

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, December 10 and 11, 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.

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

Convened

The meeting was called to order by Chairman Priebe at 10 a.m. and the dates of the next Committee meeting were discussed. He asked if there were any problem with changing it to Monday and Tuesday, January 6 and 7, 1992, since budget hearings were scheduled in Room 22 for January 8 to 10. The matter was tabled until after lunch.

ATTORNEY GENERAL

William Brauch, Assistant Attorney General in Consumer Protection, and Marti Anderson, Crime Victim Assistance, presented the following agenda:

ATTORNEY GENERAL[61]

Sexual abuse examination payment, 9.82(2), 9.83(2), 9.87, Notice ARC 2570A11/27/91
New motor vehicle warranty protection("lemon law"), 30.1 to 30.6, Filed ARC 2551A11/27/91

9.82 et al. Anderson explained amendments to Chapter 9 and expressed to Tieden that last year the Department paid for 1059 sexual abuse examinations at an average cost of \$235. This program is separate from the compensation program.

Hedge and Doyle were informed that 40 percent reimbursement by the federal government was a new program and covers DNA testing.

Priebe voiced opposition to the increase in physician fees from \$100 to \$150. Anderson emphasized that \$150 was an average since some examinations cost far less.

Ch 30

Brauch briefed the Committee on amendments to Chapter 30 to implement the "Lemon Law". Tieden expressed his distaste for use of the popular name for the motor vehicle warranty law. It was noted that this was common practice throughout the Code. Maulsby inquired as to whether the dealers enjoy corresponding protection and Brauch indicated

ATTORNEY
GENERAL
(cont'd.)

only to the terms of the dealer's agreement with the manufacturer.

Responding to Hedge, Brauch was not sure of the number of actions.

LABOR
SERVICES
AND DISASTER
SERVICES

Walter Johnson, Deputy Labor Commissioner, was in attendance for the following:

LABOR SERVICES DIVISION[347]

EMPLOYMENT SERVICES DEPARTMENT[341]"umbrella"

General industry safety and health rules, 10.7, 10.19(1), 10.19(6), 10.19(9), Notice ARC 2524A11/13/91

Construction safety and health rules, 26.1, Notice ARC 2525A11/13/91

Boiler inspections and administration, 41.2, 41.5, 41.11, 41.12, 42.2, 42.3"2" to "7," 42.3"9," 43.2(2),

43.2(3), 44.1(1), 44.4(1), 44.4(10), 44.10, ch 45 title, 45.2(3), 45.3(8), 45.10 to 45.21, 46.2(3), 46.2(4),

46.6(2), 48.1(2), 48.1(3), 48.2(2)"b," 48.2(4), ch 49 title, 49.2, 49.4, 49.7(1), 49.7(2), 49.14 to 49.16,

Filed ARC 2534A

Community and emergency response right to know, 130.11, 130.12, 140.9, Filed ARC 2533A11/13/91

DISASTER SERVICES DIVISION[607]

PUBLIC DEFENSE DEPARTMENT[601]"umbrella"

Emergency response commission, required records and reports, 103.3(2), 103.4, ch 104,

Filed ARC 2532A

.....11/13/91

In review of amendments to Chapter 10, Doyle and Johnson discussed problems with formaldehyde in spray foam used in walls for insulation. Johnson said that necessary precautions were taken when these problems arise.

26.1, There were no questions or recommendations for revisions
41.2 et al. in 26.1 or 41.2 et al.

DISASTER
SERVICES
Ch 103

Johnson explained that amendments to 130.11, 130.12 and 140.9 on right to know correlate with the Disaster Services rules in ARC 2532A. Johnson serves as Chair of the State Emergency Response Commission. Johnson said that over 3000 different chemicals were reported to the Commission last year but reporting will be done by county with inventory of chemicals available at the county libraries. Quantities stored will be part of the report. Johnson described the process in detail. No Committee action.

CIVIL
RIGHTS
COMMISSION

The Commission was represented by Ron Pothast, Director of Administration, and Richard Autry, Assistant Attorney General.

The following rules were before the Committee:

CIVIL RIGHTS COMMISSION[161]

Assessment of costs of hearing, 4.7, 4.8, Notice ARC 2519A, also Filed Emergency ARC 2518A11/13/91

Royce had called attention to flaws in the agency's finding for emergency adoption of the rules and the Department plans to rescind the rule making and follow the regular process.

DENTAL
EXAMINERS

Constance Price, Executive Secretary, presented the following agenda for the Dental Examiners Board:

DENTAL EXAMINERS BOARD[650]

PUBLIC HEALTH DEPARTMENT[641]"umbrella"

Renewal fees, 15.2(1), 15.2(2), Notice ARC 2538A11/13/91

Board recovery of costs associated with on-site facility inspections of licensees engaged in general

anesthesia and parenteral sedation, 29.5(7) Notice ARC 2539A11/13/91

DENTAL
EXAMINERS
(cont'd.)
15.2

Discussion focused on the differences in renewal fees for active and inactive practitioners. Price noted that other Boards in Iowa assess the same fee for inactive and active practitioners.

Doyle reasoned there are two categories of inactive--the young who decided not to practice in Iowa but may return and the retired who want to retain their licenses. Price responded that age was not a distinction, and for the most part, the inactive are practicing out of state. She thought the Board might consider a military or retired status. Pavich echoed Doyle's concerns.

Price and Tieden discussed the fact that no fees are charged for the filing of continuing education or to sponsors. Any fees generated go into the general fund.

Ch 29

In review of amendments to Chapter 29, Metcalf inquired about previous schedules for inspection of dental facilities. Price replied that every facility must be inspected prior to issuance of a permit. Within the last four years, an inspection has been conducted when a complaint or other information received by the Board warrants further inspection. Facilities are subject to inspection at renewal every other year.

Minutes

Hedge moved to approve minutes of the November meeting as submitted. Motion carried.

Teaford referred to an action taken by the ARRC at their meeting held August 20, 1991, regarding reversion of deaf services fees to the general fund. The Committee had moved to refer rule 429--2.4(601K) to the General Assembly for review by the appropriate Committees.

Deaf

Motion

Later communication from Deaf Services convinced Teaford that fees were being handled properly and she moved that Committee action taken in August be rescinded. Motion carried.

Special
Review
Prison Ind.

Kibbie asked for a special review at the January meeting on the matter of sale of furniture to the Board of Regents by Prison Industries. He requested that the appropriate representatives be in attendance to respond.

ELDER
AFFAIRS

Representing the Elder Affairs Department were Lois Haecker, Beth Bahnson, Housing Specialist and David Ancell, Administrator. The following agenda was considered:

ELDER AFFAIRS DEPARTMENT[321]

Employment programs, 10.2(1)"b," 10.3(1)"i," 10.3(2)"g," 10.3(3), 10.5(1)"b," 11.1(3)"b"(3), 11.1(3)"c,"

11.1(6)"e," 13.2, 13.3(1), 13.3(2), 13.3(2)"c" and "i," 13.3(3), 13.3(3)"b," 13.6(1) to 13.6(3), 15.4, 15.5, 15.8,

Filed ARC 2547A

Elder family homes (EFH), ch 22, Notice ARC 2561A

Representative payee program (RPP), ch 23, Notice ARC 2562A

10.2 et al.

