(1)hq, 44 1(1)hr, 44 1(1)hs, 44 1(1)ht, 44 1(1)hu, 44 1(1)hv, 44 1(1)hw, 44 1(1)hx, 44 1(1)hy, 44 1(1)hz, 44 1(1)ia, 44 1(1)ib, 44 1(1)ic, 44 1(1)id, 44 1(1)ie, 44 1(1)if, 44 1(1)ig, 44 1(1)ih, 44 1(1)ii, 44 1(1)ij, 44 1(1)ik, 44 1(1)il, 44 1(1)im, 44 1(1)in, 44 1(1)io, 44 1(1)ip, 44 1(1)iq, 44 1(1)ir, 44 1(1)is, 44 1(1)it, 44 1(1)iu, 44 1(1)iv, 44 1(1)iw, 44 1(1)ix, 44 1(1)iy, 44 1(1)iz, 44 1(1)ja, 44 1(1)jb, 44 1(1)jc, 44 1(1)jd, 44 1(1)je, 44 1(1)jf, 44 1(1)jg, 44 1(1)jh, 44 1(1)ji, 44 1(1)jj, 44 1(1)jk, 44 1(1)jl, 44 1(1)jm, 44 1(1)jn, 44 1(1)jo, 44 1(1)jp, 44 1(1)jq, 44 1(1)jr, 44 1(1)js, 44 1(1)jt, 44 1(1)ju, 44 1(1)jv, 44 1(1)jw, 44 1(1)jx, 44 1(1)jy, 44 1(1)jz, 44 1(1)ka, 44 1(1)kb, 44 1(1)kc, 44 1(1)kd, 44 1(1)ke, 44 1(1)kf, 44 1(1)kg, 44 1(1)kh, 44 1(1)ki, 44 1(1)kj, 44 1(1)kl, 44 1(1)km, 44 1(1)kn, 44 1(1)ko, 44 1(1)kp, 44 1(1)kq, 44 1(1)kr, 44 1(1)ks, 44 1(1)kt, 44 1(1)ku, 44 1(1)kv, 44 1(1)kw, 44 1(1)kx, 44 1(1)ky, 44 1(1)kz, 44 1(1)la, 44 1(1)lb, 44 1(1)lc, 44 1(1)ld, 44 1(1)le, 44 1(1)lf, 44 1(1)lg, 44 1(1)lh, 44 1(1)li, 44 1(1)lj, 44 1(1)lk, 44 1(1)ll, 44 1(1)lm, 44 1(1)ln, 44 1(1)lo, 44 1(1)lp, 44 1(1)lq, 44 1(1)lr, 44 1(1)ls, 44 1(1)lt, 44 1(1)lu, 44 1(1)lv, 44 1(1)lw, 44 1(1)lx, 44 1(1)ly, 44 1(1)lz, 44 1(1)ma, 44 1(1)mb, 44 1(1)mc, 44 1(1)md, 44 1(1)me, 44 1(1)mf, 44 1(1)mg, 44 1(1)mh, 44 1(1)mi, 44 1(1)mj, 44 1(1)mk, 44 1(1)ml, 44 1(1)mm, 44 1(1)mn, 44 1(1)mo, 44 1(1)mp, 44 1(1)mq, 44 1(1)mr, 44 1(1)ms, 44 1(1)mt, 44 1(1)mu, 44 1(1)mv, 44 1(1)mw, 44 1(1)mx, 44 1(1)my, 44 1(1) mz, 44 1(1)na, 44 1(1)nb, 44 1(1)nc, 44 1(1)nd, 44 1(1)ne, 44 1(1)nf, 44 1(1)ng, 44 1(1)nh, 44 1(1)ni, 44 1(1)nj, 44 1(1)nk, 44 1(1)nl, 44 1(1)nm, 44 1(1)nn, 44 1(1)no, 44 1(1)np, 44 1(1)nq, 44 1(1)nr, 44 1(1)ns, 44 1(1)nt, 44 1(1)nu, 44 1(1)nv, 44 1(1)nw, 44 1(1)nx, 44 1(1)ny, 44 1(1)nz, 44 1(1)oa, 44 1(1)ob, 44 1(1)oc, 44 1(1)od, 44 1(1)oe, 44 1(1)of, 44 1(1)og, 44 1(1)oh, 44 1(1)oi, 44 1(1)oj, 44 1(1)ok, 44 1(1)ol, 44 1(1)om, 44 1(1)on, 44 1(1)oo, 44 1(1)op, 44 1(1)oq, 44 1(1)or, 44 1(1)os, 44 1(1)ot, 44 1(1)ou, 44 1(1)ov, 44 1(1)ow, 44 1(1)ox, 44 1(1)oy, 44 1(1)oz, 44 1(1)pa, 44 1(1)pb, 44 1(1)pc, 44 1(1)pd, 44 1(1)pe, 44 1(1)pf, 44 1(1)pg, 44 1(1)ph, 44 1(1)pi, 44 1(1)pj, 44 1(1)pk, 44 1(1)pl, 44 1(1)pm, 44 1(1)pn, 44 1(1)po, 44 1(1)pp, 44 1(1)pq, 44 1(1)pr, 44 1(1)ps, 44 1(1)pt, 44 1(1)pu, 44 1(1)pv, 44 1(1)pw, 44 1(1)px, 44 1(1)py, 44 1(1)pz, 44 1(1)qa, 44 1(1)qb, 44 1(1)qc, 44 1(1)qd, 44 1(1)qe, 44 1(1)qf, 44 1(1)qg, 44 1(1)qh, 44 