

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

Time of meeting The special meeting of the Administrative Rules Review Committee (ARRC) was held on Monday and Tuesday, February 14 and 15, 1994, in Room 22, State Capitol, Des Moines, Iowa.

Members present: Senator Berl E. Priebe and Representative Janet Metcalf, Co-chairs; Senators H. Kay Hedge, John P. Kibbie, William Palmer and Sheldon Rittmer; Representatives Horace Daggett, Roger Halvorson, Minnette Doderer and David Schrader.

Also present: Joseph A. Royce, Legal Counsel; Paula Dierenfeld, Administrative Rules Coordinator; Mary Ann Scott and Kim McKnight, Administrative Assistants; Caucus Staff and other interested parties.

Not present Phyllis Barry, Iowa Administrative Code Editor.

Convened Co-chair Priebe called the meeting to order at 7 a.m. and recognized John Schiltz and Ronald Rowland, Agriculture and Land Stewardship, who gave a brief overview of the following filed rule:

AGRICULTURE AGRICULTURE AND LAND STEWARDSHIP DEPARTMENT[21]
Animal welfare, 67.2(1)"j," 67.2(3), 67.5(4), 67.7(2)"b" to "f," Filed ARC 4539A 1/5/94

67.2 et al. Priebe inquire if "six adult dogs" was defined. Schiltz referred to definition in 67.2(3)"a" which includes both breeding animals and surgically sterilized animals. Priebe was assured that these rules covered his concerns with regard to greyhounds.

WALLACE TECH. Appearing from the Wallace Technology Transfer Foundation was Doug Getter. He reviewed a Noticed rule for proposed new Chapter 13, Manufacturing Technology Outreach Special Projects Fund, published in IAB 1/5/94 as ARC 4523A. No questions by the Committee.

Committee Business Minutes Metcalf asked that the minutes of the January meeting be corrected on page 5571, last paragraph, to identify Dean L. Whitford from the law offices of Stuart, Tinley, Peters, Thorn, French & Hughes in Council Bluffs. Whitford had expressed interest in the Banking rules. The correction was made and Metcalf moved to approve the minutes as corrected. Motion carried.

Newspaper ad in Iowa City Doderer expressed concern that the Civil Rights Commission had issued a directive to The Daily Iowan and Press Citizen newspapers in Iowa City to change their advertising language with regard to rooms for rent. She understood they could no longer specify a sex preference in advertising for a roommate. Royce would pursue the issue and report to the Committee.

March meeting Priebe announced that the next ARRC meeting date would be March 7 at 7 a.m.

HUMAN SERVICES

Attending from the Department included Mary Ann Walker, Margaret Ward, P. C. Keen, Ruth Schlesinger, Michael Murphy, Amy Carfield, Lucinda Wonderlich, Gary Gesaman, Sally Nadolsky, Doug Howard and Norma Hohlfeld. The following agenda was reviewed:

HUMAN SERVICES DEPARTMENT[441]

Rehabilitative treatment, child care services, foster care, foster parent training, 7.1, 77.38, 78.28(7), 78.42, 79.1(2), 79.6, 79.14(1)"h," 80.2(2)"an," 80.4(1), 80.4(2), 86.15(4), 88.5(3), 88.25(3), 130.1, 130.2(8), 130.3(1)"d" and "f," 130.4, 130.4(3) table, 130.4(3)"b" and "f," 130.6(1), 130.7, 130.9, 150.3(4), 150.3(4)"b"(1), 150.3(5)"n," 150.3(5)"p"(1), ch 152, 156.1, 156.6(3), 156.6(4), 156.6(4)"a," "d," and "e" to "g," 156.6(5), 156.7, 156.8(7), 156.8(8), 156.9(1) to 156.9(3), 156.10(1), 156.11(3), 156.18(1) to 156.18(3), 156.19, 156.20(1)"a"(2), 156.20(2), ch 170 preamble, 170.1, 170.2(3)"a," "c," and "h," 170.2(5)"b," 170.4(1), 170.4(6), 170.4(7)"a" and "e," ch 181, ch 182 preamble, 182.1, 182.2(1), 182.2(1)"d," 182.2(2), 182.3, 182.3(2), 182.4 to 182.11, ch 185, 202.2(2), 202.2(5), 202.2(5)"a" and "h," 202.4(5)"f," 202.6(1), 202.6(5), 202.11, 202.12,

Filed ARC 4535A 1/5/94

Welfare reform — family investment program, amendments to chs 40 to 43, 45, 46, 48, 49, 58, 60, 65, 75, 76, 86, 93, Filed ARC 4524A 1/5/94