Haecker gave a brief overview of amendments to 10.2(1) et al. relating to employment programs. No questions.

Ch 22

Discussion of proposed new Chapter 22 with Haecker informing Tieden that legislation required some oversight by the Care Review Committee.

ELDER
AFFAIRS
(Cont'd.)

Kibbie took the position that the rules were excessive for people who essentially care for themselves.

Metcalf questioned language in 22.4(4)a "notifying a city or a county" as being quite broad and preferred designating one or the other. Haecker responded that location of the home was the determining factor. Ancell interjected that these rules were developed by a task force made up of the Association for Municipalities, county health care facilities and others but he agreed to review the matter. Priebe suggested using "appropriate local governmental units."

Doyle wanted to avoid the possibility of an elderly person losing a great deal of money if the home were not approved for this program. Ancell agreed to review this matter also.

Responding to Maulsby, Ancell said the 30-day notification was based on the Landlord Tenant Act. Ancell indicated that Area Agencies on Aging have been assisting in this process to make the rules less restrictive.

Ch 23 There were no Committee recommendations for proposed Chapter 23.

EDUCATIONAL Orrin Nearhoof, Executive Director, Educational Examiners
EXAMINERS Board, was present to explain the following:

EDUCATIONAL EXAMINERS BOARD[282]

EDUCATION DEPARTMENT[281]"umbrella"

Issuance of licenses and endorsements — licensure and authorization fee, ch 14 title, 14.30,

Notice ARC 2517A11/13/91

Ch 14 In review of amendments to Chapter 14, Nearhoof stated that 14.30(3) may be revised before final adoption to reduce the duplicate license fee from \$15 to \$5.
No Committee action.

Committee Chairman Priebe referred to a letter from James Boudouris,
Business Environmental Services, regarding registration of Ground-
water Professionals. He suggested that the letter be discussed in the afternoon when EPC rules were scheduled. Royce pointed out that this company had 10 people to certify which will cost Seneca \$2000 if the individuals fail to qualify. Seneca also opposed the December 1 deadline as not allowing ample time to complete applications.

Corrections On another subject, Royce had received request from former
Visitation Committee member Betty Clark for ARRC review of Corrections rules on visitation. Currently, a visitor can be on the approved list of only one inmate at a time. Clark wanted this policy reversed to allow unlimited lists unless good-cause exists to deny approval. Doyle suggested that Royce contact Fred Scaletta in the Department and report to the Committee tomorrow.

Lunch Priebe recessed the Committee at 11:30 a.m. and reconvened it at 1:30 p.m.

AGRICULTURE

The Agriculture and Land Stewardship Department was represented by Ron Rowland, Regulatory Director; Michael Mamminga and Jake Wakefield, Dairy Products. The following agenda was discussed:

AGRICULTURE AND LAND STEWARDSHIP DEPARTMENT[21]

Pilot lamb and wool management education project, 15.2, 15.3(1), Notice ARC 1057A Terminated, also
Notice ARC 2523A11/13/91
 Dairy trade practices, ch 23, Notice ARC 899A Terminated, also Notice ARC 2531A11/13/91
 Dairy, standards for dairy products — federal regulations governing Grade A and Grade B milk
 inspections, 68.11(1), 68.12 to 68.15, 68.26, 71.1, Notice ARC 2569A11/27/91
 Meat and poultry inspection, 76.1 to 76.4, 76.6, 76.13, Filed ARC 2573A11/27/91

Chs. 15, 23, There were no recommendations for amendments to Chapters 15,
 68, 71 23, 68 or rule 71.1.

Rowland briefed the Committee on revisions to meat and poultry inspection.

76.4

Priebe referred to rule 76.4 and contended that the words "...preparation of livestock products or poultry products ..." were quite broad. Wakefield said this was long-standing language from the meat inspection Act which is specific as to authority. Priebe also inquired about state versus federal inspection and Rowland said they were completely separate programs. The state regulates intrastate commerce and federal authorities are responsible for interstate commerce. However, in the absence of a cooperative agreement, the federal Acts would apply to intrastate commerce. Department officials estimated \$800,000 to \$900,000 for the meat inspection program. Wakefield pointed out that the state provides a service to small businesses such as "Ma and Pa" operations which the federal government won't or can't provide. Rowland emphasized that any plan under their inspection could apply for federal inspection at no cost and could transfer to federal inspection for access to interstate commerce. Rowland was convinced that state inspection was superior.

Responding to Doyle, Wakefield stated that inspection of exotic animals provides for a voluntary program for those who wish to pay for it. Rule 76.13 references the federal regulations which identify all the deer family, water buffalo, American bison, elk as being exotic species. These products may be available in states with mandatory inspection requirements on exotic animals. No Committee action.

ENGINEERING
AND LAND
SURVEYING

Representing Engineering and Land Surveying Examining Board were Marie Thayer, Professional Licensing, and Patricia Peters, Executive Secretary of the Board. There were no questions or recommendations on the following:

ENGINEERING AND LAND SURVEYING EXAMINING BOARD[193C]

Professional Licensing and Regulation Division[193]
 COMMERCE DEPARTMENT[181]"umbrella"
 Administration, discipline and professional conduct of registrants, 1.4(1), 1.10 to 1.30, 4.2 to 4.27,
Filed ARC 2552A11/27/91

ENVIRONMENTAL PROTECTION Representing the Environmental Protection Commission were Mark Landa, David Wornson, John Olsen and Christine Spackman. The following agenda was presented:

ENVIRONMENTAL PROTECTION COMMISSION[567]

NATURAL RESOURCES DEPARTMENT[561]"umbrella"

Temporary air toxics fee, 20.3(6), ch 30, Filed Emergency After Notice ARC 2540A11/13/91

Water quality standards, 61.2(5), 61.3(5)"e," Notice ARC 2537A11/13/91

20.3
Ch 30

In review of amendment to 20.3 and new Chapter 30, Landa spoke of testing, continuous emission monitoring and use of engineering techniques for hazardous air pollutants. There was discussion of the disposition of fees paid by polluters.

Maulsby questioned the logic of allowing emission of toxic fluids if the polluters were willing to pay the fee. Landa responded there would be a new program in the next few years requiring operating permits for the first time. Specific standards are set out to ensure that certain air quality standards are met. Contaminants are allowed to be emitted at certain levels. He continued that some contaminants have not been regulated previously and some of the fees will be used to determine public health concerns associated with emissions. Contaminants have been identified by the federal Clean Air Act of 1990.