1(1)qi, 44 1(1)qj, 44 1(1)qk, 44 1(1)ql, 44 1(1)qm, 44 1(1)qn, 44 1(1)qo, 44 1(1)qp, 44 1(1)qq, 44 1(1)qr, 44 1(1)qs, 44 1(1)qt, 44 1(1)qu, 44 1(1)qv, 44 1(1)qw, 44 1(1)qx, 44 1(1)qy, 44 1(1)qz, 44 1(1)ra, 44 1(1)rb, 44 1(1)rc, 44 1(1)rd, 44 1(1)re, 44 1(1)rf, 44 1(1)rg, 44 1(1)rh, 44 1(1)ri, 44 1(1)rj, 44 1(1)rk, 44 1(1)rl, 44 1(1)rm, 44 1(1)rn, 44 1(1)ro, 44 1(1)rp, 44 1(1)rq, 44 1(1)rr, 44 1(1)rs, 44 1(1)rt, 44 1(1)ru, 44 1(1)rv, 44 1(1)rw, 44 1(1)rx, 44 1(1)ry, 44 1(1)rz, 44 1(1)sa, 44 1(1)sb, 44 1(1)sc, 44 1(1)sd, 44 1(1)se, 44 1(1)sf, 44 1(1)sg, 44 1(1)sh, 44 1(1)si, 44 1(1)sj, 44 1(1)sk, 44 1(1)sl, 44 1(1)sm, 44 1(1)sn, 44 1(1)so, 44 1(1)sp, 44 1(1)sq, 44 1(1)sr, 44 1(1)ss, 44 1(1)st, 44 1(1)su, 44 1(1)sv, 44 1(1)sw, 44 1(1)sx, 44 1(1)sy, 44 1(1)sz, 44 1(1)ta, 44 1(1)tb, 44 1(1)tc, 44 1(1)td, 44 1(1)te, 44 1(1)tf, 44 1(1)tg, 44 1(1)th, 44 1(1)ti, 44 1(1)tj, 44 1(1)tk, 44 1(1)tl, 44 1(1)tm, 44 1(1)tn, 44 1(1)to, 44 1(1)tp, 44 1(1)tr, 44 1(1)ts, 44 1(1)tt, 44 1(1)tu, 44 1(1)tv, 44 1(1)tw, 44 1(1)tx, 44 1(1)ty, 44 1(1)tz, 44 1(1)ua, 44 1(1)ub, 44 1(1)uc, 44 1(1)ud, 44 1(1)ue, 44 1(1)uf, 44 1(1)ug, 44 1(1)uh, 44 1(1)ui, 44 1(1)uj, 44 1(1)uk, 44 1(1)ul, 44 1(1)um, 44 1(1)un, 44 1(1)uo, 44 1(1)up, 44 1(1)uq, 44 1(1)ur, 44 1(1)us, 44 1(1)ut, 44 1(1)uu, 44 1(1)uv, 44 1(1)uw, 44 1(1)ux, 44 1(1)uy, 44 1(1)uz, 44 1(1)va, 44 1(1)vb, 44 1(1)vc, 44 1(1)vd, 44 1(1)ve, 44 1(1)vf, 44 1(1)vg, 44 1(1)vh, 44 1(1)vi, 44 1(1)vj, 44 1(1)vk, 44 1(1)vl, 44 1(1)vm, 44 1(1)vn, 44 1(1)vo, 44 1(1)vp, 44 1(1)vq, 44 1(1)vr, 44 1(1)vs, 44 1(1)vt, 44 1(1)vu, 44 1(1)vv, 44 1(1)vw, 44 1(1)vx, 44 1(1)vy, 44 1(1)vz, 44 1(1)wa, 44 1(1)wb, 44 1(1)wc, 44 1(1)wd, 44 1(1)we, 44 1(1)wf, 44 1(1)wg, 44 1(1)wh, 44 1(1)wi, 44 1(1)wj, 44 1(1)wk, 44 1(1)wl, 44 1(1)wm, 44 1(1)wn, 44 1(1)wo, 44 1(1)wp, 44 1(1)wq, 44 1(1)wr, 44 1(1)ws, 44 1(1)wt, 44 1(1)wu, 44 1(1)wv, 44 1(1)ww, 44 1(1)wx, 44 1(1)wy, 44 1(1)wz, 44 1(1)xa, 44 1(1)xb, 44 1(1)xc, 44 1(1)xd, 44 1(1)xe, 44 1(1)xf, 44 1(1)yg, 44 1(1)yh, 44 1(1)yi, 44 1(1)yj, 44 1(1)yk, 44 1(1)yl, 44 1(1)ym, 44 1(1)yn, 44 1(1)yo, 44 1(1)yp, 44 1(1)yq, 44 1(1)yr, 44 1(1)ys, 44 1(1)yt, 44 1(1)yu, 44 1(1)yv, 44 1(1)yw, 44 1(1)yx, 44 1(1)yy, 44 1(1)yz, 44 1(1)za, 44 1(1)zb, 44 1(1)zc, 44 1(1)zd, 44 1(1)ze, 44 1(1)zf, 44 1(1)zg, 44 1(1)zh, 44 1(1)zi, 44 1(1)zj, 44 1(1)zk, 44 1(1)zl, 44 1(1)zm, 44 1(1)zn, 44 1(1)zo, 44 1(1)zp, 44 1(1)zq, 44 1(1)zr, 44 1(1)zs, 44 1(1)zt, 44 1(1)zu, 44 1(1)zv, 44 1(1)zw, 44 1(1)zx, 44 1(1)zy, 44 1(1)zz		