RCFs — financial assistance for SSA recipients, 51.2, 52.1(3), Filed ARC 4532A 1/5/94

Increases in SSI cost-of-living adjustment, community spouse's resources and maintenance needs, and personal needs allowance for residents of residential care facilities, 51.4(1), 51.7, 52.1(1), 52.1(2), 52.1(3)"a"(2), 75.5(3)"d," 75.16(2)"d"(3), Notice ARC 4526A, also Filed Emergency ARC 4527A 1/5/94

Medicaid eligibility, 75.1(17), 75.13(1)"c," 86.1, 86.8(5), Notice ARC 4530A 1/5/94

Medicaid eligibility — transfer of assets, trusts, 75.9(1), 75.15, 75.15(1), 75.23, 75.24, Notice ARC 4533A, also Filed Without Notice ARC 4534A 1/5/94

Elderly waiver program, 77.33(1)"a," 77.33(1)"b"(4), 83.22(1)"g," 83.23(1), 83.28(1)"e," Notice ARC 4531A 1/5/94

Medicaid waiver services, 77.33(6) "c" and "d," 77.33(7)"a" and "e," 77.33(8)"a" and "f," 77.33(9)"a," 77.33(11)"a," 83.22(1)"b," Filed Emergency After Notice ARC 4529A 1/5/94

Medicaid services to children, 78.1(2)"a"(3), 78.4(7)"a" to "c," 78.10(1)"d"(2), 78.10(2)"b," 78.10(3)"b," 78.10(4)"a," 78.28(1)"b," 78.28(2)"e"(1), 78.28(10), Filed Emergency After Notice ARC 4525A ... 1/5/94

Intermediate care facilities for the mentally retarded — Medicaid reimbursement, 79.1(2), 82.5(4), 82.5(11)"f," 82.5(11)"j," 82.5(14)"e" to "g," 82.5(16)"e," Notice ARC 4564A 1/19/94

Managed health care providers, 88.1, 88.2(1), 88.2(2), 88.2(4), 88.3(1) to 88.3(4), 88.3(6), 88.3(7)"b" and "c," 88.4(1), 88.4(3), 88.4(3)"a," 88.4(3)"b"(3), 88.4(4)"f," 88.5, 88.6(1), 88.6(2), 88.7(2)"b," 88.7(3)"a," 88.7(4)"b," 88.8(1)"g," 88.8(4), 88.9(1), 88.9(3)"b," 88.9(4)"a" and "c," 88.12(2), 88.21, 88.22, 88.22(1), 88.22(2), 88.22(4), 88.23(1) to 88.23(4), 88.23(6), 88.23(6)"b" and "c," 88.24(1), 88.24(3), 88.24(3)"a," 88.25(1), 88.41, 88.42(1), 88.42(2), 88.43(1) to 88.43(3), 88.44(2), 88.44(3), 88.45(5)"a," 88.46(1) to 88.46(7), 88.47(1)"a," 88.47(1)"c"(7), 88.47(2), 88.48(1) to 88.48(4), 88.49(1), 88.49(2), 88.49(6), 88.50(1), 88.50(3), Filed ARC 4528A 1/5/94

Rehabilitative treatment services — administrative costs and level of utilization to determine rate for group care providers, 185.105(7), 185.106(2)"a," 185.107(4), Notice ARC 4558A 1/19/94

7.1 et al.

In review of amendments to 7.1 et al. (ARC 4535A), Walker explained that this Filed rule combined four Notices, three of which were adopted emergency. She reported that there were comments made at the public hearing as well as written comments on rules relating to the rehabilitative treatment and supportive services program and, consequently, extensive revisions have been made.

Responding to Daggett, Ward advised that indices for salaries were established—administrative staff was a flat amount; treatment staff was a level of salary at a percent of DHS salaries. A new level was added for staff that worked during sleeping hours. Ward added that most of the salaries fell within the range of the old purchase of service system. The impact of these rules were continually being evaluated.

Metcalf in the Chair.

HUMAN SERVICES (Cont.)

Ward informed Metcalf that they worked very closely with the Coalition for Children and Family Services in developing changes in response to public input. Ward stated that no changes were made in the area of depreciation. Walker added that the Department had committed to change from per diem to a flat fee by 1997 whereby everyone receives the same pay for the same service.

Ch 185

Amendments to Chapter 185 (ARC 4558A) were taken up out of order and there were no questions or comments.

Priebe in the Chair.

Chs 40-43 et al.
Welfare reform

Welfare reform amendments were before the Committee. Walker distributed copies of comments and responses from the public hearing held December 29, 1993 regarding family investment agreements and the limited benefit plans. These comments are on file in the office of Administrative Code Editor. Walker advised that the Council took action on welfare reform rules last week and they will be published in the IAB dated March 2.