Schrader referred to a letter from Kevin Vinchattle, Iowa Grain and Feed Association, wherein he urged a reasonable approach to imposition of fees associated with Iowa's clean air efforts. Vinchattle contended that minimum levels for paying the air toxics fee should be established.

Schrader wondered if the ARRC should apprise EPA of this issue. Spackman stated that statements made during the comment period were given to the Commission. Landa was aware of the economic factor--they are receiving checks for \$.65 and \$1.25 for air toxic fees and question whether or not costs for processing small checks will outweigh benefit of the program. He concurred that this area should be reviewed.

Motion
Refer to
GA

Schrader moved that this issue of air toxic fees be referred without prejudice to the Speaker of the House and President of the Senate for referral to the appropriate committees. Motion carried.

Ch 61

Landa briefed the Committee on amendments to Chapter 61, water quality standards. Schrader and Landa discussed concerns raised by the city of Ames regarding an inappropriate stream designation. The stream has been redesignated as nongame and fish--limited resource.

Landa advised Schrader that smaller communities would find it more difficult to comply with the ammonia standard which was the point of concern. In response to Schrader's disappointment in the state-of-the-art treatment facility in Ames, Landa said that plant was designed under the assumption of a different ammonia water quality standard.

ENVIRONMENTAL
PROTECTION

The federal government USETA had different criteria for ammonia during the time the Ames facility was under construction. Facility officials believe it has more restrictive criteria than that for which the plant was originally built.

NATURAL
RESOURCE

The Natural Resource Commission presented their agenda as follows:

NATURAL RESOURCE COMMISSION[571]

NATURAL RESOURCES DEPARTMENT[561]"umbrella"

Free hunting and fishing license for low-income persons who are 65 years of age or older or who are

permanently disabled, 15.7, Filed ARC 2567A11/27/91

Bass and trout fishing, 81.2(2), 81.2(5), Filed ARC 2566A11/27/91

Wild turkey spring hunting, 98.2(5), 98.3, 98.3(1), 98.10, 98.12, 98.14, Filed ARC 2568A11/27/91

Stanley Kuhn, Judy Powell and Richard Bishop were in attendance.

15.7

Discussion of rule 15.7 regarding free hunting and fishing licenses for low-income persons who are permanently disabled or 65 years of age. Powell informed the Committee that the statute allowed an annual license to be issued to people who meet the federal poverty guidelines. She spoke of her frustration in trying to determine those guidelines. They conferred with the Department of Human Services and selected four programs (SSI, ADC, Food Stamps, Housing assistance) as a method of determining eligibility or low-income status for participants. For example, if a 65-year old person were a recipient of one of these programs, they would be eligible for the free annual license.

Priebe recognized the difficulty experienced by the Department but took the position that guidelines should be more specific--proud Iowans are reluctant to admit "poverty."

Steven Conway, Democratic Caucus Staff, quoted the definition of "poverty level."

Doyle made the point that many rural residents make less than \$5500 but do not receive food stamps. He maintained that the scope of the law had been exceeded to require that a free hunting and fishing license be contingent upon application for state assistance.

Motion to
Object

Doyle moved to object to subrules 15.7(2) and 15.7(3). Motion carried.

The following was drafted by Royce:

At its meeting held December 10, 1991, the Administrative Rules Review Committee voted to object to the provisions of subrules 571 IAC 15.7(2) and 15.7(3), on the grounds they are unreasonable. These provisions appear as part of ARC 2567A, published in IAB Vol. XIV, No. 11(11-27-91).

These two subrules implement the provisions of 1991 Iowa Acts, House File 703, by providing free hunting and fishing licenses to low-income persons who are either 65 years of age or disabled. Low-income person is defined as a person who receives state assistance based on low-income guidelines. In addition, the applicant must prove income eligibility by identifying the assistance received and allowing the department to verify that eligibility with the Department of Human Services.

NATURAL
RESOURCEObjection
Continued

House File 703, section 5, authorizes free licenses for persons who can demonstrate that their income is within the federal poverty guidelines. The Act does not require actual participation in an assistance program. The Administrative Rules Review Committee believes that the Department is imposing a more stringent eligibility burden than that set out in the Act; for that reason the Committee believes those requirements to be unreasonable. The Act does empower the Department to require proof of eligibility, but this does not include actual participation in a program. If an applicant can provide proof of his or her income, and demonstrate that income is within the poverty guidelines, then the applicant has satisfied the requirements of the Act.

Motion
Refer to GA

Pavich moved that subrules 571--15.7(2) and 15.7(3) also be referred to the Speaker of the House and President of the Senate for review by the appropriate committees. Discussion followed. Motion carried.

It was Schrader's understanding that the fish and wildlife fund is the largest since 1983. The estimate was \$1.7 million and it is \$5 million. Kuhn explained the balance was higher than projected last year for two reasons:

- (1) Concerns about whether or not legislation would pass and
- (2) The fish and wildlife division was requested to restrict expenditures as any other department. Last year, they underspent the budget by \$862,000 which was very unusual compared to previous years. At the federal level, they were notified that the provisions of the Gramm Rudman Act resulted in releasing fish and wildlife federal money that had earlier been "impounded." Kuhn continued that they overmatched the wildlife program, which meant that with additional federal money, they could increase federal aid substantially in that area. Kuhn estimated a \$5 to \$6 million balance at this time.

Schrader questioned justification for fee increases with that balance and Kuhn said information should be available for the General Assembly in January.

Kibbie recalled that Natural Resources had advised that by September 1992 the trust fund would be deficit if the legislation were not passed and Priebe concurred. Kuhn stated that the projections were a matter of public record in the Fiscal Bureau. He found it interesting that apology was necessary for prudent fiscal management.

Priebe stressed there was no argument about having a balance but the Legislature was "sold a bill of goods to raise the fishing license and all the various licenses" to create funds to operate the Department. Kuhn reiterated that information provided was the best available at the time.

Maulsby inquired as to who determines "permanent disability" and Powell said that it was defined in Code section 110.24.

Bishop commented further on the budget. He pointed out that a major influx of dollars from license increases is pooled and will help offset increased costs in other areas. Bishop noted that they manage over 250,000 acres

**NATURAL
RESOURCE
(Cont'd.)**

and have equipment that is deteriorating. Currently, they are operating under a deficit. Expenditures and services have been cut--a surplus did not occur without hardship.

Ch 98

Bishop briefed the Committee on amendments to Chapter 98, wild turkey spring hunting. Priebe wanted to be on record as opposed to the turkey season because of shortage of the birds. He also expressed his opposition to pheasant hunting. Bishop informed Priebe that the fall turkey season had been closed. Spring gobbler hunting has not had impact on the spring turkey population. Discussion followed as to the cause of low turkey production due to adverse weather conditions and problems with overabundance of coyotes and raccoons. The Department has applied for a grant to study the problem.

Bishop agreed to refer to the Commission Schrader's opposition to the decoy concept.

81.2

There were no recommendations for amendments to 81.2.

