

**MINUTES OF THE REGULAR MEETING
OF THE
ADMINISTRATIVE RULES REVIEW COMMITTEE**

**Time of
Meeting**

The regular meeting of the Administrative Rules Review Committee (ARRC) was held on Tuesday and Wednesday, November 12 and 13, 1991, in Senate Room 22, State Capitol, Des Moines, Iowa.

**Members
Present**

Senator Berl E. Priebe, Chairman; Representative Emil S. Pavich, Vice Chairman; Senators Donald V. Doyle, H. Kay Hedge, John P. Kibbie, Dale L. Tieden; Representatives Ruhl Maulsby, Janet Metcalf, David Schrader, and Jane Teaford.

Convened

Staff present: Joseph A. Royce, Legal Counsel; Paula S. Dierenfeld, Administrative Rules Coordinator; Phyllis Barry, Administrative Code Editor; Mary Ann Scott, Administrative Assistant; Caucus Staff and other interested persons.

The meeting was called to order by Chairman Priebe at 10 a.m. and the following agenda was before the Committee.

**PROFESSIONAL
LICENSURE**

PROFESSIONAL LICENSURE DIVISION[645]

PUBLIC HEALTH DEPARTMENT[641]"umbrella"

Cosmetology examiners, 60.9(4)"b," 62.101, 62.105, Filed ARC 2449A	10/16/91
Dietetic examiners, uniform rules, 80.1, 80.4(1)"a" and "b," 80.4(5), 80.100(3), 80.100(6), 80.101(2)"c," 80.101(4), 80.101(6), 80.101(7), 80.203(2) to 80.203(5), 80.211 to 80.220, chs 86 to 88, Filed ARC 2508A	10/30/91
Optometry examiners, uniform rules, 180.1, 180.4, 180.5(5)"c," 180.10(7), 180.11, 180.12(1)"c," 180.104, chs 186 to 188, Filed ARC 2448A	10/16/91
Physician assistants, 325.4(1)"a"(4) and (5), 325.6(1)"t," "u," and "v," 325.6(2), 325.6(5)"b," 325.7, 325.8, 325.10(3)"a," Notice ARC 2447A	10/16/91

Representing the Division were Susan Osmann, Barbara Charls, Kathy Williams, Robert Witt and Elizabeth Coyte.

Chs 60, 62

Osmann presented amendments to Chapters 60 and 62, cosmetology examiners. No questions.

Chs 80, 86-88

Amendments to Chapters 80, 86 to 88 regarding uniform rules for dietetic examiners were before the Committee. Responding to Tieden re 80.100(6), Osmann said that the Department does not keep records of continuing education--licensees keep their own records.

Doyle referred to 80.214(4) and asked if a licensee voluntarily entered a treatment program, would the licensee be subject to fine or revocation. Osmann responded that each case was handled separately if a licensee comes before the Board with a proposal for a settlement. The Board would consider impact of the habit on the licensee's professional life.

Chs 180, 186-188

Uniform rules for optometry examiners were explained by Osmann.

Priebe questioned justification of the CPR requirements for continuing education and took the position that the Department had exceeded its authority. It was noted that this was a Board requirement, not statutory and that no comments had been received in this regard. Osmann informed Hedge that of the 16 professions licensed by their Division, optometry would be the first to complete CPR for continuing education.

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

Kibbie moved to object to the compulsory CPR requirement in 180.12(1)"c," ARC 2448A. Motion carried. There was one "no" vote. Royce prepared the following:

Objection

At its meeting held November 12, 1991, the Administrative Rules Review Committee voted to object to the provisions of paragraph 645 IAC 180.12(1)"c" on the grounds that the provision is beyond the authority of the board. This paragraph appears as part of ARC 2448A, published in IAB Vol. XIV, No. 8 (10-16-91). [Full text in ARC 2222A, Item 6, 8/7/91 IAB]

This paragraph requires that optometrists obtain four hours of continuing education in cardiopulmonary resuscitation each biennium. The committee believes that continuing education should have a real and direct connection, as required by Iowa Code paragraph 258A.2(2)"g." That provision requires that continuing education:

g. Be promulgated solely for the purpose of assuring a continued maintenance of skills and knowledge by a professional or occupational licensee directly related and commensurate with the current level of competency of the licensee's profession or occupation.

While "CPR" is an invaluable skill for any person to have, the committee does not believe that it is directly related to the practice of optometry and therefore should not be mandated as part of the required continuing education.

Priebe recommended more detail regarding the informal settlement procedure for settlement of charges.

Ch 325

The proposed amendments to Chapter 325, physician assistants, were explained by Coyte. Responding to Teaford, Coyte indicated that language in 325.10(3)"a" was plagiarized from rules of the Medical Board. PAs would be precluded from using presigned prescriptions unless physically handicapped. Doyle suggested a witness if a rubber stamp were used.

Metcalf inquired about 325.6(1)"t"(1), which provided that "the best interest of the patient may include supplying medications at request of the patient or family member." Coyte responded that statutory language was further defined by the Division. She continued that the Pharmacy Board had suggested definition for "order medication" and this would be referred to the PA Board. Coyte said that definition of "complete prescription" was inadvertently omitted and would be included in the Filed rule.

Metcalf was informed that language in 325.6(1)"t"(4) was directly from statute as to how a pharmacist can be assisted. In same subrule, paragraph "v"(1), Metcalf reasoned there was inference that a physician assistant with a temporary license would have the same authority as a licensed physician assistant. Coyte responded that a graduate of a program who is waiting to take the examination or hear the results can practice under a temporary license but cannot prescribe medication. It must be cosigned by a physician.

In 325.7(2), Hedge asked about oral prescriptions and Coyte replied that it would be telephone transactions and that this language was copied from pharmacy statutes. Proper identification of the caller would be responsibility of the pharmacist. The pharmacist would probably ask for the D. E. A. number of the physician. Coyte mentioned Schedule II prescriptions as an example of those which could not be prescribed by telephone.

Metcalf asked Coyte to elaborate on comments received during the public hearing. Coyte recalled concerns that statutory language was added to the rules. The Nursing Board contended some of the statutory language was conflicting--for example, in 325.6(2) pertaining to health care providers. The Division took the position that the 1991 legislation [SF 42] was to clarify relationships between health professionals. A 1978 Attorney General's opinion substantiates that PA instructions should be deemed instructions from a physician.

**PROFESSIONAL
LICENSURE
(cont'd)**

Pharmacists favored removal of the words "in the best interests of the patient" but did not offer substitute language.

**EMPLOYMENT
SERVICES**

Cynthia Eisenhauer, Director of the Department, was before the Committee for discussion of possible elimination of local offices. Also present were Reynel Dohse, Acting Bureau Chief, Judy Peters, Willie Dillard, Pat Hilton, Rick Hemming, Mark Moore, Russ Coleman and Brian James, Pocahontas City Administrator.

Eisenhauer stated there were no plans to close any local offices, but they were studying the level of service that should be provided out of the 67 offices. She continued that the Legislative Council assigned oversight of their reorganization to the Fiscal Committee and last month made a full scale presentation to that Committee. Eisenhauer said Senator Boswell had reported to the Council that he had reviewed in detail the Department's plans.

Eisenhauer anticipated rule making to implement their reorganization. Review of restructuring was necessary due to rapid increases in technology and to ensure that staff was commensurate with workload. She distributed a printout of supporting data listing the 67 job service offices which are divided into three tiers and explained in detail the different workload indicators.

The objective criteria were population, number of employers served by the office, program year 1990 new and renewal applications, number of initial claims for unemployment benefits that were filed, and a job creation category. She explained that several communities indicated an interest in incorporating their high level of economic development activity into the workload indicator. Since this was more subjective than the other criteria, it was only given 50 percent of the weighted value. Eisenhauer informed Hedge that job creation would be new jobs added to the service delivery area in the last year. She told Priebe the figures did not reflect the productivity of the office and that the ranking composite reflects the workload of the office. Priebe asked for clarification of the ranking system and Eisenhauer cited Corning with the lowest population in its service area with a number one ranking under population (67 being the highest, 1 the lowest). The number in parenthesis following county name in the County Location column represented the number of counties served.

Eisenhauer explained that the Tier I communities were located in larger metropolitan areas and would include all basic services that Job Service provides plus access on site to all special programs, such as youth interviewer, employer service representative or job seeking skill classes. Tier II (Newton through Harlan) would also have on-site access to all basic services and on-site access to some special programs. Tier III offices would have all basic services available and access to special services on demand but may not be open 40 hours every week.

She continued that the important part of this reorganization would be communicating, particularly with the Tier III communities and customizing needed services. Eisenhauer noted that Corning has a high level of economic development activity and the Department wants to ensure that adequate services would be available to communities courting new business. Other communities have a need for job-seeking skills to be taught in the schools so a team would be dispatched to that community when needed.

Eisenhauer emphasized that discussions with communities were ongoing as to the level of services needed. The Department would welcome suggestions for ways to enhance their plan which they hope to adopt soon.