Royce brought up the objection voted on December 14, 1993 to 441—7.5(8) and 41.24(8)"f" which were Filed Emergency on 12/8/93. He stated that the grounds for the objection were that the emergency rule making was inappropriate and that the rule should have gone through Notice and public participation. Royce added that the Committee's concerns at that time were that the rules did not provide adequate appeal hearings for parents placed on the limited benefit program. Royce advised that the rule making had now been changed from one to three opportunities to appeal before they could be taken off the program. The second concern of the ARRC dealt with only one parent willing to participate in the program which could result in the whole family being ineligible. Royce noted that the rule relating to this concern had not been changed and had been adopted in final form.

Royce explained that the objection placed on this rule was procedural and was obsolete since the rule had been adopted through the normal process.

An analysis which was distributed to the Committee addressed different options discussed and assessed by the Human Investment Policy Analysis Work Group in regard to the two-parent family in the Family Investment Program. This analysis was a result of the Committee's concerns and was summarized by Doug Howard. It is on file in the office of Administrative Code Editor.

Howard advised that the Human Services Council directed the Department to move forward on adoption of this rule making as it was written.

In discussing the Committee's options, Priebe opined that one would be to renew the objection. Royce clarified that it would have to be a different objection because the one in place now was strictly on the emergency basis of the rule making and did not deal with substance.

Motion to object

Schrader recalled that the Committee had strong feelings on the issue with regard to two-parent families and their removal from the program if one parent does not comply or refuses to enter into a FIA. He then made a motion to object on the grounds the rule was unreasonable.

HUMAN SERVICES (Cont.)

Halvorson raised the question as to what the Committee really wanted in the rule and discussion followed on the pros and cons of the various options and the alternative of reducing benefits.

Metcalf spoke against the objection. She wanted the Department to report back to the legislature on the impact of the rule making on families and children and any other problems encountered after the policy had been in place for a period of time.

Rittmer added that he also would not support the objection unless he heard an alternative that was workable.

At Doderer's request, Howard gave further background on the various options of the analysis. Doderer thought clarification was needed in the education participation requirement.

Schrader made closing remarks on his motion and again pointed out problems with the policy, which included penalizing a family with one responsible parent.

Motion failed

Motion failed on a tie vote (5 to 5).

Metcalf requested that the Department distribute reports and analyses prior to the day of the ARRC meeting.

Walker advised members that the rule under discussion would be in the Administrative Bulletin of March 2 and before the ARRC in April.

Clarification was sought on disposition of the previous objection (12-14-93). Priebe thought it expired when the emergency filing was replaced by the Filed rule. Royce felt it was moot since the objection was a procedural grounds. The Chair asked that the minutes reflect that there was discussion on removal of the procedural objection because it was moot.

Priebe emphasized that this rule would be before the ARRC again as an adopted rule. Walker advised the effective date of the rule was May. Priebe would prefer reviewing this after the legislature adjourns.

After discussion the objection in question with a staff member, Ed Conlow, Royce concluded that the objection was both procedural and substantive. He said this indicates that only a portion of the objection expired. Royce suggested that the discussion be postponed until the April ARRC meeting when the rule would be before them. He apologized to the Committee for misspeaking earlier.

Motion

There was confusion among the members regarding the impact of the December objection as well as action taken earlier today since Schrader's motion to object failed to pass. However, Doderer made a motion to rescind any previous action. Motion passed.

FIP training funds

Kibbie asked Howard to comment on a question raised on the Senate floor last week that training dollars for the FIP in a certain county were already spent. Howard responded that because of the changeover and certain time frames, the current budget did not provide funding to support everyone on the waiting list for postsecondary education. Other areas such as GED or Jobs Search would not have a waiting list.

51.2, 52.1(3)

No questions on filed amendments to 51.2 and 52.1(3).

HUMAN SERVICES (Cont.)
51.4(1) et al.

Amendments to 51.4(1) et al. regarding SSI cost-of-living adjustment were reviewed. Priebe cited an example of this program's abuse and expressed his concern.

75.1 et al.

Medicaid eligibility was reviewed. No questions.

75.9(1) et al.

Transfer of assets were before the ARRC and Halvorson expressed concern in behalf of a constituent and asked if there was any liability on the part of the children before Medicaid takes over. Keen explained the period of eligibility and when it would expire. The Department would provide supporting information to the Committee.

Tuesday agenda

Because of several controversial issues yet to be discussed, it was agreed that the last five agencies on the agenda would be moved to Tuesday, February 15 at 7 a.m.

Chs 77, 78, 83

No questions or recommendations to ARCs 4531A, 4529A or 4525A.