**HUMAN
SERVICES**

The following agenda was before the Committee:

HUMAN SERVICES DEPARTMENT[441]

Restructuring of central, regional and county offices, 1.3, 1.4, Economic Impact Statement11/27/91
Policy changes regarding appeal process and collection of overpayments for Medicaid or
state supplementary assistance, 7.5(6), 7.5(7), 11.1, 76.12(3), Notice ARC 2549A11/27/91
Medicaid program -- lump sum income under the mothers and children coverage group, 75.1(28)"a,"
Notice ARC 2511A11/13/91
Community-based alternative services for persons with mental retardation, 77.37, 78.41, 79.1(1)"c," 79.1(2),
79.1(15), 80.2(2)"al," 83.60 to 83.70, Notice ARC 2563A11/27/91
Application for social services, 130.2(1), 130.2(4), 130.2(5), Notice ARC 2550A11/27/91

Representatives of the Department were Jim Krogman, Office Fields Support; Sally Cunningham, Deputy Director of Services; Mary Ann Walker, Bureau of Policy Analysis; Delores Conner; Lucinda Wonderlich, and Jan Gorman.

**Impact
Statement**

Cunningham provided an update on the Economic Impact Statement relative to restructuring of county offices. At a recent meeting held with a transition committee appointed by the counties, a number of areas were identified for tentative agreement. Final agreement will be submitted to the Council on Human Services and the transition committee will work with the Executive Board. Areas of agreement relate to allocation of staff--with some potential county supplementation for clerical staff and determination of county clusters.

Priebe reported on static from counties that are having to pay for a part-time person. Cunningham admitted that one of several issues raised by counties was initial cost shift when the district office specialized staff is located in the local offices. The Department plans to work with counties for staff sharing to avoid allocation of money.

In response to Priebe, Krogman referred to Question 2 of the Impact Statement which addressed alternate uses for leased buildings.

HUMAN
SERVICES
(Cont'd.)

Cunningham took the position that this issue could be resolved in most counties.

Cunningham continued there was mutual agreement with respect to the hiring process for area director and establishment of a steering committee for the area cluster that will be very beneficial in terms of communication, etc.

According to Cunningham, there were two areas where consensus had not been reached--(1) The deployment of specialized staff that will be transferred from district offices into county offices. The transition committee prefers that the Department assume the responsibility for placing those staff in vacant office spaces based on client demand and utilization. (2) The need for regional offices. The transition committee views these offices as supportive in nature to carry out functions that the Department considers critical to maintaining compliance with federal and state statutes. Cunningham reasoned that ISAC proposal to eliminate regional offices and most of the staff, transfer 15 staff into Des Moines, and continue to provide the same level of support and monitoring and compliance were not feasible. She was aware that the role of regional offices would change but the elimination of some of those functions would not be prudent to operating the field operation.

Regional administrators have been asked to arrange a meeting with boards of supervisors to discuss areas of mutual consensus and resolve other problems.

Kibbie thought it was regrettable that this type of cooperation was not possible a few months ago and that a lesson should be learned that "all players must meet around the table."

Cunningham emphasized there was never any intent to violate the law but they believed legislative intent was being followed by moving ahead as quickly as possible.

Tieden, Krogman and Cunningham discussed the Des Moines district office and the effects of the court's decision. It was noted the Supreme Court would consider the issue on December 18.

Remaining
Agenda

Walker presented the remaining agenda--ARCs 2549A, 2563A and 2550A with no comments or recommendations.

Copayment
79.1(13)

Chairman Priebe called on Royce for his summation of the status of copayment, subrule 79.1(13). Royce spoke of the amendments in July 1991 and the subsequent objection by the ARRC to the emergency filing. The objection would invalidate the provision in 180 days necessitating reinstatement of the previous language. There were subsequent amendments in October 1991 which were necessary and to which no one objected. Royce continued that the question remains--how can the prior language be reinstated when there are subsequent amendments? A solution: Reinstate

HUMAN
SERVICES
(Cont'd.)

the language in effect prior to 7/10/91 [1/10/90 version] but retain amendments published 10/16/91 with exception of the one which will be rendered obsolete by the other changes. It will be necessary for the Human Services Council to formally rescind that language which reads: "The recipient shall have a \$16 home health agency copayment maximum applied to each month's home health agency claim billed to Medicaid. This maximum shall be effective from October 1, 1991, to January 10, 1992, at which time there shall be no copayment for home health agencies services." Extensive documentation in editorial notes will be necessary.

Dierenfeld interjected that the District Court has found that the amended subrule is invalid. An appeal to the Supreme Court is pending.

Walker stated that the Department was not appealing invalidation of the emergency rule--only their authority to follow the regular rule making process. By not appealing the emergency rule, the Department will be repaying copayment of those mandatory services back to July 1 for any client that requests it. Adjustment would be made to the provider's claim. Walker continued that their regular rule was also struck down because the Notice was inadequate--that is the basis of the appeal. She reminded there was also a delay into the General Assembly on the regular rule making so that has not gone into effect.

Schrader recalled that one of the points made by the judge was that the legislature intended for copayments to "sunset." He asked if that were the point the Department was appealing and Walker replied it was not.

In response to Chairman Priebe, Royce reiterated that staff was proposing to reinstate pre-July language with the retention of the 10/16/91 language over which the Committee had no real problem and no jurisdiction at this point. The Department will rescind that portion of the 10/16 amendments that are no longer valid. Walker agreed.

Motion

Tieden so moved the proposal.

Schrader asked if this were a procedure for editorial clarification. Dierenfeld explained that extensive history would be necessary to describe what has taken place. Schrader asked if the motion had any bearing on any of the Committee's previous motions. Priebe thought the objection would be removed.

Dierenfeld said the motion would have no impact on the objection--it would merely recognize that the court found most of the rule making invalid so, in effect, it does not exist. In this case, previous language can be reinstated with detailed documentation through history, including what is happening in litigation.

Motion

Schrader moved to amend Tieden's motion to include a statement that the revision would be for editorial

HUMAN
SERVICES

(Cont'd.)

clarification in the Iowa Administrative Code and would not reflect any change in any previous committee decisions.

There was continued discussion as to the status of the objection.

Priebe was concerned that editorializing would further complicate matters.

Dierenfeld took the position that the IAC Editor could reprint the subrule regardless of what might happen on January 10. The motion today would not affect the objection or any other action.

Walker reviewed the October filings.

Priebe asked if the Department would rescind the subrule and rewrite it and Walker indicated they were not willing to eliminate copayments yet. They want to challenge the decisions made by District Court.

Priebe pointed out that ARRC policy has been to refrain from any formal action on any rule involved in litigation.

He asked for Doyle's opinion. Doyle was unsure what would be left in the court case. He suggested that the Committee have an opportunity to review the edited version. Barry called attention to September minutes where the Committee had concurred that language in effect prior to July 1991 should be reinstated effective with the expiration of the objection filed by the ARRC [January 11, 1992].