There was brief discussion of an error in 150.10(2), Noticed in 10/5/88 IAB as ARC 9300. The administrative penalty was submitted as \$5000 rather than \$500. An amended Notice to correct the error was recommended.

1.4
et al.
1.59

Brief discussion of 1.4 et al. and 10.20. No action.

Priebe in Chair. No recommendations re 1.59(2)h, which complies with the new law. Johnson indicated that 9.12(3) was rewritten for clarity.

No recommendations re 10.19(8), 10.20, 26.1, 38.2(1) et al. or 38.10(1).

41.2

Discussion of amendments to 41.2 et al. which Johnson described as "cleanup" and a fee change. Doyle asked about safety requirements. Johnson recalled that Des Moines and Sioux City required operator engineers/boiler operators. A boiler operator must have certain training and is required to pass a proficiency test. Johnson continued that boiler problems occur when operators take short cuts and inexperience is a problem.

Doyle wondered about safety of school children and Johnson admitted there was concern by many people.

82.3

Johnson called attention to an error in 82.3(2) where the annual license fee should be \$500 instead of \$50. No discussion of 110.1. No action taken on Labor rules.

CHILDREN,
YOUTH &
FAMILIES
DIVISION

The Division of Children, Youth and Families was represented by Ann Thompson who presented the following and said that no comments had been received.

HUMAN RIGHTS DEPARTMENT 1421 "umbrella"
Organization, victim assistance grants program, chs 1, 6 ARC 9185 9/7/88

According to Thompson, there are 15 voting members on the Commission. Tieden recommended that quorum requirements be included in Chapter 1.

Royce advised that a quorum would be two-thirds of the Commission members eligible to vote unless the statute states otherwise. This would be 10 members and 8 members would be needed to take formal action.

With respect to assisting victims in seeking state compensation, Thompson said they had met with federal authorities.

10-12-88

CHILDREN,
YOUTH &
FAMILIES

Doyle stressed the importance for victims to be contacted and counseled, in particular, before they have court appearance. He suspected that trauma of a trial could be worse than the crime. Thompson spoke of the hearing held yesterday on ways to coordinate the victim program.

PUBLIC
SAFETY
DEPARTMENT

The Department was represented by Mike Coveyou, Wilbur Johnson, Fire Marshal, and Don Appell, Building Code. The following was before the Committee:

Fire marshal—cellulose insulation, 5.42 ARC 9195.....*N*..... 9/7/88
State of Iowa building code, 16.2(1)"b," 16.110(1), 16.110(3), 16.120(2) to 16.120(5), 16.121(3), 16.130(14), 16.131(2) to 16.131(4), 16.132, 16.140(1), 16.300(1), 16.400(1), 16.500(1), 16.610(2)"e," 16.610(7), 16.610(8)"b," 16.610(19) to 16.610(21), 16.620(4), 16.620(16), 16.621(2), 16.622(1)"d," 16.622, 16.622(3), 16.623(4), 16.623(5), 16.625(5)"a," 16.626, 16.628, 16.700, 16.701, 16.702(1), 16.702(4)"c," 16.703(1), 16.703(3) to 16.704(6), 16.705, 16.705(1) to 16.705(6), 16.705(8), 16.705(12) ARC 9194.....*N*..... 9/7/88

Coveyou told the Committee that 5.42 was intended to implement 1988 Acts, SF 2314. The Department patterned the rule from federal standards and rules of adjoining states. Coveyou knew of no cellulose insulation in the state which would not meet the standards.

Ch 16

No recommendations for Chapter 16.

Recess

Recess for 10 minutes.

PERSONNEL
DEPARTMENT

Chairman Priebe called up rules of the Personnel Department as follows:

Classification; pay; recruitment, application and examination; certification and selection; separation, disciplinary actions and reduction in force; grievances and appeals; leave; equal employment opportunity and affirmative action, 3.1(5), 4.1(3), 4.5(1)"a," 4.5(1)"b"(3), 4.5(1)"l," 4.5(2)"b"(1), 4.5(4)"f," 4.5(7)"a"(2) and (3), 4.5(7)"b"(2), 4.5(9), 4.5(9)"e," 4.5(16), 4.5(17), 5.1, 5.1(1), 5.2(3), 5.2(6), 5.2(8)"a," 5.3(2), 7.7(3), 7.8, 7.9, 11.2(1), 12.1(1)"e," 12.2(6), 12.2(6), 14.8, 14.9(2), 14.11, 20.1, 20.3(2), 20.3(3)"c," 20.3(3)"d," 20.3(4)"a," "c," and "d," 20.3(6)"a"(5), 20.3(6)"d"(2), 20.3(7), 20.5(2) ARC 9261.....*F*..... 9/21/88
Iowa public employees' retirement system, 21.4(1), 21.4(3)"a," 21.5(1)"a"(15) and (22), 21.6(9), 21.8(1)"c," 21.8(3), to 21.8(6), 21.10(1), 21.10(3), 21.10(7)"b," 21.10(8), 21.11(1), 21.11(3), 21.12(3)"a," 21.13(2)"a" to "e," 21.15, 21.16(2)"b," 21.17(4), 21.18(4), 21.19(1), 21.19(5), 21.19(6), 21.22(2), 21.22(3), 21.24 ARC 9263.....*F*..... 9/21/88
Pay, performance planning and evaluation, leave, benefits, 4.5(1)"e," 4.5(19), 13.3, 14.2(2)"l" to "n," 14.3(10), 14.4(4), 14.12, 14.15(2)"b," 15.1(1)"b" and "c," 15.1(3)"b"(4), 15.2(2), 15.2(3), 15.3(2), 15.3(3), 15.4(2) to 15.4(4) ARC 9262.....*N*..... 9/21/88

Clint Davis, Personnel, Maurice Baringer and Gregg Cusack, IPERS, were present.

20.3(2)

Doyle referred to 20.3(2) and asked about confidentiality in connection with disability. Davis stated that the Department wants to ensure confidentiality of individuals in the very small organizational units within state government.

Ch 21

Amendments to Chapter 21 comply with 1988 legislation. Cusack added that no one appeared at the public hearing. There was discussion of "buy back" of IPERS by former legislators and veterans.

4.5(1)
et al.

Doyle raised question re 14.12--court appearances and jury duty. Davis explained that persons involved in court appearances unrelated to their employment with the state must request annual leave for that purpose. State employees who serve on juries are required to forfeit their pay and take the money for jury service or turn in the jury service money to the general fund.

No formal action.

RACING AND
GAMING
DIVISION

The Racing and Gaming Division was represented by Mick Lura who presented the following:

INSPECTIONS AND APPEALS DEPARTMENT (umbrella)
Rule making and declaratory rulings, public records and fair information practices, chs 2, 3 ARC 9244... *N*..... 9/21/88
Rule making and declaratory rulings, public records and fair information practices, greyhound racing, chs 2, 3, 7.8(2)"b", 7.10(1), 7.10(9), filed emergency ARC 9243... *N*..... 9/21/88
Practice and procedure before the racing commission and board of stewards, applications for track licenses and racing dates, greyhound racing, mutuel departments, 4.10, 4.14, 5.14, 7.1, 7.2(9), 7.2(10)"b" and "c," 7.2(11), 7.2(13), 7.3(5), 7.3(6), 7.3(8), 7.3(15), 7.3(18)"h," 7.3(21)"d," 7.5(6), 7.5(7), 7.6(16), 7.6(18), 7.8(2)"b," 7.8(4)"q" and "t"(2), 7.8(6)"b" and "c," 7.8(7)"b," 7.9(4)"b," 7.10(1), 7.10(4), 7.10(9), 7.11(2), 7.13(9), 8.1, 8.2(4) , 8.6, 8.9
ARC 9245... *N*..... 9/21/88
Harness racing, ch 9 ARC 9255... *N*..... 9/21/88
Application for tax credit by horse racing licensee, ch 11 ARC 9246... *N*..... 9/21/88

No recommendations re Chapters 2, 3 or amendments to Chapter 7.

4.10 et al. In review of amendments to 4.10 et al., Tieden observed that "judge" was changed to "steward" and Lura responded that both terms are applicable in greyhound racing. The word "steward" is limited to horse racing. In response to question by Priebe, Lura said that the number of tickets distributed shall be reported to a commission staff member at the track--7.2(10)b.

Ch 9 Discussion of Chapter 9. Clark pointed out that the definition of "two-year olds" in 9.1 was information but not a definition. Lura agreed to correct the provision.

9.4(9) Clark expressed her preference for use of "shall" in 9.4(9) with respect to fines for ineligible license applicants and in 9.4(13)--prohibited practices. Clark pointed out a possible error in 9.4(16), last sentence, where "or" should be substituted for "of" control. She suggested inserting "there is" before "a member" in 9.4(16)b(1). Clark suggested other minor grammatical changes. No comments re Chapter 11.