EMPLOYMENT SERVICES (cont'd)

Eisenhauer introduced Peters, Sioux City Region Supervisor, who explained her work with some of the Tier III offices to customize services. Peters advised Kibbie that someone was meeting with each of the Tier III counties. Kibbie inquired if the city or county would provide office space, including utilities, and was there a possibility that office would be staffed up to 30 hours a week. Eisenhauer responded that many communities have offered free office space, volunteers and, in some instances, paid staff to supplement the Department's efforts.

Kibbie then asked if a change in personnel in some locations would change the figures on the "score sheet." Eisenhauer reiterated this printout does not reflect the productivity of the offices. Priebe interjected exception to some of the figures and gave the results of his calculations in the Des Moines Metro and Adams county as examples. He stressed the importance of job creation. Eisenhauer clarified that these jobs were not created by Job Service but through the local community development effort. She continued that if full weight rather than 50 percent were given to the job-created category it would not dramatically change the rankings of the communities. Priebe and Eisenhauer debated this issue at length.

Kibbie continued his quest for information regarding the length of time offices would be open in the Tier III counties, if computers would be utilized, if less management would be required, etc. He suspected that information was being misinterpreted or possibly misinformation was given. He said that Hilton had answered some of these questions by telephone. He was assured by the Department that input from the public was being considered and nothing was "cut in stone." Eisenhauer was not aware of any notification to property owners that leases with Job Services would not be renewed. At this point there were four regions instead of 12 districts. Eisenhauer continued that the Department has made a concerted effort over the last year and a half to reduce the number of managers in Job Services by eliminating 14. Four were field managers, the others were from the Des Moines office. Plans are to convert 10 to 15 managers to line workers and to eliminate another 10 to 12 managers in the Department.

Eisenhauer introduced other regional supervisors who were present and brief remarks were made.

Brian James, City Administrator in Pocahontas, was pleased to learn that reorganization was not final. He related some misinformation he had received.

Eisenhauer spoke of a long-range plan for ATM-type machines in shopping malls, union halls, libraries, and some rural communities to provide access to Job Services not currently available. She anticipated it would be next July before these units would be available but in the meantime the Department would continue to provide services in all 67 communities as the law requires.

Schrader expressed concerns about offering services through technology. He suspected that many unemployed would be intimidated by ATM machines. Eisenhauer was very sensitive to this possibility and emphasized the Department would ensure that everyone would be comfortable with use of automated equipment before such a service would be implemented. It would be a supplement to their staffing only.

Priebe and Eisenhauer discussed the statewide surtax which generates the \$5.9 million appropriation by the General Assembly to the Department for the current fiscal year. Rural offices are being funded because federal dollars have decreased. Also, a portion of the surtax has funded offices in Iowa City, Ames and possibly two others considered to be urban. Resources are moved to fit the needs of specific communities. Priebe repeated his preference for more weight on job creation.

**EMPLOYMENT
SERVICES (cont'd)**

Tieden commended the Department for its presentation to the Fiscal Committee and he was convinced the will of the Legislature was being carried out.

Eisenhauer assured that offices in all 67 locations would remain open until an alternative plan was adopted.

Eisenhauer indicated to Priebe that most communications had been with Tier III areas and only a few have indicated concerns. Priebe wondered why large communities, such as Cedar Rapids, had not been asked for funds to keep offices open. Eisenhauer would take the matter under advisement and recompute values to determine if job creation does make a big difference.

Metcalf did not see office hours of 30 versus 40 hours per week as a big issue.

Schrader and Eisenhauer discussed the mechanics of keeping an office open 30 hours.

Eisenhauer anticipated publication of Notice on the reorganization of local offices in January or February.

**ECONOMIC
DEVELOPMENT**

Lane Palmer, Bureau Chief, and Melanie Johnson, General Counsel, represented the Department for the following:

Ch 23

ECONOMIC DEVELOPMENT, IOWA DEPARTMENT OF [[261]

Community development block grant nonentitlement program, 23.2, 23.4(3)"h," "i," and "y," 23.4(4)"c," 23.5(1)"i," 23.5(1)"k"(13), 23.6(1), 23.6(3), 23.6(6) to 23.6(8), 23.7(1)"c" and "g," 23.7(5)"d" and "e," 23.7(7) to 23.7(11), 23.8(5)"a"(4), 23.8(9), 23.9(4)"c," 23.9(5)"b"(6), 23.9(8), 23.11(3)"f," 23.11(8)"a"(4), 23.12(3)"e," 23.12(8), 23.13(3)"a," 23.15, Filed ARC 2446A

10/16/91

Home ownership and homeless assistance programs--minimum point scores, 23.11(8), 23.12(10), Notice ARC 2445A

10/16/91

There were no questions.

INSURANCE

David Lyons, Insurance Commissioner, and Debra West, Assistant Attorney General, presented the following:

INSURANCE DIVISION[191]**COMMERCE DEPARTMENT[181]"umbrella"**

Investments in medium grade and lower grade obligations, 5.32, Notice ARC 2471A

10/30/91

Credit for reinsurance, 5.33, Notice ARC 2472A

10/30/91

Surplus lines requirements, 21.1(1), 21.2(2), 21.3(1), 21.3(2), 21.6, Filed ARC 2473A

10/30/91

Individual accident and health--minimum standards, 36.3, 36.4(3), 36.4(6), 36.5(3), 36.5(7), 36.5(8), 36.5(10), 36.6, 36.6(1)"g,"

"36.6(9), 36.6(10), 36.7(1)"g" and "j," 36.7(2), 36.7(11), 36.10(4), Filed ARC 2499A

10/30/91

In a matter not before the Committee, Lyons reported on two issues. First, he provided an update on the Division's implementation of 1991 Iowa Acts, H. F. 634 relative to anti-stacking of underinsured motorist coverage. The Division has worked with the industry and lobby groups in developing a program whereby they have institutionalized the availability of stacking uninsured, underinsured coverage in the state of Iowa and see no need to have administrative rules at this time. Royce could see no problems.

In the second issue, Lyons addressed the Committee regarding the UST Board rules reviewed at the October ARRC meeting. He apologized to the Committee for his absence at that meeting when the rules became controversial. Lyons pointed out that opponents at that ARRC meeting were also present at the Board meeting and hearing on the rules but raised no questions at that time. Lyons clarified that the UST program was not for tank manufacturers but for small owner/operators of UST tanks in Iowa. The rules were intended to protect small businesses and encourage them to move forward on their upgrades by reducing expense to the program and providing for additional environment protection, especially on pressurized systems. The insurance program provided ability to

INSURANCE (cont'd)

distinguish between new releases and old releases which allowed the Board to issue insurance to more and more small operators without the threat of a past release increasing their insurance rates. Lyons defended the emergency filing for several reasons. Every day a leak continues it is more expensive for the program to clean up. Owners and operators continue to have to wait for the upgrade and cleanup of their sites while the rules are pending, even though many have contractual obligations to contractors doing the work. The rules provided the Board with cost controls on tank systems. Selection of ACT 100 tanks was based on scientific statistics and technical analysis regarding the highest level of protection to the environment balanced with a fiscally reasonable approach for both the UST Board and for the owner/operators. The program data collected so far shows that leaks occur from lines and spills at a higher rate than from tanks. Except for sensitive areas as defined, the protection offered by EPA system, along with ACT 100 tanks which are significantly cheaper, provided a higher degree of protection from both errors occurring during installation. Prior to these rules coming out, the fiberglass tank options were expanded by Board prior to the hearing. This change allowed for even more locations where fiberglass tanks can and will be used in the future if they are cost efficient but gain the same environmental protection.

Lyons stated that the rules in question had been rescinded and a new set submitted under Notice. He said the Board adopted a profile of holding themselves financially responsible for good faith actions taken on these newly proposed rules for the smallest owners and operators who have found themselves caught in the middle by lack of rules.

Schrader disagreed that a situation existed which necessitated filing of emergency rules. He was uncomfortable with comments that the Board was somehow at fault.

Metcalf wondered how much money was involved in UST funds to the small operators. Lyons said there was no difference in what was actuarially projected and the expenses for the program because they projected under the old rules. The question is could they have decreased their costs by requiring small owners and operators who have undertaken efforts to absorb the cost themselves. Lyons was willing to submit these figures with other material if requested.

Maulsby recommended rules "ahead of the project instead of 18 months behind it."

5.32

In review of new rule 5.32, West told Tieden that insurers of Iowa are, by nature very conservative, and do recognize risks involved with lower grade obligations. Lyons interjected that the Division was trying to protect against insurance companies purchase of corporate investment grade bonds which turn to "junk" while being held. The rule requires companies to increase their reserves in all other areas to protect the fact that they have higher risk in these bonds.

5.33

With respect to rule 5.33, Lyons and Tieden discussed minimum surplus for accredited reinsurers.

Chs 21,36

West summarized amendments to Chapters 21 and 36. There were no questions.

EDUCATION

Susan Hetzler, Consultant, Practitioner Preparation, presented proposed amendments to Chapters 77 and 78 relating to standards for teacher and graduate teacher education programs published in 10/30/91 IAB as ARC 2494A. No questions or recommendations by the Committee.