Royce reiterated that Committee action would not affect the court case since the Court looks at what has happened in the past.

Schrader would find Tieden's motion acceptable if the minutes showed that it was made to, as accurately as possible, reflect in the Iowa Administrative Code the rule as it currently stands and that this motion does not in any way attempt to change any previous action by the Committee or the courts.

Doyle opined that more was needed.

There was unanimous consent to defer the issue until Wednesday morning.

REVENUE

Carl Castelda presented the following agenda:

REVENUE AND FINANCE DEPARTMENT[701]

Vehicles subject to registration received as gifts or prizes, 34.6, Notice ARC 2542A11/13/91
 Manufacturer's refund of use tax to a consumer, lessor, or lessee of a defective motor vehicle, 34.11,
Filed ARC 2545A11/13/91
 Corporate income tax, individual income tax and withholding, 39.11, 39.12, 40.40, 41.5(5), 42.1, 42.2(6),
 42.2(7), 42.2(9), 42.9(1) to 42.9(4), 43.4(3), 52.7, Filed ARC 2560A11/27/91
 Disallowance of private club expenses — discrimination, 40.41, 41.5(6), 53.8(1), 59.17,
Filed ARC 2559A11/27/91
 Domestic abuse services checkoff, 43.4(4), Filed ARC 2544A11/13/91
 Composite returns, 48.3, 48.4, 48.6 to 48.8, Notice ARC 2313A Terminated ARC 2543A11/13/91
 Composite returns, 48.3, 48.4, 48.6 to 48.8, Notice ARC 2541A11/13/91
 Cigarette tax, 82.10(1)"a" and "c," 82.10(2), Notice ARC 2558A11/27/91
 Hotel and motel — imposition of tax, 105.3(1), Notice ARC 2557A11/27/91

REVENUE
(Cont'd.)
Chs. 39-43

No Committee recommendations for proposed 34.6.

No questions or comments on ARC 2545A, ARC 2560A, ARC 2559A, or ARC 2544A.

Ch 48

In review of amendments to Chapter 48, Castelda stated that the Notice published in September was terminated and a new one was published to clarify that nonresidents with less than \$500 in Iowa income need not be included in a composite return. Castelda discussed differences between residence and domicile. For tax purposes, the state of residence on the last day of the tax year is usually considered. There is no time limit on domicile (physical location) for tax purposes.

Circumstances considered by the Department in determining residence include: Voting place, bank accounts, driver license, homestead exemption, etc. Castelda continued that Iowa is a "source state" and those living outside of Iowa but deriving income from Iowa would be subject to Iowa tax. He added that residents are required to report their total income from all sources for the state of Iowa and the Department computes the tax liability and provides a credit. Pending legislation before Congress will prohibit states from using that method. Iowa is taxing individuals, whether residents or not, on the status of their total income from all sources. There are problems in identifying the nonresident, getting them to file a return and determining their income tax liability.

There were no questions or comments on ARCs 2558A and 2557A.

Committee
Business

The date for the next meeting was discussed and it was agreed that it would be held Monday and Tuesday, January 6 and 7. Royce was asked to work with members who could not be present on Monday.

It was noted that a small delegation from the Minnesota and Missouri legislatures would be visiting the January 6 meeting.

Recess

Chairman Priebe recessed the meeting at 3:48 p.m. until 9:00 a.m., Wednesday, December 11, 1991.

Reconvened

Chairman Priebe reconvened the meeting at 9 a.m. in Senate Room 22. All members and staff were present.

HISTORICAL
DIVISION

Patricia Ohlerking was recognized for the following agenda:

HISTORICAL DIVISION[223]

CULTURAL AFFAIRS DEPARTMENT[221]"umbrella"

Administration of historic preservation programs, 35.5(6), 35.7(3)"c"(6) and (7), Notice ARC 2521A11/13/91

HISTORICAL
DIVISION
(Cont'd.)

Tieden inquired of Royce as to whether a point system should be included in evaluation criteria. Royce pointed out that ARRC rules state that if an agency uses a point system, they must include it in the rules. He opined that it was worthy of consideration as a way of ensuring impartiality.

Ohlerking stated that both the Peer Review Committee and the Board rank but do not have an official rating system. Priebe and Tieden expressed preference for a point system and Ohlerking agreed to convey that sentiment to her committee.

In response to Metcalf, Ohlerking said these grants deal with historical preservation and with addition of the State Nominating Review Committee to the process, they will have the expertise of an archaeologist, historical architect and historian.

INSPECTIONS
AND APPEALS

Rebecca Walsh, DIA Administrative Rules Coordinator; John Barber, Bureau Chief; and Chris Smith, Operations Coordinator, reviewed the following:

INSPECTIONS AND APPEALS DEPARTMENT[481]

Health care facilities, 50.8(2)"a"(7), 50.8(2)"b"(4), 52.2(1)"f," 57.50, 58.55, 59.59, 62.25, 63.47(1)"b,"

63.49, 64.62, Notice ARC 2520A11/13/91
Overpayment recovery section, 71.1, 71.3, 71.4, 71.5(1), 71.5(2), 71.6, 71.7, 71.8, Notice ARC 2548A11/27/91

50.8 et al. According to Walsh, amendments to rules 50.8 et al. will implement several changes in legislation affecting health care facilities.

Priebe referred to proposals for 58.55 and 59.59 [Insert no.(1)e.and f.] relative to use of entrances and exits for business or activity. The provision seemed very broad and wide open to him. He could foresee the rules being used to harass the administrators. Maulsby concurred.

Metcalf suspected the proposal resulted from allowing a day care center in a nursing home. The rule provides for a thorough examination of use of a facility. Kibbie wondered if these rules would apply, for example, if a rural hospital turned an unused wing into a day care center or wellness center for elderly and a common entrance would be used.

Walsh quoted language in 1991 Acts, HF 285.

Royce advised the Committee that their responsibility was not only to ensure that the law had not been exceeded, but also to determine the reasonableness of a rule.

Hedge was interested in requirements for locating health care facilities in unincorporated areas. Walsh did not believe this had been addressed.

Kibbie inquired about the definition of "health care facility" and also asked if a wellness center would be

INSPECTION
AND APPEALS
(Cont'd.)

considered a health care facility. Steven Conway quoted from Code chapter 135C regarding these definitions. He also referenced, HF 479 and SF 412, relating to the primary bill, HF 285.

Walsh was willing to relay Committee concerns to the Department and possibly work with Senate or House Staff on acceptable language.

Ch 71 In review of amendments to Chapter 71, Barber told Tieden that their rules correspond with those of Human Services. No Committee action.