Ch 11

REVENUE & FINANCE
DEPARTMENT Carl Castelda, Deputy Director, appeared for the following rules of Revenue and Finance:

Sales tax, 18.44(6), 18.44(6), 18.48 ARC 9196... *F*..... 9/7/88
Income tax, 38.10(9), 39.1, 39.6(8)"c," 39.6(9)"c" and "d," 39.6(3)"a," 39.7, 39.9, 40.1, 40.4, 40.10, 40.11, 40.28 to 40.32, 41.4, 41.5, 42.2, 43.4(3), 43.7, 43.7(2), 43.7(3), 43.7(6) to 43.7(7), 46.4(1), 46.4(2), 46.4(6), 49.6 ARC 9197... *F*..... 9/7/88
Corporation tax, 61.1(2), 62.5(2) ARC 9200... *F*..... 9/7/88
Corporation tax, 62.1(5)"d" and "e" ARC 9199... *F*..... 9/7/88
Motor fuel, special fuel, 64.1, 64.4(3), 64.8, 64.9, 64.13, 65.1 to 65.9, 66.11 to 66.14, 66.16(1), 66.16, 66.18, 66.20 ARC 9198... *F*..... 9/7/88
Board of review, 71.20(1)"b," 72.12, 72.14(1), 73.19, 73.30(3), 80.1(4)"a," 123.4 ARC 9285... *F*..... 9/21/88
Practice and procedure before the department of revenue and finance, 7.1, 7.2, 7.6, 7.7, 7.11(1), 7.11(2), 7.12, 7.17, 7.17(5), 7.25, 7.26 ARC 9203... *N*..... 9/7/88
Sales tax, 12.10(3)"a," 15.3(4)"d" and "e," 16.3, 17.5, 26.24 ARC 9283... *N*..... 9/21/88
Exempt sales, sales tax, 17.19(1) to 17.19(4), 17.22, 18.20(1)"c," 18.28(1), 18.37(1), 18.37(4), 18.48 to 18.50
ARC 9201... *N*..... 9/7/88
Generation skipping transfer tax, 88.1(1), 88.2(2), 88.3(1) to 88.3(4), 88.3(6) to 88.3(16), 88.6 ARC 9202... *N*..... 9/7/88

Ch 18

Discussion centered on amendments to Chapter 18 which will allow refund of sales, service or use tax paid on the purchase or rental of certain machinery and equipment or replacement parts. Castelda reminded ARRC of the Department's position taken two years ago when the legislation was passed that the term "livestock" did not include poultry. At the request of the Governor's office, the Department has requested an Attorney General's opinion on this issue. In addition, Revenue has received requests for a concise statement from the Farm Bureau, the Iowa Turkey Federation, and the Iowa Poultry Association.

REVENUE &
FINANCE
Continued

Tabor viewed the mission of the ARRC as being a "watch dog" to ensure that agencies do not exceed the scope of legislation. He recalled that this exemption issue was before the legislature last year but clarification was not forthcoming.

Royce discussed Committee options with respect to the rule. Clark suggested a delay to allow time for the AG's opinion and the negotiations among the factions involved.

Castelda pointed out that the particular rule in question was merely a clarification of the one that was adopted two years ago. Revenue tried to define "what is an essential part and provide examples of qualifying equipment." He stressed that the rule does not change their position as to the definition of livestock or the agency's position as to the primary use test. He pointed out that the refund program ended September 30 but the Department will modify the rules to include poultry in the definition of livestock if the AG concurs.

Castelda reiterated that internal procedures would not change until there is an official statement from the AG. There was further discussion as to the potential impact of the AG opinion which will address whether or not the rule was correct.

Castelda continued that, in this particular issue, the bill that created the exemption was a "bail out for the cattle industry." Since exemption statutes have to be narrowly construed, the Department took the strictest interpretation of the term "livestock."

It was Tabor's opinion that proper handling of this issue by the ARRC was of great importance. Priebe concurred and reasoned that it was a legislative matter. It was noted that the Governor has authority to rescind or object to rules.

Motion to
Delay to
November
18.48(2)e

Clark reiterated her preference for a delay until next month since objecting would be premature. Clark moved to delay 18.48(2)e until the November meeting. Parker could see no advantage to a delay.

Ted Yanacek, Iowa Farm Bureau, was of the opinion that 1987 legislative intent was to include poultry and this concept was continued in 1988. He declared there was sufficient statutory authority to include poultry and he urged filing of an objection.

In response to question by Doyle, Royce suspected the definition of livestock had broader application than just to this rule. He referred to rule 701--17.9(422, 423), IAC, which sets out exemptions from tax.

Castelda continued that the definition of livestock found in that rule was based on the premise that livestock should

REVENUE &
FINANCE
Continued

include poultry, based on legislative intent in their working with the General Assembly. Castelda added that Revenue had not been involved in the early stages of the legislation since it originated in the Agriculture Committee and it did not go through Ways and Means Committee. He offered background of the legislation and declared that "My job is to administer the tax laws, not to write them."

Substitute
Motion
Vote

Tieden moved a substitute motion to object to 18.48(2)e. Tieden's motion carried by a show of hands. The following objection was drafted by Royce.

Objection

At its October 12, 1988 meeting the Administrative Rules Review Committee voted to object to the provisions of 701 IAC 18.48(2)"e" on the grounds that the paragraph is arbitrary and capricious in that it did not include domesticated fowl in the definition of livestock. This provision was promulgated by the Department of Revenue as part of ARC 9196, published in XI IAB 5 (9-7-88).

At issue is a sales tax exemption available for certain farm machinery and equipment used in livestock production. The department's restrictive definition means that the exemption is not available to turkey or chicken producers, even though their production is used as food for human consumption, as are cattle, hogs and sheep. It is the opinion of the committee that for this particular provision there is no rational basis to treat any one of these producers differently from the others.