AGRICULTURE

Present for the following agenda were Ron Rowland, Michael Mamminga and Robert Cox representing the Department. Also present was John Johnson, Past President of Iowa Honey Producers.

AGRICULTURE (cont'd)

AGRICULTURE AND LAND STEWARDSHIP DEPARTMENT[21]

Apiary—parasites, requirement for the sale of bees, certificate of inspection required, 22.2 to 22.4,

Filed ARC 509A 10/30/91

Meat and poultry inspection—exotic animals, 76.6, 76.13, Filed Emergency ARC 2463A 10/30/91

Ch 22

Rowland gave a brief overview of amendments to Chapter 22. Cox described the two kinds of parasitic mites which have been introduced into Iowa recently. When bees become infected, they are treated with controlled compounds. If untreated, the honey could be tainted.

Ch 76

Amendments to Chapter 76 were before the Committee and Rowland explained the reason for emergency adoption. Responding to Priebe, Mamminga said that Department inspectors would be utilized for the exotic animal inspections. One facility (Malcolm) was slaughtering deer and federal inspection was not available. These deer could be slaughtered at any one of the 89 processing plants under the state's inspection program. The Department has 25 inspectors whose costs are \$21 per hour—less than federal inspection fees. No action.

LIVESTOCK HEALTH ADVISO- RY COUNCIL

Mark Truesdell, attorney, reviewed adopted recommendations for allocation of appropriation for research into livestock diseases at Iowa State University, being Chapter 1, published in 10/30/91 IAB as ARC 2458A. No questions.

Minutes

Vice Chairman Pavich moved to approve minutes of the October meeting as submitted. Motion carried.

Recess

Chairman Priebe recessed the meeting at 12:05 p.m. for lunch and reconvened it at 1:15 p.m.

RACING AND GAMING

The following agenda was before the Committee:

RACING AND GAMING[491]

INSPECTIONS AND APPEALS DEPARTMENT[481]"umbrella"

Greyhound and thoroughbred racing, excursion boat gambling, audit and cash control procedures, 1.1, 4.1, 4.3"2," "6," "7," and "8,"

4.4, 4.6, 4.14, 4.15(4), 7.3(19)"a," 7.3(19)"c," 7.3(21)"a," 10.2(6), 10.2(6)"b"(4), 10.2(7)"a," 10.3(25), 10.3(26), chs 18 and 19, 20.10(4),

20.10(5)"a" and "i," 20.16, 21.11(1), 21.11(2), 21.12, 22.10(2), 22.10(4) 22.10(5), 22.13(1)"c," 22.14(1), 22.14(2), 22.14(3)"d" and "e,"

22.14(7), 22.14(7)"b"(2), (5), (7) to (10), 22.18, 22.22(3), 24.14(1), 24.14(2), 24.14(9)"b," 24.24(1), 24.24(6), 24.26(2), 24.26(3), 24.26(4)"a,"

24.26(5), 24.26(6)"c," 24.26(7), 24.29(8)"a"(3), 24.29(8)"b"(4), 24.30(1), 24.31(2), 24.31(3), 24.31(8)"a," 25.13(1), 25.13(2), 25.14(2),

25.14(3), 25.14(4), 25.16(1)"d," 25.16(2), 25.18(4), 25.20(3), 26.17(3), 26.18, Notice ARC 2454A 10/16/91

Charles O. Patton and Lorenzo Creighton represented the Commission.

1.1 et al.

Patton advised the Committee that subrule 25.14(2) would not be rescinded when the rules were adopted [Item 41]. This subrule requires each gambling boat operator to have a certified peace officer accompany each excursion. This is mandated by rule but not by statute. Priebe voiced opposition. Patton informed Priebe that DCI personnel are not on the boat during the drops and counts, which the Department believes to be important to monitor so their own staff performs this function. A DCI agent is on the boat at all times while gaming is being conducted. Creighton said that 21 DCI agents were assigned to the riverboats.

Priebe contended it was excessive for one third of the total number of DCI agents to be assigned to riverboats. Discussion followed. It was Dierenfeld's understanding that DCI agents were hired specifically for this purpose and revenue was available to pay them. Patton pointed out the boats run from 8 a.m. until 2 a.m., seven days a week.

RACING AND GAMING (cont'd)

Patton advised Priebe that the DCI agents were not performing financial audits. Two Racing and Gaming staff perform this function for the five boats.

After touring a boat last summer with other legislators, Doyle determined that many DCI agents, or other law enforcement personnel, were needed to carry out their functions. Patton expressed his opinion that the DCI agents were well trained and have done a good job.

Schrader referred to Items 8, 10 and 12, greyhound rules dealing with partnerships—7.3—and asked if the thoroughbred industry would be affected. Creighton spoke of great differences between the industries. Greyhound owners rarely want the privilege of having the license to come into the track. Schrader then referred to Item 48, subrule 28.18(2), which stated: "Requests to conduct additional games must be accompanied by a complete set of rules, ..." Patton commented that the Code allows specific games to be approved and many games still fall under the confines of the Code. After rules are written and reviewed to ensure fair treatment of patrons, the Commission would have to approve the game. Minimum rules appear in the IAC. Game operations must be submitted in writing to preclude operators from changing them on an hourly or daily basis.

Patton provided Tieden background information relating to Item 16—commission approval of contracts. No formal action.

PHARMACY

Lloyd Jessen presented the following Pharmacy Board rules:

PHARMACY EXAMINERS BOARD[657]

PUBLIC HEALTH DEPARTMENT[641]"umbrella"

Uniform rules relating to petitions for rule making and declaratory rulings, 1.1 to 1.9, Notice ARC 2438A	10/16/91
Pharmacy and wholesale drug licenses—renewal and fees, 3.4, 3.4(2), 3.5, Notice ARC 2439A	10/16/91
Unethical conduct related to pharmacists and pharmacist-interns, 8.5, 8.6, Notice ARC 2440A	10/16/91
Discipline, 9.1 to 9.26, Notice ARC 2441A	10/16/91
Partial filling of prescriptions, 10.13(6), Filed Emergency ARC 2437A	10/16/91
Wholesale drug licenses, ch 17, Notice ARC 2442A	10/16/91

Chs 1,3,8

There were no recommendations for revisions in Chapters 1, 3 or 8.

Ch 9

Royce assured Tieden the amendments to Chapter 9 regarding Discipline were consistent with other professions.

10.13, Ch 17

There were no questions or recommendations in ARCs 2437A and 2442A—10.13(6) and Chapter 17, respectively.

IOWA FINANCE AUTHORITY

Representing the Authority for special review of 265—9.14, participation requirements for abstracters in the title guaranty program, were Julian B. Garrett, Director, Title Guaranty Division; Robert W. DeCook, Chairman; Robert K. Friedrichs and Jay D. Stewart, Board Member. Also present: Connie Bencke, Citizens' Aide Office and Kenneth Stoner, Karen Achey, Jerri Daebelliehn, Mark D. Mallicoat and Charles L. Juhl from abstract concerns.

Bencke told the Committee that their office had been contacted by two professional abstracters who own and operate an abstracting company in eastern Iowa. The abstracters had applied for membership in the Title Guaranty Division and waiver of the 40-year title plant requirement but were rejected because title guaranty certificates were already available in their county (Cedar).

The ombudsman staff did not take a position but recognized important questions about the rule. One issue centered around rule 9.14"2." Bencke reviewed the six requirements with which abstracters must comply in order to be considered for participation in the program, one being they must own or lease a title plant. Since a title plant is created and maintained by extracting information from courthouse records, Bencke questioned whether the eco-

**IOWA FINANCE
AUTHORITY
(cont'd)**

monic means to own or lease would measure an abstractor's professional skills or the degree of thoroughness. She suspected there were better measurements of skill, such as providing reports of actual searches or successful completion of educational courses or letters of recommendation.

Bencke further questioned whether or not the waiver rule was arbitrarily shutting out healthy market competition and would the waiver rule premise result in waivers not being uniformly applied within a county.

Garrett discussed the situation in Cedar County. He said in a few instances when waivers are granted by their Board, stipulation is made that the 40-year plant requirement be in place in a short time. The Cedar County abstractor who is a participant in the program was granted a waiver in 1988 and has completed the 40-year title plant. The other abstract company was informed, when they made application for a waiver, of the 40-year plant requirement but the Authority has received no progress report to date.

Garrett informed Priebe that abstract work must be completed by a participating abstractor and the title opinion by a participating attorney in order to receive a title guaranty certificate on the property.

Schrader expressed reservations as to arbitrarily granting waivers on a first-come, first-serve basis. It was Garrett's recollection they were never given a definite commitment as to when the other company would complete the 40-year plant. He added that Cedar County was unique in this situation.

Achey, representing Land Title Corporation in Tipton, Cedar County, stated that they had met all the requirements except the 40-year title plant when their membership was rejected in 1989. This resulted in loss of business. Achey recognized importance of tract records but in their case, the records are just across the street and are changing or being updated daily. Upon questioning by Garrett, Achey admitted they had not completed the 40-year plant.