INSURANCE
DIVISION

Dan Winegarden, First Deputy Commissioner, and Jo Page presented the following agenda:

INSURANCE DIVISION[191]

COMMERCE DEPARTMENT[181]"umbrella"

Licensing of insurance agents, ch 10, Filed ARC 2527A11/13/91
Continuing education for insurance agents, ch 11, Filed ARC 2528A11/13/91
Individual accident and health — minimum standards, rescind 36.6(1)"o," Filed ARC 2564A11/27/91
Medicare supplement insurance minimum standards, ch 37, Filed ARC 2530A11/13/91
Long-term care insurance, ch 39, Filed ARC 2529A11/13/91
Broker-dealer registration — banks, 50.81 to 50.83, Notice ARC 2381A Terminated ARC 2553A11/27/91

Ch 10 No questions on Chapter 10.

Ch 11 Winegarden summarized new Chapter 11. Kibbie inquired about reciprocity with border states regarding insurance agents (specifically Minnesota). Winegarden could not speak specifically about Minnesota but stated that Iowa has reciprocity agreements with several neighboring states. States with no continuing education or fewer hours create problems for Iowa. Twenty hours of continuing education are required for licensure. A program in place allows courses given in neighboring states to qualify in Iowa.

36.6, Ch 37 No questions or recommendations for 36.6 or Chapter 37.

Ch 39 Discussion of new Chapter 39. Tieden questioned addition of the sentence, "This provision shall not apply to policies which do not contain a renewability provision..." in 39.7(1). Winegarden was unsure but suspected it was in response to criticisms of the Noticed rules on long-term care.

50.81-
50.83 No comments or questions on 50.81 to 50.83.

Pavich took the chair.

UST
Board

Representing the Petroleum UST Fund Board were Robert Galbraith, Assistant Attorney General and Robert Hubbard. Also present were Mervin Rolfs, Sales Engineer, Modern Welding, and Ed Kistenmacher, Managing Director, Petroleum Marketers of Iowa. The following was considered:

PETROLEUM UNDERGROUND STORAGE TANK FUND BOARD, IOWA COMPREHENSIVE[591]
Reimbursement for tank system upgrades, rescind 11.4, Filed Emergency ARC 2514A11/13/91
Reimbursement for tank system upgrades and replacements, 11.4, Notice ARC 2526A11/13/91

UST
Board
(Cont'd.)
11.4

Hubbard distributed to the Committee a summary of the action so far on 11.4 to which the Committee objected at the last meeting. He stated the rules have been rescinded (ARC 2514A) and renoticed (ARC 2526A) in IAB 11/13/91.

Maulsby remarked that the classification of sites is very broad. Hubbard responded that the actual geologic description of sites is probably two or three times what is printed and it represents no more than 10 to 15 percent of the sites in Iowa that would fall under one of those classifications as being environmentally sensitive. Galbraith interjected that these rules apply only to sites with known contamination.

Kistenmacher spoke in support of the rules on behalf of tank owners. They are anxious to proceed with the renovation of their systems to meet the October 26, 1993, deadline. The rules provide guidelines and options as to the type of equipment to be placed in the excavations.

Priebe in the Chair.

Discussion then focused on construction of the tanks. Hubbard offered details on interior lining and new tanks which have a steel inner structure and fiberglass outer structure. In terms of the new rule, as long as the tank meets EPA standards, it can be installed in any Iowa site except in the sensitive site which requires a double-wall tank or one with a secondary containment mechanism. Hubbard described the ACT 100 tank--steel covered with fiberglass composite. The Fiberglass Tank Institute has voiced opposition to these tanks. He informed the Committee that ACT 100 manufacturers have developed a method of monitoring between the steel and the fiberglass for costs far less than just a straight double wall tank. Hubbard said there were two steel tank manufacturers and one fiberglass tank manufacturer in Iowa.

Doyle referred to a recent magazine article regarding monitoring of air space around a tank. Hubbard was not aware of this but suspected it would be similar to the permatank.

Kibbie asked for a clearer definition of "sensitive site" and Hubbard offered examples: where a tank that has had a prior release is installed in a site within 100 feet of a public or private well or is in a "Karst" geology or fractured limestone, specifically in northeast Iowa, or where the soil native to an area is predominantly sand or gravel. The Board defends a double wall requirement because the cost of remediation in these sites is extensive. They tried to be finite in the rules in assisting owners to identify the type of conditions which have potential for future problems. Hubbard concluded that "sensitive sites" demand a higher standard, given the evidence of prior releases.

UST
Board
(Cont'd.)

Metcalf inquired about "nearest native soil under the tank" and wondered if a specific distance should be stated but Hubbard did not think this was necessary because the tanks are placed in a rectangular insert and are installed with either a sand or pea gravel type fill material around the tank. This is immediately distinguishable from the native soils.

No Committee action.

JOB
SERVICES
Ch 5

Joseph Bervid and William Yost presented the Job Service Division agenda which was proposed amendments to 5.7(6)"g" and "h," 5.10(2) and 5.16, benefit payment control, published as ARC 2546A in IAB 11/13/91.

Discussion of 5.16 on state payment offset with Bervid emphasizing that the state attempts to collect fraud or nonfraud overpayment.

Metcalf inquired, in 5.16(5), if there were a minimum amount for which a check would be issued and Bervid responded the minimum would be \$5 as stated in 5.7(6)"h."

BANKING

2.9

The Banking Division was represented by Larry D. Kingery, Steven Moser and Scott Galenbeck, Assistant Attorney General for proposed 2.9(4), debt management company-- exemption from licensure, published in IAB 11/13/91 as ARC 2516A. Galenbeck said the language was taken directly from Iowa Code chapter 533A which requires an annual examination and surety bond in amount of \$10,000 in case of missing funds. Kingery described an opinion audit which focuses on how entries are reported on the books.

Recess

Chairman Priebe announced a 15-minute recess.

Reconvened
PERSONNEL

Committee was reconvened at 10:30 a.m. at which time the Personnel Department agenda was reviewed as follows:

PERSONNEL DEPARTMENT[581]

Peace officers' retirement, accident, and disability system — withdrawal of contributions, 24.26,

Notice ARC 2555A11/27/91

Present were T. A. Meyer, C.T. O'Dell, Michael Coveyou and Carroll Bidler.

24.26

Meyer presented new rule 24.26(97A) accident, and disability system. He informed the Committee that the Board of Trustees for the POR fund was chaired by the Commissioner of Public Safety.

Coveyou pointed out that the statute allows withdrawal of contributions without the state's matching contribution when service is terminated other than by virtue of death or disability. Rules must specify the method by which interest on contributions is calculated. The Department does not anticipate many requests for funds--there has been only one since the law went into effect in 1990.

Bidler informed Hedge that it takes four years to become vested and the interest rate paid is the actual interest

PERSONNEL
(Cont't.)

that was earned while the money was in the system. Last year it was 7.3 percent and the previous year, 11.9 percent.

Bidler advised Doyle that he knew of no statutory provision that allowed transfer of credits from one state retirement system into this system.

Priebe inquired about a sheriff's retirement and was informed that under the State Peace Officer's Retirement system they must be aged 55 with at least 22 years of service. No formal action.

PUBLIC
SAFETY

Public Safety Department was before the Committee and the following agenda was presented by Michael Coveyou, C.T. O'Dell and Kenneth Arduser.