79.1 et al.

In review of amendments to Medicaid reimbursement for ICFMR, Walker said the counties want these rules adopted and the facilities do not.

Schrader had heard from facilities who feel the impact of these rules would be very costly for them.

Kibbie asked if the facilities at Woodward and Glenwood were still transferring to local institutions. Gesaman responded that there were approximately 700 persons left in these two institutions of the 2200 paid for each month. In five or six years, Gesaman said the numbers would be reversed. The cost to the state for these patients was discussed. The Department agreed that combining Woodward and Glenwood was logical.

Rittmer expressed concern over the large range in costs and he and Gesaman discussed whether local facilities would take the difficult patients or would they be transferred to the state institutions.

Gesaman would provide Palmer with the information regarding distribution of costs.

There was discussion of funding and reimbursement from the federal government.

Kibbie asked the Department to provide data on the total number of employees relative to the 700 patients at these two institutions. He would like to compare this with private institutions and their costs. Gesaman felt there would not be much difference between the two.

Ch 88

A filed rule on managed health care providers was addressed with no Committee action.

Private day care

Hedge was advised that the Department would contact him in regard to a constituent's concern that rules were more strict for private day care for children than for public schools.

Tube feeding

Priebe inquired about tube feeding in a state facility, nursing home or private home versus in an ICFMR. He understood a registered nurse must administer tube feeding in an ICFMR but in other facilities it could be done by anyone. Gesaman thought this might be correct. Lorinda Inman of the Nursing Board disagreed.

HUMAN SERVICES (Cont.)

She interjected that ICFMRs have requested and have been granted waivers from the Board of Nursing.

NURSING BOARD

Lorinda Inman from the Nursing Board gave a brief overview of the following agenda and there were no questions or recommendations by the Committee.

NURSING BOARD[655]

PUBLIC HEALTH DEPARTMENT[641]"umbrella"

Licensure to practice — RN/LPN, 3.1, 3.4(2) to 3.4(4), 3.4(5)"a"(5), 3.4(5)"b," 3.4(6), 3.4(7), 3.4(8)"a" to "e,"

3.5(1), 3.5(2)"a"(1) and (3), 3.5(2)"c" and "e," 3.5(3), 3.6(1)"a" to "d," 3.6(2)"a" and "b," 3.7(1),

3.7(2), 3.7(7), Filed ARC 4517A 1/5/94

Time limitation for request for continuance in contested case, new 4.10, renumbered 4.11 to 4.20,

Notice ARC 4516A 1/5/94

EPC

The Environmental Protection Commission (EPC) was represented by Allan Stokes, Al Ferris and Michael Murphy. The following agenda was addressed:

ENVIRONMENTAL PROTECTION COMMISSION[567]

NATURAL RESOURCES DEPARTMENT[561]"umbrella"

Sulfur dioxide emissions in the Muscatine area, 22.7, Notice ARC 4201A Terminated ARC 4563A .. 1/19/94

Protected stream designations, 72.50(2), 72.52, Filed ARC 4559A 1/19/94

Solid waste abatement table, 101.5(4), Filed ARC 4565A 1/19/94

Notification of hazardous conditions, 131.1, 131.2, 131.2(2), Filed ARC 4566A 1/19/94

Landfill alternatives financial assistance program, ch 209, Notice ARC 4567A 1/19/94

22.7

The termination of a proposed rule regarding sulfur dioxide emission in the Muscatine area was discussed. Murphy stated that EPA advised them the rule making was not necessary at this time.

Stokes responded to Priebe that there was a time when federal and state rules differed on emission standards but this had been corrected several years ago.

**Protected Streams
72.50(2), 72.52'**

In review of ARC 4559A, Stokes stated that 131 stream segments would be added to the existing list in 72.50(2). He said the Natural Resource Commission petitioned the EPC to add these streams and provided detailed information on the conditions and habitats of the stream segments. It was then reviewed with Fish and Wildlife Division. Stokes stressed that the protected streams rules have existed since 1978 covering 115 stream segments. He provided background regarding selection of these streams and indicated this list did not contain segments that were within the limits of an organized drainage district. Stokes added that these rules simply put the public on notice that it would be extremely difficult to obtain permission from the Department to channelize those streams. Stokes advised the rules do not require buffer strips or fencing along streams, nor do they prevent the following: placing riprap along streams to cut down erosion; landowners from constructing stream crossings for livestock or equipment; clearing snags or debris from a channel or flood plain; removing gravel from sandbars; placing pile outlets into a stream; cutting into stream bank to allow drainage; construction of levees or dikes along side of stream; farming along stream bank; or constructing residential housing. Stokes added that these rules would make it difficult, if not impossible, to get a permit for changing the course of a stream, but would allow for variances to protect public structures such as roads or bridges. He advised that since these rules were contained in the flood plain rules, a decision to deny a permit could be appealed to the EPC and ultimately to the courts.