Priebe asked Garrett if the system in the courthouse were updated every day and Garrett said it should be but he could not speak for 120 to 130 abstractors around the state.

Garrett's check of their records as to the number of title guaranty certificates sold in Cedar County since the program began revealed about 100. He concluded it was not really a "hot bed" of title guaranty activity. Priebe asked if Achey's company could get title insurance and Garrett spoke of "grandfathering" legislation which still requires the 40-year plant.

Responding to Teaford, Garrett indicated that the number of abstractors varies from county to county.

Kibbie suspected the system was intended to control competition.

Stewart, who owns an abstract company in Des Moines, said the Board granted a waiver in Wright County when there was a 40-year plant there. Decisions are not based solely on first-come, first-serve basis. Stewart stressed the advantages of a tract index which often reveals information not found at the courthouse. He discussed Priebe's example of selling a farm with a mortgage on it. Without a tract index that shows the mortgage on the farm, there is no way to locate it.

Schrader was convinced that a 40-year plant was far preferable but he was concerned about the waiver process.

IOWA FINANCE
AUTHORITY
(cont'd)
Motion
Refer to GA

Schrader then moved, without prejudice toward the rule, that rule 9.14 be referred to the Speaker of the House and President of the Senate for review by the appropriate committees.

Art Small, representing the Iowa Land Title Association, introduced Mark Mallicoat from Clinton, who is president of the Association. Mallicoat spoke in favor of the 40-year title plant which he described as a system of indices where the records from the county are indexed by geographical subdivisions on a tract index by a particular piece of real estate. The records in the courthouse (county recorder's office) are cross-indexed according to the name of the buyer and the seller. He then echoed previous reasons stated for the need of a tract index. A copy of his letter is on file in the office of Administrative Code Editor.

Priebe concurred with Schrader but felt that a date certain in the rule would solve most of the problems. Regarding Priebe's inquiry as to exemptions for attorneys—9.14"2", DeCook noted that it was statutory.

In response to question by Doyle, Garrett said approximately 90 percent of the abstracters have 40-year indices.

Stoner, Reliance Title Service in Iowa City, Johnson County, favored title guaranty surety bond over time limit to complete a 40-year title plant.

Garrett and Priebe discussed the policy of the Authority in granting waivers.

Motion carried

Question was called on the Schrader motion and it carried viva voce.

HUMAN
SERVICES

Presenting the following agenda for the Department were Mary Ann Walker, Pat Winters, Vivian Thompson, Cindy Homan, Joe Mahrenholz and John Fairweather. Also present were Dwight Saunders with the State Legislative Committee of AARP; Paul Stanfield, Iowa Catholic Conference; Lyn Lienhard, Vice President for Professional Services for Lutheran Social Services of Iowa and the Coalition for Family and Children Services; Rod Braun, Executive Director, Christian Opportunity Center, representing Iowa Association of Rehabilitation and Residential Facilities; Judy Dierenfeld, Executive Director, Community Mental Health Association of Iowa. Also present were representatives of various social services organizations.

HUMAN SERVICES DEPARTMENT[441]

Grievance and appeal procedures for PROMISE JOBS program, 7.1, 7.5(4)"e," 7.16(9), 93.21(3), 93.21(3) "a," "b," "c," 93.26(2)"c," 93.40, 93.40(3), 93.44, 93.44(1) to 93.44(4), Filed Emergency After Notice ARC 2478A	10/30/91
State community mental health and mental retardation services fund and special needs grants, 32.1, 32.3, Notice ARC 2457A	10/30/91
Application for ADC, emergency assistance, Medicaid, state supplementary assistance, burial benefits, food stamps, 40.1, 40.3, 50.2(3), 50.2(3)"b" to "d," 56.1, 57.7, 58.3(1), 58.3(2), 65.1, 65.2, 65.4, 65.6(1) to 65.6(3), 65.9, 65.10, 5.16, 65.17, 65.19(2)"a" and "b," 65.19(10), 65.19(15), 65.19(17), 65.20(2), 65.29(2), 65.31, 65.36(4)"a," 76.1(1), 76.1(3), 86.2, Notice ARC 2433A, also Filed Without Notice ARC 2432A	10/16/91
Rescission of amendments necessitated by planned restructuring of department, 40.1, 40.3, 50.2(3), 50.2(3)"b" to "d," 56.1, 57.7, 58.3(1), 58.3(2), 65.1, 65.2, 65.4, 65.6(1) to 65.6(3), 65.9, 65.10, 65.16, 65.17, 65.19(2)"a" and "b," 65.19(10), 65.19(15), 65.19(17), 65.20(2), 65.29(2), 65.31, 65.36(4)"a," 76.1(1), 76.1(3), 86.2, 86.2(2), 86.2(3), 86.2(5), Filed Emergency ARC 2477A	10/30/91
ADC income and resource exemptions, schedule of living costs, chart of basic needs components, 41.1(1), 41.6(1)"1," 41.7(6)"aa," 41.8(2), Filed ARC 2416A	10/16/91
ADC child care deduction, 41.7(2)"b"(5), Notice ARC 2452A	10/16/91
Work force investment project incentive allowance payments exempted from income for ADC program, 41.7(7)"ad," Filed Emergency After Notice ARC 2476A	10/30/91
Mandated budget reductions in entitlement programs, 41.8(2), 49.10(5), 52.1(3), 75.1, 78.16(6), 78.31(4)"d"(7)"6," 79.1(5)"a," ch 86, 150.3(5)"v," 156.20, 177.4(3), 202.9(1)"a"(1), 202.9(6)"a"(1), Notice ARC 2453A	10/16/91
Medicaid reimbursements, 52.1(3)"a"(2) and (5), 54.3(15), 77.26, 77.31, 77.36, 78.1(13)"c," 78.1(20)"a"(4), 78.3, 78.26, 78.29(1), 78.31(1), 78.33, 78.35, 78.40, 79.1(2), 79.1(3), 79.1(5)"n," 79.1(13)"g" and "h," 79.12, 80.2(2)"ak," 81.1, 81.6(16)"a" and "c," 81.13(5)"p," 81.22, 82.5(16)"b," 150.3(5)"a"(3), Filed ARC 2420A	10/16/91
Emergency assistance clients—reports of undue influence, 58.11, Filed ARC 2417A	10/16/91
Refugee cash assistance, 60.7, 60.7(1), 75.1(21)"c," 75.1(32)"f," Filed Emergency After Notice ARC 2431A	10/16/91

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Relief for needy Indians—limitations of expenditures, 64.2(9), <u>Filed ARC 2418A</u>	10/16/91
Statement of citizenship status, SSI and ADC resource exemption for food stamps, 65.2, 65.30(3), <u>Filed Emergency After Notice ARC 2479A</u>	10/30/91
Administration of food stamp program, 65.3, 65.4(1), 65.4(5), 65.5, 65.19(6)*d*(4) to (6), 65.19(20), 65.19(20)*a,* "d," and "e," 65.23, 65.30(3), 65.32 to 65.35, <u>Filed ARC 2480A</u>	10/30/91
Medicaid eligibility for newborn children of Medicaid-eligible mothers, 75.1(20), 75.1(24), 75.1(26)*d,* 75.1(28)*i,* 75.18, <u>Notice ARC 2474A</u>	10/30/91
Attribution of resources for Medicaid eligibility, 75.5(3)*c,* <u>Filed ARC 2419A</u>	10/16/91
Selection of primary provider for Medicaid services, 76.9(4), <u>Filed ARC 2484A</u>	10/30/91
Medicaid reimbursement of prescribed drugs, 78.1(2), 78.1(3)*b,* 78.2(1)*a,* 78.28(1)*a" and "b," 79.1(8)*d,* <u>Notice ARC 2475A</u> ...	10/30/91
Copayment charges for home health agency services, 79.1(13)*c,* <u>Filed Emergency After Notice ARC 2421A</u>	10/16/91
Payment for reserve bed days for patients requiring skilled nursing care, 81.3(2)*d" and "e," <u>Filed ARC 2485A</u>	10/30/91
Elderly waiver services program expanded to Black Hawk, Dubuque, Hamilton, Howard, Johnson, Muscatine, and Polk counties, 83.22(1)*b,* <u>Filed ARC 2486A</u>	10/30/91
Cash bonus program, ch 92 preamble, 92.2, 92.3(1) 92.4, 92.5(1), <u>Filed ARC 2422A</u>	10/16/91
PROMISE JOBS program—payment for child care, 93.10(1), <u>Filed ARC 2423A</u>	10/16/91
Mandated budget reductions for child support recovery unit, community-based services, and local purchased services, 96.13, 96.15, 150.3(5)*p" and "r," <u>Filed ARC 2482A</u>	10/30/91
Administration of child care program, 109.8(1), 109.10, 110.5(8)*d" and "g," 110.8, 110.11, 130.3(1)*d*(2) and (3), 130.3(3)*a" and "y," 130.3(6)*e,* 130.4(3), 130.5(6)*d,* 153.5(6), ch 170 preamble, 170.1, 170.2(2), 170.2(3)*c,* "g," and "h," 170.2(4), 170.4(3)*d" to "g," 170.5, <u>Notice ARC 2483A</u> , also <u>Filed Emergency ARC 2481A</u>	10/30/91
Income guidelines for child day care increased, 130.3(1)*d*(2), <u>Filed ARC 2430A</u>	10/16/91
Court-ordered care and treatment, family-centered services, ch 151 preamble, 151.1, 151.1(1), 151.1(2)*a,* "g," and "h," 151.2, 151.3(1), 151.3(2), 151.3(2)*a" and "c," 151.3(3), 151.3(8), 182.11, <u>Filed ARC 2424A</u>	10/16/91
Adolescent pregnancy prevention and services to pregnant and parenting adolescents program, ch 163 preamble, 163.1, 163.3(1), 163.3(2), 163.3(5), 163.3(5)*d,* 163.4(1), 163.4(2), 163.5(2)*d,* 163.5(3), <u>Filed ARC 2425A</u>	10/16/91
Dependent adult abuse, 176.1, 176.6(1), 176.6(3), 176.10(1), 176.10(2), 176.10(3)*d*(3) and (4), 176.10(3)*e*(7), 176.10(4), 176.10(5), 176.10(8) to 176.10(10), 176.13, 176.14, 176.15(2)*c" and "e," 176.16(3), <u>Filed ARC 2466A</u>	10/30/91
Out-of-state foster care placements, 202.8(2), <u>Filed ARC 2426A</u>	10/16/91