The committee notes that there is no single statutory definition of livestock. Various definitions exist, both in statute and rule; some exclude or include domesticated fowl depending on the purpose of the program or regulation. For example, Iowa Code Chapter 172B does not include domesticated fowl; but that program was designed to control the theft of animals. Since this problem rarely involves fowl, they were not included in the definition; but horses were included, even though they are not used as food. Iowa Code Chapter 172D relates to the regulation of feedlots. In that definition, fowl were included, but horses were not (since horses are not kept in feedlots). These two examples tend to indicate that the definition of livestock is varied depending on the need to include fowl.

In this particular case it appears the sales tax exemption was created to aid those who raise animals or fowl for human consumption. The department definition would grant this exemption to animal producers but not to poultry or fowl producers. It is the opinion of the committee that this distinction is arbitrary and capricious, and that the exemption should properly be available to any producer of animals or fowl for human consumption.

Nov.
Agenda

Doyle asked that rule 701--17.9(5) be placed on the November agenda. He was interested in whether there should be a tax on electricity used for irrigation purposes.

38.10
et al.

Castelda noted that amendments to 38.10(9) et al. were identical to the Notice. Doyle and Castelda discussed garnishment procedures for Iowa income tax refunds.

51.1(2)
et al.

No recommendations re amendments to 51.1(2), 52.5(2), 52.1(5)d, e, 64.1 et al., and 71.20(1)b.

In review of 71.20(1) et al., Doyle requested that the subject matter be sent to the Speaker of the House and the Lt. Governor.

12.10
Ch 7

No questions re 12.10(3). Castelda stated that the agency was requested to hold a public hearing on amendments to Chapter 7, published in 9/7/88 IAB as ARC 9203.

REVENUE &
FINANCE
Continued

Hearing was held this morning. Previously, practice before the agency was basically attorneys or CPAs. The Legal Services Corporation for America has requested that they be permitted to represent indigent and disabled people in matters before the agency. The Department will consider these recommendations.

Royce interjected that some administrative law judges do not have law degrees. Castelda wanted to ensure that taxpayers are represented by those qualified to understand complex tax matters. He commented that for years the Department Director had advocated an Iowa tax court.

No recommendations for amendments to 17.19(1) et al. Castelda said that the provisions of 1988 Acts, SF 2074, will be implemented by amendments to Chapter 88. Ben Brown, Inheritance Tax Division, discussed the state and federal laws relative to generation skipping transfer taxes. No Committee action.

TRANSPOR-
TATION
DEPARTMENT

Julie Fitzgerald, H. E. Sims, Don Stevens and David Little appeared on behalf of DOT. The agenda follows.

Lighting, 136.1, 136.2, 136.6 ARC 9215.....	9/21/88
Improvements and maintenance on primary road extensions, 150.3(3)"a" filed emergency after notice ARC 9216 <i>FEAN</i>	9/21/88
Reporting of railroad accidents/incidents, railroad track safety standards, highway grade crossing safety fund, rail assistance program, 802.1, 802.1(2), 810.1, 810.5, 820.3(3)"a," 830.2(1) ARC 9217.....	9/21/88
Miscellaneous amendments to chs 4, 13, 20, 421, 450, 451, 602, 615, 620, 640, 910 ARC 9220.....	9/21/88
RISE program, 163.1, 163.2, 163.3(3), 163.3(4), 163.4(2), 163.7(1)"a," 163.7(2)"L," 163.8(1)"a," 163.8(2)"c" to "e," 163.9(3), 163.9(6)"d," 163.9(7)"a," 163.9(1)"a," 163.9(2)"c" to "e," 163.9(3), 163.9(6)"a" and "b," 163.9(7)"a," 163.10(1)"d," 163.10(2)"a," 163.11(1), 163.11(2) ARC 9170.....	9/7/88
Motor vehicle dealers, manufacturers and distributors, 420.1, 420.2(4), 420.3(2), 420.7(2)"a"(4), 420.7(2)"b"(4) and (5), 420.12 ARC 9218.....	9/21/88
Dealer plates, demonstration permits and testing permits; testing permits for motor trucks and truck tractors, 420.4, 420.4(3)"e," 420.4(4) ARC 9219.....	9/21/88

Three agenda items were considered first in order to accommodate Representative Clark.

20.4(3) In re 20.4(3)n, Clark opined that DOT had opposed the very modification placed in the rule for withdrawal of bids. It was her opinion that if there is modification, then the bid should be reopened.

Ch 163 Clark inquired if 163.3(4) would allocate 50 percent of the RISE fund for state park road projects, specifically, she asked if the back entrance to the Ledges would receive funds. DOT officials were doubtful.

420.2(4)b Clark was advised that 163.4(2) pertaining to priorities was statutory. She challenged the language in 420.2(4)b which proposed the rectangular area measurements for motor vehicle dealers' facilities. Clark preferred inclusion of square footage with minimum width and length. Priebe concurred. Tieden wanted to avoid creating problems for institutions. Fitzgerald pointed out that the concept of the rules was not new--just a rearrangement of rules. Priebe expressed his dissatisfaction with 420.2(4)c(1) as an attempt to dictate to dealers. He said, "We should do more to encourage businesses and not discourage them."