EPC - Protected
Streams (Cont.)

Daggett asked how these rules would affect a river that cut a new channel across a farm field due to flooding. Stokes responded that the landowner could either construct a dike or allow the river to "cut its course." Stokes added that nothing in the proposed rules would require a farmer to restore a stream that had "broken through" as described by Daggett.

The Department prepared and distributed a report on channel changes in 1990 through 1993. This data had been requested by Priebe. Stokes summarized that 46 applications for channel changes had been received; 45 were approved; and one denied but it was not on one of the existing protected streams. This report is on file in the ACO.

The Department pointed out there were two exceptions—public projects such as roads or bridges where there is no reasonable alternative or on private property where there is a building or private structure being endangered by the channel change that could not be controlled by bank stabilization.

Priebe inquired why the Commission was opposed to the present permit system (or request) in favor of this proposal. Stokes responded that this proposal was made largely due to fairness to the applicant. The application process for permits and reasons for same were discussed. Stokes felt the EPC had been open and up front in disclosing their criteria for making decisions regarding the granting or denying of authorizations or permits. Based on the unique nature of these particular stream segments, Stokes admitted they would look very closely at granting permits for channel changes and most likely they would not be approved. He added that a permit denial could still be appealed by the Commission and the courts.

Stokes clarified for Priebe that under the proposed rules, a permit could still be requested. Departmental variances in the proposed rules were discussed as well as appeal process.

Priebe declared that stream straightening had never been abused based on the EPC report and he would like to see the Commission continue with existing rules.

Ferris advised that 19 of the 45 approved applications were issued to cities, counties or DOT and 25 were issued to individuals, businesses or construction companies. Ferris could not provide Priebe with the number of individual permits issued. Stokes explained that the permits contained appropriate data to document that there would not be an adverse impact on natural resources.

Hedge commented on the natural channel changes and the pressure on the farmer to restore it. He said in years past they would farm the old channel but this was no longer an option because it is now declared a wetland.

Kibbie expressed concern with the educational process regarding the proposed rule making.

Craig White, who operates a livestock and farming operation next to the West Fork of the Des Moines River in Emmet County, stated that this stream was among those being proposed for the protected streams list. Regarding the protected streams issue, White said that DNR proclaimed it to be a channelization issue. He felt that 7 applications on the 131 proposed streams in the last 5 years indicated that there was not a great deal of interest in straightening streams.

EPC - Protected
Streams (Cont.)

White opined that the real issue here was property rights. He referenced the 115 original streams designated in 1978, stating that most were in northeast Iowa. There seems to be uncertainty where these streams are located and White felt that public record should be available documenting their existence as well as public record on proposed streams.

White expressed concern about the value of his land with a stream dissecting it and inquired if the state was in a position to make reimbursement for its devaluation. White stated that he and his family were environmentalists concerned about water quality, soil erosion and wildlife habitat. In closing, White said that rules and regulations only treat the symptoms but education and communication would solve the problems.

Ruby Harris also lives on the West Fork of the Des Moines River and expressed concerns about lack of communication with affected landowners. She also echoed remarks made by White.

Don Lammers, Graettinger farmer, felt that DNR did not know the impact of these rules on farmers and that DNR was broadening the scope of their rules to gain more control.

In response, Stokes thought the rules were self explanatory and noted that the Department had one of the more active public education programs and has lead the country in erosion control as well as establishing the Groundwater Protection Act of 1987. He explained that six public hearings were held on this particular rule making, notice was published in over 100 newspapers, and mailings were sent to 81 boards of supervisors, 81 soil and water conservation districts, 325 city councils, 14 regional planning agencies, as well as numerous individuals and organizations.

Harrison Fisch, O'Brien County, represented farmers living along the Little Sioux River and Mill Creek. He noted that none of his farmer acquaintances had the least interest in straightening streams. Their concern was that DNR had undermining reasons for proposing these rules that had not yet surfaced—such as restriction of livestock access to stream banks.

Cindy Hildebrant, Story County, spoke in support of the rules in behalf of the Iowa Audubon Society, Iowa Chapter of Sierra Club, and Iowa League of Women Voters. She thought it safe to say that several thousand miles of river and stream channels have been lost to channelization. Collectively, she stated that this had caused increased soil erosion, flooding problems, water pollution, and habitat loss.