Chs 7, 93

Walker briefed the Committee on amendments to Chapters 7 and 93, Grievance and appeal procedures for PROMISE JOBS program. No comments were received at the public hearing. In 93.21(3)a, b, and c, Thompson told Kibbie that "May" was changed to "Shall" for more emphasis on the rule.

32.1, 32.3

ARC 2457A was before the Committee and Priebe inquired about fifty percent of the special allocation in 32.3(1)a. Winters responded that the statutory formula was followed.

40.1 et al.

Walker referred to amendments to 40.1 et al. in ARC 2432A which were adopted and filed without notice and then she informed the Committee that these revisions were rescinded in the next agenda item (ARC 2477A). The rescission followed Polk County District Court injunction to enjoin the Department from reorganizing. If the injunction is overturned or vacated, the Department will proceed with the Notice in ARC 2433A, 10/16/91 IAB. It was noted that the Economic Impact Statement on ARC 2237A requested by the ARRC at their September meeting would be published in 11/27/91 IAB. The injunction against reorganizing the Des Moines district was still in place.

Ch 41

There were no questions or comments on amendments to Chapter 41 in ARCs 2416A, 2452A and 2476A.

41.8(2) et al.

Proposed amendments to 41.8(2) et al. in ARC 2453A regarding mandated budget reductions in entitlement programs were discussed at length. According to Walker, the Department placed these rules under Notice as a contingency plan in the event supplemental appropriations are not approved. Over 1200 people attended public hearings throughout the state. Cuts are scheduled to go into effect March 1 and will be deeper than they would have been if the Department had implemented reductions last September. The March date was necessary to allow the Legislature time to act. The Council will have to adopt them in December but will rescind them if the supplemental is available before March 1.

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Tieden asked how the various percentages were derived and Walker explained the 3.25 percent cut covers a 12-month period but that is decreased because some programs have federal funding. The percentage rate depends on federal cuts as well as other factors, such as turnover in the ADC program.

Stanfield spoke from a prepared statement which is on file in the office of the Administrative Code Editor. His concerns focused on possible cuts in Aid to Families with Dependent Children since this would create disaster for families and individuals affected. Another concern to him was the Medically Needy program. Stanfield urged that these reductions not be made.

Tieden was concerned that across-the-board cuts must be on the level over the zero balance and therefore it will be difficult to get supplemental funding with a zero balance. Stanfield replied that in previous years of across-the-board cuts, AFDC grants were never touched. Walker interjected that in previous years, there was a surplus in ADC program but this was no longer the case.

Schrader expressed his opinion that options other than across-the-board cuts were available, e.g., the Legislature could have been called back into session. He intends to vote for a supplemental for these programs and believed that his colleagues would also. He was sympathetic with the Department's dilemma.

Metcalf commented that she has voted against every appropriation bill before the legislature for the past two years because the Legislature has been spending more than the state is generating. She placed some of the responsibility for the problems on the Legislature.

Teaford echoed Schrader's comments. It was her understanding that ADC could not be reduced to lower than the 1989 level. However, Walker knew of no authority which addressed that issue.

Maulsby looked at this as a reduction of anticipated growth, not a cut, since spending increases each year. The overall budget has been larger each year for the last 13 years and when expenditures exceed revenue, belts must be tightened. He concluded that all departments must share in this dilemma.

Saunders concurred with Schrader and was critical of the way budget problems had been addressed. He conveyed that AARP was particularly concerned about elimination of elderly services. Saunders suspected that optional programs would bear the brunt of cuts. He urged transfer of the Elderly Waiver Services to an optional Medicaid service in 75.1 that would not be cut. This program assists the frail elderly to stay in their own homes through case management supervision where they receive nursing home services. As of September, eight persons have been approved for this program at a total cost of \$4850, of which Iowa's share is \$1875.28. Without this program those being served would become nursing home patients under Title XIX coverage. AARP views this program to be extremely effective in reducing potential cost to the state while serving physical and emotional needs of clients.

Lienhard read from a prepared statement that is on file in the office of the Administrative Code Editor. He focused on the negative impact that proposed cuts would have on services for children. Lienhard noted that state funding for private agencies providing foster care has increased 36 percent through rate adjustments the past 14 years but inflation rate has increased 84 percent. The proposed cuts in March would have a devastating effect on foster care system. Lutheran Social Services would be forced to close and the Department could not handle the caseload. Many of these troubled children will ultimately require more expensive treatment such as hospitalization or corrections.

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Lienhard concluded that their quality of service depended on competent professional staff and due to cuts, inflation, and low wages, staff turnover rate has been higher which reflects on the lives of children served.

In response to Kibbie, Fairweather said the budget balancing plan was necessary to meet Code requirements—they were hopeful it would not be implemented. The Department does not plan a reduction in quality of services. Fairweather emphasized that the Director of Human Services must have a budget balancing plan in the event the Legislature does not provide a supplemental or chooses other options to address the budget.

Walker advised Kibbie that before the Department proposed to change staffing ratios it would involve a great deal more time and study than what they had to get something Noticed. Kibbie could foresee a worsening of budget problems.

Judy Dierenfeld presented several hundred signatures by petition asking that cuts to Title XIX services not be made. She was particularly concerned about further cuts in the limited amount of state money that goes to community-based programs for mentally ill. Dierenfeld declared that mentally ill people have been perpetually pushed to the back-ground. She cautioned that case management would not function without providers and the burden will fall on taxpayers.

Braun spoke to the Committee from his memo, which is on file in the office of the Administrative Code Editor. He said nearly all of the 9000 served by member agencies will be affected by the proposed reductions, eliminations or cuts—in State Supplementary Assistance, reimbursement for group homes for children under Foster Care Program, elimination of Medically Needy coverage and optional Medicaid services. He touched on increased expenditures faced by providers of services. Braun argued that the state budget should not be "balanced on the backs of people with disabilities or people with minimal political power." He urged approval of a supplemental appropriation.

Hedge questioned how Braun's budget was apportioned. Braun indicated counties pay for some services under the block grant and they pay 100 percent for others. Twenty different counties are served. Braun stated that county MHMR expenditures have increased dramatically.

Pam Shipman, Legislative Fiscal Bureau, addressed the Committee briefly to apprise them of a \$38 million Supplemental request for the Department.

Priebe asked Walker about mandates other than reorganization in SF 479 and she cited executive order.

Paula Dierenfeld wanted everyone present to know that the Governor shares their concerns. When he invoked the across-the-board cuts, he specifically said he wanted these programs protected. Under the law he could not exempt the programs nor could the Agency ignore the order—they were required to file rules to reflect these cuts. She continued, the Legislature will have an opportunity in January to provide the Supplemental which the Governor has already requested. She concluded that leadership was aware of the budget situation when they adjourned last spring leaving the tough decisions to the Governor.

Schrader took exception to Dierenfeld's remarks citing cuts made by the Legislature which were vetoed by the Governor, only to subsequently receive an across-the-board cut. He recognized the fact that revenue estimates changed drastically after the Legislature was in the final budget-making process.

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Priebe clarified that the rules were under Notice and no action would be taken until they were in Filed form—possibly in February.

Doyle asked for unanimous consent for handouts regarding the proposed rules (ARC 2453A) be sent to the Chairs of the Appropriations Committee. So ordered.

52.1 et al.

Committee considered amendments to 52.1 et al. (ARC 2420A) regarding Medicaid reimbursements which combined seven Notices previously before the them.

Priebe asked if there were many comments received on the copayment portion and Walker said when the public hearings were held, only eight persons went to three sites. Priebe expressed his preference for some form of copayments.

