

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, April 10, 1995, 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, and Sheldon Rittmer; Representatives Horace Daggett, Roger Halvorson, Minnette Doderer and Keith Weigel. Absent: Senator William Palmer.

Also present:        Joseph A. Royce, Legal Counsel; Phyllis Barry, Administrative Code Editor; Kimberly McKnight, Administrative Assistant; Caucus staff and other interested persons.

Convened:            Co-chair Priebe convened the meeting at 7:30 a.m.

**HUMAN  
SERVICES**

Attending from the Department were Mary Ann Walker, Harold Templeman, Jim Chesnik, Ellen Hansen, Ruth Schanke, Roberta Harris, Sally Nadolsky, Glenna Clark, Lucinda Wonderlich, Mike Murphy, Mary Cogley, Jeff Terrell, Janice Von Arb, P.C. Keen, David Perret, Barb Russell, Sue Stairs, Eric Sage, Anita Smith and Jo Sheeley. The following agenda items were reviewed:

**HUMAN SERVICES DEPARTMENT[441]**

Mental health, mental retardation and developmental disabilities special services fund, ch 39 title and preamble, ..... 39.21, 39.22, 39.23(1), 39.23(3), 39.23(4), 39.23(4)"p," 39.23(5), 39.25.  
39.27 to 39.29, 39.29(1), Notice ARC 5441A ..... 3/1/95

Medicaid eligibility, 75.15(2)"b," 75.24(3)"b," 75.24(3)"b"(1) to (3), Notice ARC 5433A ..... 3/1/95

Nursing facilities, 81.16(6), 81.17, 81.18(4), 81.19, 81.31 to 81.57, Notice ARC 5469A ..... 3/1/95

Payments for foster care and foster parent training, 156.8(7), Notice ARC 5438A ..... 3/1/95

Juvenile detention reimbursement, 167.5, 167.6, rescind ch 167, division II, Notice ARC 5439A ..... 3/1/95

Disability services management, ch 25, Filed ARC 5471A ..... 3/15/95

X-PERT system; HIPPA program; SSI cost-of-living, community spouse resources and maintenance needs,  
40.1, 40.2, 40.2(4), 40.3, 40.4(1), 40.4(2), 40.4(4), 40.6, 40.7(1), 40.7(4)"e," 40.7(5)"a," 40.10,  
40.21, 40.22, 40.22(4), 40.23, 40.24(1), 40.24(2), 40.24(4), 40.26, 40.27(1), 40.27(4)"e," 40.27(5)"a,"  
40.29, 41.2(7), 41.8(1)"b"(4), 41.22(7), 41.27(7)"af" and "ag," 41.28(1)"b"(4), 42.1, 42.4(3), 42.4(4),  
42.7, 42.21, 42.24(1)"a," "d" and "e," 50.1, 50.2(3), 50.4(3), 50.4(4), 51.4(1), 51.7, 52.1(1), 52.1(2),  
52.1(3)"a"(2), 65.1, 65.2, 65.19(8), 65.20(1), 65.45, 65.101, 65.102, 65.119(8), 65.120(1), 65.144,  
75.1(20)"b," 75.5(3)"d," 75.14(4), 75.16(2)"d"(3), 75.21(7), 75.21(8)"d," 75.21(11), 75.21(13)"c,"  
75.21(14), 75.21(15), 75.25, 76.1, 76.1(3), 76.1(5), 76.2(1), 76.5(2)"c," 76.7, 76.13, 83.2(1)"e"(1), 83.3(1),  
83.11, 83.23(1), 83.31, 83.43(1), 83.50, 83.62(1), 83.71, 86.1, 86.2, 86.2(4), 86.2(5), 86.3(2), 86.3(3),  
86.3(5), 86.6(4), 86.7, 86.17, 86.19, Filed ARC 5470A ..... 3/15/95

Child-placing agencies, foster care and foster parent training, family-centered services,  
rehabilitative services, 108.6(3), 108.7(13), 156.7(2)"c," 156.7(2)"f"(5), 156.7(2)"i"(2), (7), (9) and (10),  
182.5(5)"a"(2), 182.5(5)"f"(2), (7), (9) and (10), 185.1, 185.3(2)"c," 185.5(1)"a" and "c," 185.5(6)"e,"  
185.5(7)"b"(3), 185.6, 185.6(3), 185.6(6), 185.6(7), 185.10(3) to 185.10(5), 185.10(6)"b," "h," "j" and "k,"  
185.10(7), 185.11(2)"a"(1) and (3), 185.11(2)"c," 185.13(1), 185.13(1)"c" to "g,"  
Filed ARC 5472A ..... 3/15/95

Highly structured juvenile programs, 114.2, 185.10(8)"c"(5), 185.83, 185.83(4),  
Filed Emergency After Notice ARC 5473A ..... 3/15/95