Priebe thought that most of the channelization had been done by the Army Corps of Engineers along major rivers such as the Mississippi and Missouri. He would be interested to know how many farmers had channelized streams on their land. Priebe felt the existing permit system was adequate and thought that it was larger entities asking for channelization, not individual farmers. Due to the magnitude of this issue, he would support delaying these rules to allow time for additional hearings.

Doderer questioned what more could be accomplished by a "full-blown" hearing. Priebe thought that more publicity was needed and questioned the accuracy of the maps locating these streams. Stokes pointed out that the maps in question were put out as educational tools and not intended to be used for absolute accuracy.

**EPC - Protected
Streams (Cont.)**

Halvorson reported that opposition to these rules from his area was running about twenty to one and their concern was over the appeals process. He would favor a delay until after the legislative session.

In Schrader's area, the concern was that the tributaries of a designated stream would become a protected stream but Stokes clarified that this was not so. The protected status of large tributaries in Schrader's district was discussed and he noted that he had heard no opposition to the proposed rules.

Rittmer reiterated concern about the lack of proper notification of individuals affected by these rules.

Clarification was provided by the Department regarding 567—72.51(7)"m." Ferris advised that this was part of the EPC's guide as to the criteria used to designate a stream as "protected"—it was not applied to the application of the rule once it was in place.

**Motion - 70-day
delay**

Priebe made a motion for a 70-day delay on ARC 4559A and would pursue a full hearing after the legislative session. He again expressed concern with the permit system. Royce advised this action would delay the rule until May 5.

Metcalf in the Chair.

Daggett spoke in favor of the motion and Schrader in opposition. Schrader felt that this issue was not new but had been studied by the EPC since 1991.

Motion carried

Motion to delay carried by a show of hands.

Priebe in the Chair.

101.5(4)

No questions or recommendations on amendments relating to solid waste abatement table.

Tipping fees

In a matter not before the Committee, Priebe and Murphy discussed briefly tipping fees collected in Winnebago County and the Department was directed to investigate further.

131.1, 131.2; Ch 209

No questions or comments on ARC 4566A or 4567A.

PUBLIC HEALTH

Carolyn Adams was present to address the following agenda:

PUBLIC HEALTH DEPARTMENT[641]

Hearings by professional licensing boards — allocation of disciplinary fees and costs, 173.19(4), 173.20,

Notice ARC 4549A 1/5/94

173.19(4), 173.20

The Committee had no questions.

Recess

Co-chair Priebe recessed the ARRC until 7 a.m., Tuesday, February 15.

Reconvened

Co-chair Priebe reconvened the ARRC meeting at 7 a.m. and called up the following agenda for Campaign Finance Disclosure Commission:

**CAMPAIGN -
FINANCE****CAMPAIGN FINANCE DISCLOSURE COMMISSION[121]**

Amend and transfer 121—chs 1 to 10 to 351—chs 1 to 10; 4.1(5), 4.2, 4.3, 4.6(7), 4.6(15), 4.23(2), 4.23(7), ch 5 title,

5.1 to 5.5, 5.7, 5.10, 6.1, rescind ch 7, Notice ARC 4542A 1/5/94

Codes of conduct, ch 12, Notice ARC 4541A 1/5/94

Lobbyists, ch 13, Notice ARC 4540A 1/5/94

Chs 1-10

Lynette Donner and Kay Williams reviewed ARC 4542A which amended and transferred Chapters 1 to 10 to agency number 351 to reflect 1993 legislation which created the Ethics and Campaign Disclosure Board to supersede the Campaign Finance Disclosure Committee..

Metcalf thought clarification was needed in 4.3(2) regarding reimbursement for out-of-pocket campaign expenditures. Williams was agreeable to adding the words "and reimbursements" following "All committee expenditures".

Discussion focused on placement of yard signs in 4.2(2) and what constitutes "corporate property." Williams reported that this was patterned after the federal law.

**Motion - General
Referral**

Metcalf made a motion for a general referral of ARC 4542A to the general assembly. Motion carried.

Williams felt the Board would welcome input from the general assembly.

Ch 12

Donner reviewed proposed new Chapter 12, "Code of Conduct." Daggett was advised there were no comments made at the public hearing. A few written comments were received relative to questions or suggestions.

Ch 13

In discussing new Chapter 13 governing Lobbyists, Kibbie requested background on rules 13.5 and 13.6 relating to penalties for lobbyists and clients. Donner advised that a subcommittee of the Board discussed this at length before submitting it to the Board. Williams said there was no history on which to base penalties for late reporting by lobbyists or clients.

Williams clarified for Schrader why the executive branch was included in 13.5. Requirements for registering as a lobbyist was discussed.

Kibbie commented that communication from the general public and local officials to their legislators had decreased since the ethics issue surfaced.