Metcalf and Walker discussed 81.13(5)"p" [Item 20] pertaining to resident's rights to make decisions concerning medical care. Metcalf wondered if the last paragraph were in conflict with federal government requirements. Walker stated that residents must be informed of their rights.

**79.1(13)
Copayment**

There was discussion of 79.1(13)g and h and the effect of the Committee's objection at its July meeting. Since the rule was filed on emergency basis the objection would cause it to terminate within 180 days.

Royce reviewed the Committee's informal policy regarding a rule in place with an objection placed on it. It has been assumed that amendment to the rule had the effect of removing the objection. The argument was that any amendment changed the rule and the original objection would no longer apply. If revised language was still objectionable, the Committee would have to reimpose its objection.

A problem has arisen in that 79.1(13) has been amended since the July objection. If the Committee retains its traditional position, the objection would terminate and require the Committee to impose a new one. However, that would also have the effect of terminating the 180-day delay placed on the old rule, forcing that date to be recalculated from the date a new objection would be filed. Royce emphasized that the changes to the rule were not central to the issue presented to the position in the first place but the question to the Committee was whether they should retain their traditional interpretation and when should objections be removed.

Metcalf disagreed with changing policy when the Committee does not feel comfortable with an issue before them at a given time. She reasoned that a new objection could be imposed. Priebe agreed.

Walker cited problems for the Department with this particular rule [79.1(13)] if the Committee changes the date. The additional amendments were promulgated based on the January 10, 1991 expiration date of the language objected to.

Barry interjected that at the September 10, 1991 meeting, the Committee agreed that sub-rule 79.1(13) should be republished in 1/8/92 IAC Supplement to reflect the version in place prior to the emergency amendments. [Minutes, p. 5021] She had color-coded copies of the rule showing the various amendments since that time and reminded that she would need specific direction before January.

Priebe thought the objection should be removed and reinstated but Royce advised this would terminate the 180-day expiration date that has been in effect since July 11 and would start a new 180-day expiration date. Metcalf pointed out that the Legislature would be reconvening in the meantime.

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Schrader opined that subsequent amendments (re in-home services) were not provisions to which the Committee objected but were amendments to original copayment provisions that had been in place for some time.

Priebe reiterated that previous Committee policy was for an objection to be removed any time the rule in question was amended. A new objection could be imposed.

Schrader observed that, in this case, the second set of amendments pleases the Committee, but they do not satisfy the bulk of the objection. No one disagreed with that assessment.

Kibbie took the position that the Committee action should stand to avoid compounding of confusion.

Priebe recommended that Barry and Royce prepare a written statement to explain history of the rule making to be sent to the appropriate committees.

Barry asked for directions as to codification of 79.1(13) and she suggested a formal motion at the December meeting.

Metcalf saw a need to record the fact that the ARRC had deviated from its long-standing procedure.

Walker disagreed with contention that the objectionable language had not been modified. She cited the example of setting a limit on home health aid copayment.

After further discussion, it was agreed to table the matter until the Committee convenes in the morning (November 13).

58.11

There were no questions re 58.11.

60.7 et al.

In review of 60.7 and 75.1, Tieden asked how many refugees were involved in this program (ARC 2431A). Walker said that 72 received cash assistance and 140 had medical assistance.

64.2(9)

There were no recommendations for 64.2(9).

65.2, 65.30

Amendments to 65.2 and 65.30 were explained by Walker. Doyle asked how aliens would be affected by the rules—for example, the influx of Mexicans from Texas into Sioux City. Walker responded that the mother could sign for everyone and indicate the status of each person. This cuts down on paper work. Dierenfeld explained citizenship rights.

Ch 65

Revisions to rules on administration of food stamp program were discussed (ARC 2480A). Priebe referred to paragraph 6 in the preamble and asked how many people have the toll free number. Homan clarified that a toll free number was not available but each county accepts collect calls. Calls would have to be referred to the county anyway.

Tieden was interested in knowing how "homeless" was defined. Homan said, under the food stamp program, it is an individual who does not have a permanent residence. There is a broad federal definition which says in part that "the homeless" can be residing temporarily in the residence of another but "temporary" is not defined. No Committee action.

75.1 et al.; 75.5(3);
76.9(4)

There were no comments or questions on ARCs 2474A, 2419A or 2484A.

Chs 78,79

Amendments to Chapters 78 and 79 (ARC 2475A), Medicaid reimbursement of prescribed drugs, was presented. Mahrenholz responded to Tieden saying 132 people have

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Chs 79,81,83,92,93

been approved. Teaforde inquired if possibly more was paid for these drugs with the rebate agreement than if generic drugs were purchased. Mahrenholz said there were over 400 companies that have signed the rebate agreement, including generic companies.

No comments made on ARCs 2421A, 2485A, 2486A, 2422A, or 2423A.

96.13 et al.

In ARC 2482A, mandated budget reductions for child support recovery unit, community-based services, and local purchased services, Priebe inquired as to whether Iowa was on a computer system. Walker answered in the affirmative except for tracking visitation rights over which the Department has no control.

109.8(1) et al.

Changes in administration of child care program, ARC 2481A, were considered. Walker advised Tieden that under federal regulations, there must be a state law to authorize the Department to regulate homes providing day care.

Chs 130,151,163,176,
182,202

Walker presented the remaining agenda—ARCs 2430A, 2424A, 2425A, 2466A and 2426A—without questions or recommendations.

Recess

Chairman Priebe recessed the meeting at 4:50 p.m. to be reconvened at 9 a.m. on Wednesday, November 13.

Reconvened

Chairman Priebe reconvened the meeting at 9 a.m. in Senate Committee Room 22. All members and staff were present with exception of Senator Doyle and Representative Teaforde, who were excused.

441—79.1(13)
Copayments

Discussion resumed with respect to the objection imposed on 441—79.1(13) in July regarding copayments on certain medical and remedial care. The question to be resolved: How should the provision read after January 10 when the 180 days expire and the copayment language is reinstated in the Iowa Administrative Code. Priebe suggested lifting the Session delay.

Royce advised that the prior language would go into effect only if the current delay into the General Assembly was maintained. He continued that the Department accepted the Committee action and revised the rule accordingly. Those affected have been notified based on the January 10 date when the objection expires. Royce added that if the delay were undone, a chain reaction would result—budgetary plans have been based on the January 10 date.

Royce summarized: The Agency intended to promulgate a rule requiring copayments. In July the Committee objected to that, placing a 180-day termination on the rule and that eliminated copayments. The Department has now notified everyone of that fact and made internal changes accordingly. Priebe asked Royce what would take place if there were no further Committee action. Royce answered that the old rule would be in place on January 10 requiring copayments only under extremely limited circumstances. Priebe contended that would be accomplished if the delay were lifted at the January meeting. Royce reiterated that old language could only be restored if the delay remains in place.

Kibbie was interested in "John Q. Public" on January 11 as far as those who use copayments were concerned.

Schrader reviewed the sequence of events and opined that additional Committee action was not needed. He agreed that their objection to 79.1(13) should have been articulated

Copayments (cont'd)

to make certain it applied only to the amendments to 79.1(13). There was further discussion of the codification problem in January.

Motion

Schrader referred to Barry's color-coded version of 79.1(13) and moved that amendments of 10/16/91 (ARC 2420A and 2421A) be highlighted in some fashion in the Iowa Administrative Code with appropriate explanation of previous amendments.

Priebe pondered where this would leave the Department.

Maulsby recalled that the original intent was not to solve the problem of copayment but to delay it until the legislative process could take over.

Priebe thought intent was to eliminate that part of copayments which some agreed would work a hardship on some people and he supported Committee action. His concern was how to address the objection issue. He asked Dierenfeld for her thoughts on this.

Dierenfeld found it disconcerting that Committee policy had not been well defined except for practice. It was her understanding that past practice had been to remove the objection, consider new amended language, and reimpose the objection, if warranted. She continued that now a situation exists where the Committee did not like the results of following policy. Dierenfeld was concerned about mixed messages to agencies, depending on the mood of the Committee.

Schrader agreed but reminded they were discussing "past customs." It was inconceivable to him that the Committee would allow staff to undo something that the Committee had voted on. Schrader knew of nothing in Code chapter 17A that states amendments to a rule would void an objection. It seemed to him that unanimous consent allowed that to happen and, in this case, there was opposition to that policy.

Priebe wondered if Human Services could publish an emergency rule striking out language objected to and then reinstate it after January 10 as an emergency rule. Barry cited problems with researching history of this rule years hence.

Motion amended

Schrader amended his motion to leave in the language that drops out on January 10 but publish it with strike-out type with explanation at the bottom of the page.

Barry called attention to the fact that the 10/16/91 revisions were made in some of the objectionable language in an attempt to correct some of the problems.

Schrader reasoned that objection to the new amendments would not serve any useful purpose.

It was decided that Barry, Royce and Dierenfeld should meet with Walker prior to the December meeting to discuss possible solutions.

Motion withdrawn

Schrader withdrew his motion.