No questions re 136.1, 136.2 and 136.6.

Clark excused.

TRANSPOR-
TATION
DEPARTMENT
Continued
150.3(3)

There was brief review of 150.3(3)a by Stevens. Priebe challenged their reason for an emergency filing. According to Stevens, DOT interchange lighting projects in Dubuque County are affected by this rule--the attempt is to light interchanges for smaller communities which cannot afford to pay. No other comments.

Chs 802
et al.

In re amendments to Chapters 802, 810, and 820, Sims said DOT is updating rules to coincide with the Code of Federal Regulations. No comments.

Tieden was told that the Rail and Water Division meets at least once a year with officers of the various railroads doing business in Iowa. After brief explanation of amendments to allow a dealer to use a dealer plate on a test motor truck or truck tractor with load, there were no questions.

UTILITIES
DIVISION

Ray Vawter, Jr., Diane Munns, Dean Stonner, Allan Kniep, and Vicki Place appeared for the following:

COMMERCE DEPARTMENT[181]"umbrella"	
Title change, amendments to ch 7, ARC 9160	9/7/88
Pipeline safety, 19.2(5), 19.5(2), 19.5(3), 19.7(3), 19.7(6), 19.7(7), 19.8(3) ARC 9291	9/21/88
Assembly expense reporting requirements, 19.2(5)"k," 20.2(5)"j," 22.2(6)"l" ARC 9292	9/21/88
Intrastate access service tariffs and interutility services, 22.1(6), 22.14(1), 22.14(2) "a" to "d," 22.14(3), 22.14(4)"a," 22.14(5) ARC 9294	9/21/88
Purchased gas adjustment and annual review of gas, 19.10(1) to 19.10(6), 19.10(7)"a," 19.10(8)"b"(1), 19.11(1) to 19.11(3) ARC 9289	9/21/88
Flexible rates, 20.14(2)"a," 20.14(3)"d" ARC 9290	9/21/88
Intrastate access service tariffs and interutility service, 22.1(3), amended notice ARC 9293	9/21/88
Adjacent exchange service tariffs, 22.1(3), 22.3(15), amended notice ARC 9161	9/7/88
Telephone employee accident/injury reporting requirements, 22.2(6)"b," ARC 9182	9/7/88

Ch 7

Place advised that amendments to Chapter 7 will implement HF 2430 which changed the name of "hearing officer" to "administrative law judge."

Ch 19

No recommendations for amendments to Chapter 19 relative to pipeline safety. Department officials stated that information relative to reporting of certain expenses charged to customers by utilities will be retained but not in the kind of report used presently.

Ch 22
Ch 19

Discussion of intrastate access service tariffs and interutility services. No action. Munns spoke on the five options provided in amendments relative to purchased gas adjustment and annual review of gas. Stonner explained flexible rates--20.14(2)a, 20.14(3)d. No comments. No recommendations re 22.1(3), 22.3(15). Place stated that amendment to 22.2(6)b had received favorable comments from AT&T as well as the consumer advocate.

NO AGENCY
REPS

No agency representatives were requested to appear for the following:

APPEAL BOARD, STATE[543]	
MANAGEMENT DEPARTMENT[541]"umbrella"	
Public records and fair information practices, ch 6, filed emergency after notice ARC 9208	9/7/88
BLIND, DEPARTMENT FOR THE[111]	
Amend and transfer 423--chs 1 to 13 to 111--chs 1 to 13, filed emergency ARC 9247	9/21/88
Organization and administration, vocational rehabilitation services, independent living rehabilitation services, 1.3, 10.3, 10.6(2), 10.8, 11.7(2), 11.9, filed emergency ARC 9258	9/21/88
CHILDREN, YOUTH AND FAMILIES DIVISION[425]	
HUMAN RIGHTS DEPARTMENT[421]"umbrella"	
Public records and fair information practices, ch 2, filed emergency after notice ARC 9180	9/7/88
CITY DEVELOPMENT BOARD[220]	
Public records and fair information practices, ch 6 ARC 9260, also filed emergency ARC 9259	9/21/88

10-12-88

NO AGENCY
REPS
Continued

CITY FINANCE COMMITTEE[545]
MANAGEMENT DEPARTMENT[641] "umbrella"
Public records and fair information practices, ch 8, filed emergency after notice ARC 9209 .. *FEAN* 9/7/88

COMMUNITY ACTION AGENCIES DIVISION[427]
HUMAN RIGHTS DEPARTMENT[421] "umbrella"
Public records and fair information practices, ch 2, filed emergency after notice ARC 9179 .. *FEAN* 9/7/88

CORRECTIONS DEPARTMENT[291]
Public records and fair information practices, ch 5, filed emergency after notice ARC 9171 .. *FEAN* 9/7/88

COUNTY FINANCE COMMITTEE[547]
MANAGEMENT DEPARTMENT[641] "umbrella"
Public records and fair information practices, ch 9, filed emergency after notice ARC 9210 .. *FEAN* 9/7/88

CULTURAL AFFAIRS DEPARTMENT[221]
Public records and fair information practices, ch 2, filed emergency after notice ARC 9234 .. *FEAN* 9/21/88