Responding to Metcalf, Williams stated that language in 13.1, numbered paragraph 4, was not directly out of their statute but was borrowed from several other states. Donner clarified that this was a contingency clause.

The Committee was informed that there would be more fine tuning on these rules before adoption.

PUBLIC SAFETY

Michael Coveyou, Rules Coordinator, and Roy Marshall, State Fire Marshal, represented the Public Safety Department for the following:

PUBLIC SAFETY DEPARTMENT[661]

State fire marshal — elder group homes, 5.625, Notice ARC 4518A 1/5/94

5.625

The Department provided clarification on 5.625(2) regarding exits and 5.625(5) relating to door thickness.

REVENUE AND FINANCE

Carl Castelda, Deputy Director of Revenue and Finance, was present to review the following agenda:

REVENUE AND FINANCE DEPARTMENT[701]

Forms and communications, ch 8, Filed ARC 4554A 1/5/94
 Exemptions for the sale or use of prescription and nonprescription drugs and devices, 20.7, 20.8,
 20.9(3) "a," "c," and "e," 20.9(4)"f" to "h," 20.10, Filed ARC 4560A 1/19/94
 Determination of net income — material participation, 40.38(1)"c," Filed ARC 4555A 1/5/94
 Collection of debts owed the state of Iowa or a state agency, ch 151, Filed ARC 4553A 1/5/94
OBJECTION, 20.10, Sales and rentals covered by Medicaid and Medicare

Chs 8;20;40;151

There was no Committee action on the four Filed rules.

Objection, 20.10

Royce provided background on the objection filed by the ARRC on 12/2/92 to 701—20.10. He felt that the objection had been overcome by statutory changes and Castelda agreed.

Motion—Objection
 lifted

Metcalf made a motion to lift the objection. Motion carried.

DOT

Dennis Ehlert, Will Zitterich and Harry Miller represented the Transportation Department for the following agenda:

TRANSPORTATION DEPARTMENT[761]

Holiday rest stops, 105.4(4)"a," 105.5(4)"a," Notice ARC 4544A 1/5/94
 Vehicle registration and certificate of title; special mobile equipment; handicapped identification devices;
 motor vehicle dealers, manufacturers and distributors; transporter plates; motor vehicle equipment, 400.1(14),
 400.3(10)"a," 400.3(15), 400.17(4), 400.17(5), 400.25, 400.27, 400.35, 400.41(2)"b"(4), 400.41(2)"j,"
 400.50, 400.50(1)"a," 400.52(3), 400.55(1), 400.55(5), 410.1(1), 411.5, 420.1, 420.5, 420.12, 420.14, 450.4,
 450.5(2)"a"(4), Filed ARC 4552A 1/5/94
 Airport improvement program, ch 710, Notice ARC 4522A 1/5/94
 Iowa airport registration, 720.1 to 720.4, 720.4(6), 720.5, 720.6, 720.10, 720.10(1)"a," 720.10(2)"a," "c," and "e,"
 720.10(3), 720.10(4), 720.15(2), 720.15(3), Filed ARC 4545A 1/5/94

Chs 105;400,410,411, There were no questions by the ARRC on the DOT agenda.
 420,450;710;720

Newspaper adver-
 tising in Iowa City

Regarding Doderer's concern on apartment advertising brought to the Committee's attention yesterday, she informed the members that she had visited with an attorney with the Department of HUD who informed her that this had been corrected in 1989. In investigating this matter, Royce advised that there was a memorandum distributed by the Civil Rights Commission stating that in advertising for apartments, etc. under the Fair Housing Act, you could not specify what type [sex] roommate you wanted. Royce indicated that the Director of the Civil Rights Commission was not aware of this directive and requested a copy. Royce explained that the Civil Rights Act dealing with fair housing, amended several years ago, states that it is unlawful to discriminate on the basis of race, creed, color, etc. which prohibits discrimination of any kind. [Iowa Code section 216.8(3)] He felt this was not the intention.

Doderer pointed out that discrimination means different things to different people and it was her suggestion that the Department issue a clarifying rule on this type of advertising. Royce indicated the Commission would comply.

Daggett commented that Priebe and Royce were recognized in the recent Council of State Government publication.

Objection lifted By unanimous consent, the objection of 11/10/93 that was placed on Board of
645—Chs 31,32,36-39 Behavioral Science Examiners, 645—Chapters 31, 32, 36 through 39, was lifted.
It was noted that the Board was following up on the Notice and that the Filed
rules were identical.