REVENUE AND
FINANCE

Carl Castelda, Deputy Director, and Melvin Hickman, Policy Supervisor, represented the Department for the following agenda:

REVENUE AND FINANCE DEPARTMENT[701]

Consent to sell, 6.7, Filed ARC 2456A	10/16/91
Interest rate for 1992, 10.2(11), Notice ARC 2493A	10/30/91
Sales and use tax on municipally owned pay television service, 18.5(3), 18.39, 26.56, Filed ARC 2488A	10/30/91
Test laboratories, 26.44, Filed ARC 2489A	10/30/91
Underground storage tank rules incorporated by reference, ch 37, Notice ARC 2492A	10/30/91

REVENUE AND
FINANCE (cont'd)

Extension of time for filing returns--individual, corporate, franchise, and fiduciary, 39.2(3), 39.2(4), 48.9(3), 52.2(6), 58.2(5), 89.5(1)*c," Notice ARC 2491A	10/30/91
Withholding, 46.1(2), Notice ARC 2455A	10/16/91
Property tax credits and exemptions, 80.11(1)*a*(1) and (3), 80.11(1)*b* and *d," 80.11(2), Filed ARC 2490A	10/30/91
Inheritance tax, 86.3(3)*a," Filed ARC 2487A	10/30/91

6.7,10.2,18.5 et al.,
26.44

Hickman presented ARCs 2456A, 2493A, 2488A, and 2489A with no questions or recommendations by the Committee.

Ch 34, 39.2 et al.,
46.1

ARCs 2492A, 2491A and 2455A were presented by Castelda with no questions or comments by the Committee.

80.11

Amendment to rule 80.11 was explained by Castelda. Maulsby was not sure he concurred with the definition of farmer. He referred to the preamble which stated that the words "the designated person farm more than half the tract" was inserted in lieu of "the designated person shall receive all of the production from more than half the tract". Maulsby also noted that an "eligible tract" was expanded to include all contiguous tracts under the same ownership and he wondered where it would stop. Castelda stated that in the original rules that was left to normal assessment practices as to what was a tract.

Castelda informed Maulsby that tax credit always goes to the owner but the owner must materially participate in the management of that tract of land. Maulsby viewed the regulations as contradictory. After further discussion, Castelda pointed out that the matter was a legislative problem, not an administrative one. The meaning of farmer was changed in H. F. 479. Priebe recalled that several bills were incorporated in H. F. 479.

Priebe commented that his land was not all contiguous. Castelda recalled that the initial statute had a limit on the number of acres. Tieden thought 40 acres were needed to qualify as farmland. Castelda explained that anyone owning 40 acres of farmland and meeting other criteria would be entitled to the family farm credit. Each 40-acre tract would qualify separately. Priebe and Maulsby expressed their frustration with the confusing provisions. Castelda expressed a willingness to work with the legislature to clarify the law.

In response to property tax exemption for handicapped, Castelda mentioned a rent reimbursement program for disabled persons and an elderly credit against your own property tax bill. This can be qualified for the disabled. Schrader wondered if this would be a rule or statutory issue. Castelda said it would be statutory because in considering if a person qualifies for property tax breaks, household income is considered. Castelda offered assistance of the Department to any specific case.

There was further discussion of the family farm act with Maulsby taking the position that a better definition of owner was necessary to fit the different segments of the family without confusion.

Castelda stated the bottom line was that a family farm tax credit is a credit against your property tax liability. In order to receive the credit there must be a responsibility to property tax. No action taken.

86.3

There were no questions on 86.3(3)a.

TRANSPORTA-
TION

Shirley Andre, Motor Vehicle Division; Mike Winfrey, Dennis Ehler, Vehicle Registration; Terry Dillinger; R. L. Humphrey; and John Hocker, Specifications Engineer for Highway Division were in attendance from DOT for the following:

TRANSPORTA
TION (cont'd)

TRANSPORTATION DEPARTMENT[761]

General requirements and covenants for highway and bridge construction, 125.1, Filed ARC 2459A	10/30/91
Vehicle registration and certificate of title—supporting documents retained by county treasurer, 400.4(8), Notice ARC 2443A	10/16/91
Certificate of title for junked vehicle, 400.13(3)"c," 400.23(3), Notice ARC 2437A	10/16/91
State transit assistance—locally determined income, 920.5 appendix, Filed ARC 2444A	10/16/91

125.1 According to Hocker, amendment to 125.1 reflected revisions to several articles in their Standards Specifications book. He advised Royce that the Disadvantaged Business Enterprise Program will have changes which will be included in a subsequent rule making. Hocker informed the Committee that publication of the new specifications book was delayed. He anticipates a July 1 date. No action taken.

400.4 Ehlert presented amendments to rule 400.4, Vehicle registration and certificate of title. There were no questions.

400.13, 400.23 In review of amendments to 400.13 and 400.23, discussion centered on salvaged vehicles which have been rebuilt and brought into Iowa. These vehicles are being titled and sold without the buyers knowledge of the salvage. Schrader pointed out that some dealers did not understand the KS salvage identification on titles. Department officials cited the problem of multiple transfers from state to state with the salvage brand being dropped or lost. Ehlert recalled proposed legislation last year to require salvage brand to be kept on.

Responding to Pavich, Ehlert said each state's laws vary and a compact might help.

920.5 No questions on ARC 2444A—920.5.

Special Review
520.1 Andre and Winfrey answered questions concerning farm truck inspections. Andre said farm truck inspections were a result of DOT's adoption of Federal Motor Carrier Safety Standards. Basically, farmers are allowed to self-certify if they believe they are competent to do so.

It was Priebe's understanding that it has to have a SF license to be considered a farm truck. Winfrey answered that a farm truck license is a special type of license available to farmers. The annual inspection law does not distinguish a farm vehicle from a commercial vehicle. It applies to any vehicle having weight rating in excess of 10,000 pounds. Priebe clarified that a farm truck above 10,000 pounds was not exempt as set out by federal law. This also includes articulated vehicles, where combination gross vehicle weight rating would exceed 10,000—a truck and trailer combination. Winfrey explained that weight rating was the manufacturer's rating of the capability of a vehicle—not necessarily the registered weight of the truck. These vehicles have to be inspected once every 12 months and none are exempt.

Discussion turned to 12-ply smooth tires versus 6-ply tires with tread and Winfrey said that officers enforce federal DOT regulation for proper tread on truck tires. Problems could be brought to the attention of the federal DOT office in Ames.

Special Review
Driver License
Stations

At the request of Kibbie, Andre addressed concerns about media reports of proposed closing of some driver license stations. The Field Services Delivery Task Force of the Governor's Spending Reform Committee had asked all state agencies that deliver services in the field or have services delivered to review practices and prepare proposals for any possible improvement. One dealt with maintenance garages, the other with regional motor vehicle service centers. With respect to motor vehicle service centers, Andre said a proposal selected 19 sites for "super station" concepts where there would be a number of different services offered on a Monday through Saturday basis with normal business hours. They would be open early one morning and late one evening. Andre stressed that it was only a proposal.

DOT (cont'd)

Committee members could foresee inconvenience for senior citizens with only 19 sites. Concern was also expressed regarding long waiting lines for license renewal.

It was noted that an estimated \$9.5 million savings would result from the state administered vehicle registration entitling program. Tieden reasoned that government does owe the public a certain amount of service.

Andre cited renewal of 6-year licenses, 4-year licenses, new CDL licenses as contributing to long waiting lines. Approximately one million drivers will go through the stations. She also mentioned possible on-site licenses for elderly and handicapped.

In discussing possibility of mail renewals, Schrader had a problem with photo identification. A proposal would allow one mail renewal in an 8-year cycle.

Andre and Pavich discussed the hours the stations would be open—early morning or late evening. The eye tests required for license renewal and the optometrists involvement was discussed as well.

Kibbie inquired about disposition of the fees now collected by county treasurers for title transfers, etc. under the new proposal. Andre responded it would stay in the road use tax fund and if the DOT were to take over these functions, the Legislature would continue to review and set the appropriations level for the operation.

Steve Derman, Marion Conover and Arnie Sohn presented the following agenda:

NATURAL RESOURCES

NATURAL RESOURCE COMMISSION[571]	
NATURAL RESOURCES DEPARTMENT[561]"umbrella"	
Wildlife habitat promotion with local entities program, 23.1, Filed ARC 2498A	10/30/91
Boat registration and numbering, 38.1, Filed ARC 2501A	10/30/91
Boating speed and distance zoning, 40.14, Notice ARC 2500A	10/30/91
Boat motor regulations, 45.4(2)"b"(3) and (4), Filed ARC 2502A	10/30/91
Lake Darling state recreation area, deer population management areas, 51.3(1)"e," 52.1(1), 61.2, 61.6(3), ch 105, Filed Emergency After Notice ARC 2460A	10/30/91
Fireworks displays—state parks and recreation areas, ch 65, Filed ARC 2497A	10/30/91
Mussel regulations, 87.1(2), Notice ARC 2503A	10/30/91

87.1(2)

Chairman Priebe announced review of 87.1(2), mussel regulations by Conover. No recommendations.

23.1

Sohn told the Committee that 23.1 had been amended to delete the requirement for acquisition of improvements to be paid for with funds other than wildlife habitat stamp funds.