PUBLIC SAFETY DEPARTMENT[661]

Vehicle impoundment, 6.4, Filed ARC 2522A11/13/91
Marijuana eradication procedures, ch 28, Filed ARC 2510A11/13/91

6.4

Coveyou briefed the Committee on ARC 2522A, vehicle impoundment. Doyle observed that rule 6.4 applied only to abandoned vehicles and he wondered if a rule were needed to address abandoned vehicles which are impounded.

Maulsby asked about the time involved before a vehicle is declared abandoned. O'dell referred to Code chapter 321. Doyle added that it is 72 hours unless the vehicle is endangered or in the traveled portion--then it must be removed sooner.

No action.

Ch 28

In review of new Chapter 28, discussion focused on 28.3(3) which provides for development of programs to aid in identification and removal of marijuana. Arduser stated that they reach the general public on training through the Iowa State University Extension Program.

Maulsby thought that the operator of the farm, as well as the landlord, should be notified regarding uncultivated marijuana.

28.3

Metcalf wondered if more detail were needed in 28.3(3). Arduser stressed that it was strictly informational assistance and there have been no problems with the Extension Service.

Motion

Referral
to GA

Doyle asked for unanimous consent to refer Chapter 28 to the Speaker of the House and President of the Senate for review and clarification by the appropriate committee. No opposition. So ordered. Coveyou stressed that their intent was to carry out the 1991 legislation.

DISABILITIES
PREVENTION

Kay DeGarmo, Coordinator for the Prevention of Disabilities Policy Council, presented the following:

PREVENTION OF DISABILITIES POLICY COUNCIL[597]

General description, organization and operations, public records and fair information practices, petitions for rule making, chs 1 to 4, Filed Emergency ARC 2554A11/27/91

DISABILITIES
PREVENTION
(Cont't.)

DeGarmo informed the Committee that she was with the Iowa University Affiliated Program in Iowa City which provides some administrative support on an interim basis to the Council.

Chs 1-4

In 2.3(1), Priebe asked that quorum be changed to require a majority of the members to take action. Five affirmative votes would be required for the 9-member council. DeGarmo was amenable.

DeGarmo informed Doyle that the legislators on the Council were Senators Hannon and Tinsman and Representatives Krebsbach and Brown.

In 2.3(4), Royce advised Metcalf there was no law to preclude votes by mail. Metcalf thought FAX might be preferable. DeGarmo advised Priebe these rules were taken from four other councils and agencies.

Pavich asked Royce to draft a bill to preclude voting by proxy. There was no opposition. DeGarmo agreed to provide Royce with a list of the agencies that provide voting by mail.

PROFESSIONAL
LICENSURE

Susan Osmann was present for the Professional Licensure Division agenda. Also present was Connie Bencke from the Ombudsman Office.

PROFESSIONAL LICENSURE DIVISION[645]

PUBLIC HEALTH DEPARTMENT[641]"umbrella"

Barber examiners, agency procedure for rule making, petitions for rule making, declaratory rulings, 20.3(7),

20.10, 20.101(5), 20.101(6), 20.109(3), 20.110(4), chs 23 to 25, Filed ARC 2572A11/27/91

Physical therapy examiners, physical therapist assistants, 200.1, 200.3(2), 200.4(5), 200.4(7), 200.20(7)"k,"

33200.20(8) to 200.20(14), ch 202, Filed ARC 2535A11/13/91

20.3 et al. Amendments to 20.3 et al. were presented by Osmann who informed the Committee that the Barber Board retained their definition of manicuring which is included in these rules.

Bencke expressed concerns about 20.10(158) in that it excludes enhanced manicuring services, such as sculpturing, nail extensions, and artificial nails from the definition of manicuring. Implementation of the rule would force people like Ms. Ramsey who appeared at an earlier meeting from providing enhanced manicuring services as of January 1, 1992. Ms. Ramsey informed Bencke that 99 percent of her business was devoted to enhanced sculpturing services. Bencke urged delay of 645--20.10(158).

Delayed into 2A 2/3/92 (no + rule 3/19/92)
Motion to Delay 70 days Metcalf moved that 645--20.10(158) be delayed for 70 days to allow time for further study. Motion carried.

Chs 200, 202 Osmann gave brief overview of ARC 2535A, amendments to Chapters 200 and 202.

There were no recommendations regarding physical therapy examiners and assistants.

PUBLIC
HEALTH

Jill France and Carolyn Adams presented the Public Health Department agenda:

PUBLIC
HEALTH
(Cont'd.)

PUBLIC HEALTH DEPARTMENT[641]

Financial assistance to eligible end-stage renal disease patients, ch 111, Notice ARC 2571A11/27/91
Consent for the sale of goods and services, 190.1, 190.2, 190.4 to 190.7, 190.9, Notice ARC 2536A11/13/91

Ch 111

France summarized revised Chapter 111. Doyle asked about copayment on medication and France said reimbursement was based on the average wholesale price at a percentage based on income. Medicare does not pay for drugs after the first year following transplant. Title XIX will pay for the drugs after \$1 copayment. The Department covers anything that Medicare, Medicaid or private health insurance does not.

Priebe questioned the \$100,000 in 111.1"8" under "exempt financial resources" and France clarified that property was exempted up to \$100,000. They count the financial resources over \$100,000. The homestead is also exempt.

Schrader shared Priebe's concerns about the generous exemptions. France explained that they consider income and resources and base decisions on information provided by applicants.

Teaford viewed the program as very unusual. She was not aware of any other that enjoys such preferential treatment.

Priebe suggested justification for the \$100,000. Maulsby was concerned about inconsistencies in the grants. No formal action taken.

Ch 190

Adams presented amendments to Chapter 190 relative to consent for the sale of goods and services. Royce questioned rule 190.6 as to who may consent and Adams said they followed an example in a Commerce Department rule.

PHARMACY
10.16

Therese Witkowski, Administrative Assistant for the Board of Pharmacy, presented Emergency rule 657--10.16 on administration of controlled substances published as ARC 2513A in 11/13/91 IAB. No recommendations.

SOIL
CONSERVATION

The following agenda was presented by Kenneth Tow:

SOIL CONSERVATION DIVISION[27]

AGRICULTURE AND LAND STEWARDSHIP DEPARTMENT[21]"umbrella"

Regions of representation for state soil conservation committee farmer members, 1.2(5), 1.2(6).

Filed ARC 2565A11/27/91

1.2

No questions or comments by the Committee.