DEAF SERVICES DIVISION[429]
HUMAN RIGHTS DEPARTMENT[421] "umbrella"
Public records and fair information practices, ch 3, 4.1, filed emergency after notice ARC 9181 .. *FEAN* 9/7/88

DENTAL EXAMINERS BOARD[650]
PUBLIC HEALTH DEPARTMENT[641] "umbrella"
Principles of professional ethics, ch 27 ARC 9236 .. *F* 9/21/88
Complaints, ch 31 ARC 9235 .. *F* 9/21/88
Unprofessional conduct, 30.4"13" ARC 9168 .. *N* 9/7/88

EDUCATION DEPARTMENT[281]
Amend and transfer 670—chs 1 to 83 and 843—ch 1 to 281—chs 1 to 102 ARC 9186 .. *F* 9/7/88

EMPLOYMENT APPEAL BOARD[486]
INSPECTIONS AND APPEALS DEPARTMENT[481] "umbrella"
Rules of procedure for OSIA appeals, ch 4; rescind 810—ch 1 ARC 9156 .. *F* 9/7/88
Public records and fair information practices, ch 8, filed emergency after notice ARC 9157 .. *FEAN* 9/7/88

GENERAL SERVICES DEPARTMENT[450]
Public records and fair information practices, ch 11, filed emergency after notice ARC 9211 .. *FEAN* 9/7/88

HUMAN RIGHTS DEPARTMENT[421]
Public records and fair information practices, ch 2, filed emergency after notice ARC 9178 .. *FEAN* 9/7/88

HIGH TECHNOLOGY COUNCIL[486]
Public records and fair information practices, ch 5, ARC 9264, also filed emergency ARC 9263 .. *N * FE* 9/21/88

IOWA FINANCE AUTHORITY[524]
Public records and fair information practices, ch 13, filed emergency after notice ARC 9212 .. *FEAN* 9/7/88

MANAGEMENT DEPARTMENT[641]
Public records and fair information practices, ch 8, filed emergency after notice ARC 9207 .. *FEAN* 9/7/88

PERSONS WITH DISABILITIES DIVISION[431]
HUMAN RIGHTS DEPARTMENT[421] "umbrella"
Public records and fair information practices, ch 2, filed emergency after notice ARC 9182 .. *FEAN* 9/7/88

PHARMACY EXAMINERS BOARD[657]
PUBLIC HEALTH DEPARTMENT[641] "umbrella"
Correctional facility pharmacy licenses, ch 15 ARC 9214 .. *F* 9/21/88

PRODUCT DEVELOPMENT CORPORATION, IOWA[636]
Public records and fair information practices, ch 5, ARC 9262, also filed emergency ARC 9261 .. *N * FE* 9/21/88

PROFESSIONAL LICENSURE DIVISION[645]
PUBLIC HEALTH DEPARTMENT[641] "umbrella"
Chiropractic examiners, 40.11(1), 40.11(2), 40.11(3)"a", 40.11(4), 40.13(6) ARC 9232 .. *F* 9/21/88
Cosmetology examiners, 60.9(7), 60.9(8) ARC 9172 .. *F* 9/7/88
Hearing aid dealer examiners, 120.6(1) ARC 9155 .. *F* 9/7/88
Mortuary science examiners, 146.1(2), 146.1(3) to 146.1(5), 146.1(6)"b", 146.1(9), 146.1(10), 146.2(2), 146.5(7), 147.1(3), 147.2(8), 147.103(2); transfer 470—chs 146 and 147 to 645—chs 100 and 101 ARC 9233 .. *F* 9/21/88
Hearing aid dealer examiners, 120.5(4) ARC 9159 .. *N* 9/7/88
Physical and occupational therapy examiners, chs 200, 201; rescind 470—chs 137, 138 ARC 9254 .. *N* 9/21/88
Speech pathology and audiology examiners, name change, ch 302 ARC 9165 .. *N* 9/7/88

SAVINGS AND LOAN DIVISION[197]
COMMERCE DEPARTMENT[181] "umbrella"
Public records and fair information practices, ch 1, filed emergency after notice ARC 9169 .. *FEAN* 9/7/88

SOIL CONSERVATION DIVISION[27]
AGRICULTURE AND LAND STEWARDSHIP DEPARTMENT[21] "umbrella"
Amend and transfer 780—chs 1 to 27 to 27—chs 1 to 50 ARC 9177 .. *N* 9/7/88

SPANISH-SPEAKING PEOPLE DIVISION[433]
HUMAN RIGHTS DEPARTMENT[421] "umbrella"
Public records and fair information practices, ch 6, filed emergency after notice ARC 9183 .. *FEAN* 9/7/88

STATUS OF WOMEN DIVISION[435]
HUMAN RIGHTS DEPARTMENT[421] "umbrella"
Public records and fair information practices, ch 4, filed emergency after notice ARC 9184 .. *FEAN* 9/7/88

Next Meeting
Adjourned

The next meeting will be held November 15 and 16, 1988.
Committee was adjourned at 1:20 p.m.

APPROVED:

Respectfully submitted,

Phyllis Barry

CHAIRMAN

Phyllis Barry
Assisted by Vivian Haag & Bonnie King