Motion
Delay lifted

Schrader moved to lift the delay of rule 23.1. The rule had been delayed until adjournment of the 1991 General Assembly at the July 12 ARRC meeting. Motion carried.

38.1

No questions re 38.1.

40.14

In review of 40.14, Tieden commented on the increase of no-wake areas on rivers and lakes. No recommendations.

45.4(2)

No questions or comments on ARC 2502A—45.4(2)"b"(3) and (4).

51.3 et al.

Sohn discussed amendments to 51.3(1) et al. regarding deer population management areas. He stated that licenses were sold out within a few days.

NATURAL RESOURCES (cont'd)

Schrader thought the rules process had worked very well with the Lake Darling area and perhaps the statutory change was not needed. Sohn suspected that some parks would be more controversial than others—the Mines of Spain, for instance.

Priebe asked if a season could be terminated in the middle of it. He noted the Department's count showed a shortage of deer and excess of pheasants but in his area it was the opposite. Priebe has had requests from constituents to terminate the pheasant season. Sohn stated that counts are made in August—it serves as an index but not absolutely reliable.

Ch 65

No questions or comments on ARC 2497A.

Committee Business Bill Draft

Schrader distributed a copy of proposed legislation to be sponsored by the ARRC. The bill eliminates the requirement for two-thirds of the Committee to vote for a 70-day delay or a Session delay and allows them to delay an emergency filed rule.

Motion

Priebe noted with 4 additional members, two-thirds would be seven and under this bill, it would require six, a simple majority, to take formal action. Schrader moved the bill. Roll call was requested. Those voting aye were Priebe, Kibbie, Tieden, Pavich, Schrader, and Maulsby. Those voting no were Hedge and Metcalf. Teaford and Doyle were absent and not voting. Priebe announced that the motion carried.

Minnesota Delegation

Royce informed the Committee that their counterparts in Minnesota were anxious to meet with the Iowa Committee sometime in January. It was agreed that the delegation should be invited to attend the January 7 meeting.

Printing Contracts

Priebe announced that Kristi Little, Superintendent of Printing, had been requested to appear before the Committee to discuss printing policies for state contracts. He had received complaints that a printing company in Oregon was awarded a \$39,000 printing contract for DNR. Also, someone had been contacted by an Oregon printing firm asking if they wanted to advertise in a DNR publication. It was Priebe's understanding that Iowa firms were equipped to do this work.

Recess

Chairman Priebe recessed the Committee briefly and the meeting was resumed at 11:15 a.m.

Priebe recognized Little for response to the complaints.

Little spoke of a list of 250 vendors who have indicated interest in doing business with the state of Iowa—some outside of Iowa. The Printing Division follows the outline of the Iowa Code which provides opportunity for all vendors to bid. An attempt is made to categorize printers by their specialty. Little displayed one of the licenses which was printed for DNR. She pointed out that it was specialized printing in that it has a carbon interleaf and each book and license had to be numbered for tracking by DNR. Few printers have the capability for this type of printing.

According to Priebe, the person who complained did not have the opportunity to bid. He had asked this person to provide details to Royce but nothing had been received. Little was not familiar with a printing project in which advertising is sold. She referred to her ledger of all printing projects for state agencies and she pulled information for DNR which revealed three out-of-state contracts. The only other project was with Outdoor Empire in Seattle, Washington. They print a generic-type of document which is marketable to all state governments. Per copy cost averages 50 cents.

Printing Contracts
(cont'd)

Little continued that the DNR license was the largest printing job contracted to an out-of-state vendor. She had the bid document and noted that 50 percent of this contract was sublet to an Iowa-based company.

Priebe asked why that company had not bid initially. Little recalled that it lacked capability for the specialized numbering but they actually made up the booklet. One-half of the total \$39,650 for this particular job was retained in Iowa.

Little offered further details on the bidding process. She called attention to the fact that Iowa law does not give preference to Iowa-based companies.

Tieden expressed concern that some of these issues would be difficult to address by law.

Schrader asked if Little had provided information to legislative or Governor's committees responsible for reviewing budgeting and spending practices. She responded in the affirmative but pointed out she had not received any recommendations. About 18 percent of total state printing is done in the Division in-plant and the remainder is contracted through the private sector. A staff of three is involved in the bidding process governed by a litany of rules and guidelines. They also bid for the DOT and the Board of Regents when the printing jobs exceed \$2000.

In response to Kibbie, Little agreed to provide the Committee percentages on out-of-state printing contracts. The Committee requested Little to return to their December meeting.

Memorial

Senator and Mrs. Priebe expressed their gratitude to the Committee and Staff for the gifts to Wheaton College in memory of their daughter Connie. The memorial will establish a scholarship in her name, invested by the college, to be self-sustaining.

No Rep

No agency representation was requested for the following rules and there were no questions:

ACCOUNTANCY EXAMINING BOARD[193A]

Professional Licensing and Regulation Division[193]

COMMERCE DEPARTMENT[181]"umbrella"

Procedure for enforcement, ch 12, 15.2(1), Notice ARC 2504A 10/30/91

ARCHITECTURAL EXAMINING BOARD[193b]

Professional Licensing and Regulation Division[193]

COMMERCE DEPARTMENT[181]"umbrella"

Description of organization, registration, rules of conduct, disciplinary action, 1.5, 2.3(1), 3.1(5), 4.1(6)"d" to "f," ch 5,

Notice ARC 2505A 10/30/91

EDUCATION DEPARTMENT[281]

Child development coordinating council--appeal from terminations, refusal to issue ruling, 64.22, 64.23, Notice ARC 2496A 10/30/91

Educational support programs for parents of at-risk children aged birth through three years--appeal from terminations, refusal to issue ruling, 67.18, 67.19, Notice ARC 2495A 10/30/91

EMPLOYMENT APPEAL BOARD[486]

INSPECTIONS AND APPEALS DEPARTMENT[481]"umbrella"

Elevator appeals, ch 10, Filed ARC 2462A 10/30/91

Boilers and unfired steam pressure vessels appeals, ch 11, Filed Without Notice ARC 2461A 10/30/91

INSPECTIONS AND APPEALS DEPARTMENT[481]

Transient food service establishment license, inspection frequency, licensure requirements, 30.2, 30.3(4), 30.4, 30.6, 30.8, 31.1"4,"

32.1"3," 32.1"9," 32.3(7), 37.8, Filed ARC 2436A 10/16/91

11-13-91

No Reps (cont'd)

LABOR SERVICES DIVISION[347]

EMPLOYMENT SERVICES DEPARTMENT[341]"umbrella"

Citations, 3.11, 3.11(5), Filed ARC 2470A 10/30/91
OSHA rules for general industry--hazardous waste operations, emergency response, occupational exposure to lead, 10.20,
Filed ARC 2451A 10/16/91
OSHA rules for general industry--occupational exposure to asbestos, tremolite, anthophyllite, and actinolite, 10.20, Notice ARC 2507A .. 10/30/91
OSHA rules for construction, 26.1, Notice ARC 2506A 10/30/91
Operations of advisory board, grant applications and awards, chs 94 and 95, Filed ARC 2469A 10/30/91

LOTTERY DIVISION[705]

REVENUE AND FINANCE DEPARTMENT[701]"umbrella"

Lotto America--payment of annuity, 12.8(3), Filed ARC 2464A 10/30/91

NURSING BOARD[655]

PUBLIC HEALTH DEPARTMENT[641]"umbrella"

Licensure to practice--RN/LPN, 3.7(6)"a"(3) and (4), Notice ARC 2434A 10/16/91
LPN--camp nursing, 6.3(3)"g," 6.6(3), Filed ARC 2435A 10/16/91

PUBLIC EMPLOYMENT RELATIONS BOARD[621]

Impasse procedures, 7.1, 7.4(1), 7.5(1), 7.5(6), 7.6(1) to 7.6(3), Notice ARC 2429A, also Filed Emergency ARC 2428A 10/16/91

UTILITIES DIVISION[199]

COMMERCE DEPARTMENT[181]"umbrella"

Flexible transportation rates and flexible charges, 19.12(1), 19.12(3)"c" and "f," 19.12(4), 19.12(5), Notice ARC 2468A 10/30/91
Disposal of a public utility's assets, 32.2, Notice ARC 1749A Terminated, also Notice ARC 2450A 10/16/91
Energy efficiency planning and reporting for nonrate-regulated gas and electric utilities, ch 36, Notice ARC 2467A 10/30/91

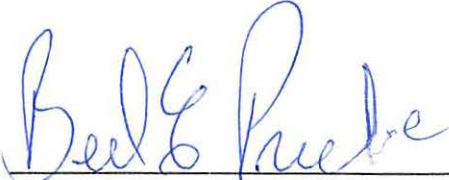
Adjournment

Chairman Priebe adjourned the meeting at 1 p.m.

Next regular meeting was scheduled for Tuesday and Wednesday, December 10 and 11, 1991.

Respectfully submitted,


Phyllis Barry, Secretary
Mary Ann Scott, Admin. Asst.


Chairman