TRANSPORTA-
TION

The Transportation Department agenda was before the Committee as follows:

TRANSPORTATION DEPARTMENT[761]

Special registration plates--sesquicentennial and collegiate, 400.41, 400.41(2), Filed ARC 2556A11/27/91
Implied consent plates; sale, lease or transfer of vehicles with impounded plates, 400.60, Filed ARC 2515A11/13/91
Noncommercial drivers' licenses, ch 600 title, 600.1 to 600.4, 600.6, 600.8 to 600.10, 600.12, 600.13, 600.19 to 600.21, 601.1(1), 601.1(5), 601.1(6), 601.5, 601.6, 602.1 to 602.3, 602.11 to 602.13, 602.16 to 602.21, 602.23 to 602.26, 604.1, 604.2, 604.3(1), 604.7(1), 604.7(2), 604.10 to 604.13, 604.20(2) to 604.20(4), 604.21, 604.30(1), 604.30(2), 604.31, 604.32, 604.35, 604.40, 604.45, 604.50, 605.1, 605.5(6)"c" and "e," 605.10, 605.11, 605.15, 605.16, ch 610, ch 615 title, 615.1 to 615.4, 615.7, 615.11 to 615.21, 615.22(3), 615.22(4), 615.26, 615.27, 615.28(2), 615.29 to 615.31, 615.34, 615.36, 615.38 to 615.40, 615.43 to 615.45, 620.1, 620.3(1)"b," 620.3(4), 620.4(2)"a" and "b," 620.4(4), 620.5, 630.1 to 630.4, 640.3, 640.4(1)"b," 640.4(3)"b," 640.4(4)"a," 640.4(6)"b"(1) and (2), Notice ARC 2512A11/13/91
Special Review 761--602.17(3) Minors, school licenses, eligibility requirements

TRANSPORTA-
TION
(Cont'd.)
400.41

Representing the Department were Dennis Ehlert, Terry Dillinger, Shirley Andre, Norris Davis and Jan Hardy.

Ehlert gave an overview of amendments to Chapter 400, special registration plates--sesquicentennial and collegiate. Hedge was informed there had been no difficulty in enforcement because of these plates.

400.60

Discussion of new rule 400.60 pertaining to implied consent plates. Schrader referred to 400.60(2), consent to sell, and inquired if there could be a denial of sale and Ehlert responded there could be because the Department asks the applicant to provide information as to who the vehicle was sold to and the sale price, but the criteria is the proof of a good faith sale. Ehlert described the registration plates as being identical to regular plates with the exception of a "Z" prefix in the alpha characters.

Responding to Pavich, Ehlert said that the Code provides for automatic implied consent. When someone agrees and purchases these plates, they are agreeing to the implied consent to stop and check the vehicle driver. The Code does not address frequency of stops.

Ch 600 et al. Teaford inquired about use of the social security number on a driver license. Dillinger pointed out that the law was amended in 1977 to specifically allow its use in motor vehicle records. The Department requires the social security number for an application but its use on a license is optional.

Metcalf questioned accuracy of the Department's address. She recalled that Park Fair Mall was at 100 East Euclid not 100 Euclid. No Committee action.

Special
Review
602.17(3)

The special review on eligibility requirements of minors' school licenses was brought before the Committee by Royce on behalf of Representative Darrell Hansen. Subrule 761--602.17(3) sets out certain circumstances when a 14-year-old can get a driver license if they can demonstrate hardship. He cited subparagraph a(1) under this subrule and stated that one of Hansen's constituents has a hardship but cannot get this license. At this particular school, driver education is offered only to students 15 and 16 years of age. Representative Hansen had questioned reasonableness of the requirement.

Dillinger recalled passage of the statute in 1989 and a meeting of representatives of the Department of Education, DOT, Superintendent's Association, Attorney General's office, and Representative Cohoon to draft the rules. During the development of the legislation, there was clear legislative intent that drivers take driver education before being issued a school license and that hardship should be construed narrowly. Many options were considered and by consensus, the group determined that this definition of "hardship" was the only one that could be administered.

TRANSPORTA-
TION
(Cont'd.)

Priebe cited an example of a 14-year-old in his area who needed to drive to work. Dillinger pointed out that the school license statute limits driving to and from and between schools of enrollment for courses and extra-curricular activities. It does not address employment. Another statute addresses a minor's restricted license which allows driving to and from work if the minor is no longer enrolled in school.

Maulsby suspected there was misunderstanding by some school administrators.

Hedge voiced opposition to allowing 14-year-olds to drive to work. He favored use of a bicycle or similar vehicle.

Dillinger acknowledged the problem of trying to develop language which could be administered with equity without defeating the purpose of the driver education requirement.

Schrader also expressed an opinion that drivers under the age of 16 present a risk. Metcalf concurred.

PRINTING
DIVISION

Kristi Little, Superintendent of Printing, appeared before the Committee to provide additional information on operation of the Division. An extensive review of the 3,500 printing orders in FY 1991 revealed an amount of \$10 million. Of this, 33 projects were awarded to out-of-state printing firms through the bidding process with dollar volume amounting to less than \$1 million. She distributed a memo which documented the projects. One such project included embroidered stickers for the Agriculture Department. An Iowa firm has the capability for this type of printing but was not low bidder. Upon questioning by Priebe, Little emphasized her lack of statutory authority to dictate the type of printing or to give preference to Iowa printers. Priebe declared this area should be reviewed.

Little informed the Committee that records are maintained on the types of printing ordered by each agency. The Committee showed interest in having this information before the budget hearings.

Priebe inquired about advertising by agencies or departments. Little said there was advertising in the telephone directory but it was not underwritten by the state, but done by a private contractor. Priebe thought they should go to private advertising approved by the Legislative Council or other body to offset costs. Little thought rules would be needed.

Motion

Priebe asked that someone on the Committee make a motion to refer to the Legislative Council the possibility of supervised ads to recover some of the cost of printing. Pavich so moved.

Little indicated that she had worked with the Department of Management to develop a survey specifically on this

12-11-91

PRINTING
DIVISION
(Cont'd.)

question but was not sure of results. Motion carried with Schrader voting "present."

Copayment

There was further discussion of the status of Human Services subrule 441--79.1(13). It was agreed that Barry, Dierenfeld and Royce should work together to compile the replacement page for the Iowa Administrative Code. This page should then be reviewed by the ARRC, Martin Ozga, Deputy Director, Legal Services Corporation of Iowa and Daniel Hart, Assistant Attorney General (two parties to the lawsuit). There was suggestion of a possible telephone conference.

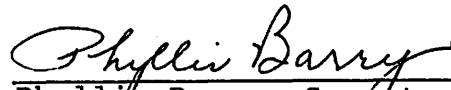
Motion
Withdrawn

Tieden withdrew his motion made on the previous day.

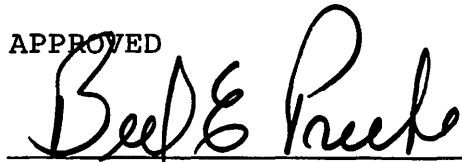
Adjourn

Chairman Priebe adjourned the meeting at 11:40 p.m. The next meeting was scheduled for Monday and Tuesday, January 6 and 7, 1992.

Respectfully submitted,


Phyllis Barry, Secretary
Assisted by Mary Ann Scott
and Bonnie King

APPROVED


Chairman