No Reps

No agency representative was requested to appear for the following:

ACCOUNTANCY EXAMINING BOARD[193A]

Professional Licensing And Regulation Division[193]

COMMERCE DEPARTMENT[181]"umbrella"

Definitions, certificate of certified public accountant, license of accounting practitioner,

registration of offices, registration of firms, permits to practice, rules of professional conduct, fees, 1.1, 3.1,

3.2(4), 3.3(1), 3.4(1), 3.7(2), 3.7(3), 3.7(8), 3.8, 3.9(2) to 3.9(4), 4.4(2), 4.5, 4.10(1) to 4.10(3), 4.11(1) to

4.11(3), 4.16, 4.17(1), 7.1, 8.2, 8.4, 8.5(1) to 8.5(6), 8.6, 8.7, 9.2, 9.5(1), 9.5(2), 11.3(2) to 11.3(6),

11.6(5), 11.6(6), 14.1, Iowa Code references updated in chs 2, 5, 10, 12, 15 and 17, Filed ARC 4548A 1/5/94

BANKING DIVISION[187]

COMMERCE DEPARTMENT[181]"umbrella"

Leasing, 9.3, Notice ARC 4538A 1/5/94

CITY DEVELOPMENT BOARD[263]

ECONOMIC DEVELOPMENT, IOWA DEPARTMENT OF[261]"umbrella"

Islands — identification and annexation, ch 5, Filed ARC 4557A 1/19/94

ECONOMIC DEVELOPMENT, IOWA DEPARTMENT OF[261]

Licensing program, ch 60, Filed ARC 4550A 1/5/94

EDUCATION DEPARTMENT[281]

Community colleges, 21.2(3), 21.10, 21.12, rescind 21.11, Notice ARC 4556A 1/19/94

EMPLOYMENT APPEAL BOARD[486]

INSPECTIONS AND APPEALS DEPARTMENT[481]"umbrella"

Fax filings, 3.1(3), 3.1(16), 4.30(5), Filed ARC 4521A 1/5/94

GENERAL SERVICES DEPARTMENT[401]

State vehicle dispatcher vehicle assignments, 1.8(4), 1.8(6), Filed ARC 4543A 1/5/94

INSURANCE DIVISION[191]

COMMERCE DEPARTMENT[181]"umbrella"

Credit life and credit accident and health insurance, 28.7(1)"a" to "c," 28.8(1)"a,"

Notice of Hearing ARC 4562A 1/19/94

NASAA statements of policy, 50.55, 50.56, 50.57(4) to 50.57(8), 50.58 to 50.67, 50.80,

Filed ARC 4561A 1/19/94

PERSONNEL DEPARTMENT[581]

Documentation for premium rates submitted by HMOs, 15.1(3)"b"(4)"6," Notice ARC 4536A, also

Filed Emergency ARC 4537A 1/5/94

PETROLEUM UNDERGROUND STORAGE TANK FUND BOARD IOWA COMPREHENSIVE[591]

Contested cases, 17.8, 17.9(2)"a," 17.27, Filed ARC 4547A 1/5/94

PROFESSIONAL LICENSURE DIVISION[645]

PUBLIC HEALTH DEPARTMENT[641]"umbrella"Optometry — licensing examinations, 180.5(3), 180.5(3)"a" and "b,"

Filed ARC 4551A 1/5/94

NO REPS (CONT.) PUBLIC EMPLOYMENT RELATIONS BOARD[621]

General provisions, prohibited practice complaints, internal conduct of employee organizations,
 administrative remedies, 1.2, 1.3, 1.6(1), 1.6(2), 1.6(4), 1.6(6), 3.1 to 3.4, 3.5(3), 3.7, 3.8, 3.10,
 8.2(2)"a," "b," and "f," 8.5, 9.1, 9.2, Filed ARC 4546A 1/5/94

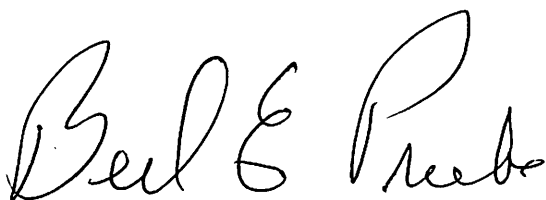
SECRETARY OF STATE[721]

Reinstatement of corporations, 40.2, Notice ARC 4519A, also Filed Emergency ARC 4520A 1/5/94

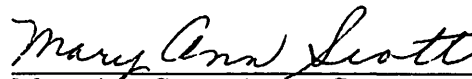
Adjournment

Co-chair Priebe announced the next meeting would be Monday, March 7, 1994, at
 7 a.m. Meeting was adjourned at 8 a.m.

Respectfully submitted,



 Berl E. Priebe, Co-chair



 Mary Ann Scott, Acting Secretary
 Assisted by Kim McKnight