IV-A emergency assistance program, 130.2(1), ch 133, Filed ARC 5474A ..... 3/15/95

Contracting — copyright and patents, 152.5, Filed ARC 5475A ..... 3/15/95

Individual development accounts, ch 10, Notice ARC 5506A ..... 3/29/95

## DHS (Cont.)

Standards for services to persons with mental illness, chronic mental illness, mental retardation, developmental disabilities, or brain injury; standards for providers of services to persons with mental illness, mental retardation, and developmental disabilities, 22.1, 24.1, 24.14(5), 24.14(5)"a," 24.21(4)"b," 24.21(5)"a," 24.21(5)"a"(2), 24.21(7)"d"(1) and (3), 24.21(8), 24.21(9), 24.21(9)"a," "c," and "e," 24.65(1), 24.65(2)"d," 24.65(3), 24.65(3)"c" and "d," 24.65(7)"d," 24.65(10)"d"(2), 24.85(1), 24.85(2)"d," 24.85(3), 24.85(3)"c" and "d," ..... 24.85(7)"d," 24.85(10)"d"(2), 24.105(6), Filed ARC 5508A ..... 3/29/95

Medicaid elderly waiver, 77.33(6)"f," 77.33(12) to 77.33(14), 78.37(4)"e," 78.37(5), 78.37(8), 78.37(12) to 78.37(14), 79.1(2), 83.22(1)"b," 83.22(2)"a," 83.26, Notice ARC 5511A ..... 3/29/95

Vaccines for children program, 78.1(2)"e," 78.1(3), 78.1(3)"f," 78.3(5), 78.9(11), 78.18(1), 78.21, 78.22, 78.23, 78.25, 78.29(9), 78.30, 78.31(2)"h," 78.39, 78.40, 79.1(8)"d," 84.3(3), Notice ARC 5512A ..... 3/29/95

EPSDT, 78.1(23) 78.18(6), 78.21, 78.39, Notice ARC 5510A ..... 3/29/95

Medicaid reimbursement to home health agencies, 79.1(2), Notice ARC 5509A ..... 3/29/95

Rehabilitative treatment services — Medicaid children's services initiative, 185.5(4), 185.5(6)"c," 185.5(7)"b," 185.5(8), 185.10(1)"b"(6), 185.10(8)"b" and "c," 185.11(2)"a"(9), 185.11(2)"e" and "h," 185.12(2)"h" and "i," 185.22(1)"d," 185.22(2)"d," 185.22(3)"d," 185.42(3), 185.62(1)"d," 185.62(2)"d," 185.62(3)"d," 185.82, Notice ARC 5507A ..... 3/29/95

Ch 39 et al.

Templeman advised Daggett that amendments to Chapter 39 would not be affected by current legislation. No Committee action.

75.15(2)"b" et al.

In review of amendments to 75.15 and 75.24, Walker stated there would be a decrease in the average cost to a private pay resident in a nursing facility and in the average charge to a private pay resident in hospital-based and nonhospital skilled nursing facilities. According to Keen, the Department was grandfathering in a five-year time frame for considering transferred assets.

81.16(6) et al.;  
156.8(7); 167.5 et al.

No questions on 81.16(6) et al.; 156.8(7); or 167.5 et al.

Ch 25

Walker noted Emergency rules on Chapter 25 were in effect but the rules before the Committee today would be effective May 1. No Committee action.

40.1 et al.

In review of 40.1 et al., Walker stated that one comment was received in opposition to 40.29 relative to conversion to the X-PERT system. Walker explained the reason for requesting the face-to-face interview was to ensure the integrity of the data entered into the system. The Department had provided for an alternative schedule for interviews.

Daggett asked about federal changes and wondered how the Department would address these changes. Walker replied that Department personnel were following these changes closely.

108.6(3) et al.

No questions on 108.6(3) et al.

114.2 et al.

Daggett asked about funding for the juvenile program and Walker stated the Department would include it in the group foster care budget and hopefully these programs would eliminate the need for longer term foster care. She added that the legislature mandated two pilot programs.

Sage informed Kibbie that the most distinguishable difference between these programs and those in Clarinda or Forest Ridge would be short-term. Current programs were highly structured and the degree of structure would be higher than most existing community programs. Physical activity and education would be emphasized. Kibbie wondered where the participants would go after the 90-day

DHS (Cont.)

program and Sage replied the participants would return home and enter into a tracking and monitoring program. A set-aside of funds in each district would support the after-care of youth leaving this program.

In answer to Rittmer, Sage stated one program was in Davenport and the other one in Woodward State Hospital School.

Doderer asked for clarification of 185.83(4), 24-hour awake supervision. Sage explained that someone on staff would be awake at all times. He added that in some programs, this was not required. No Committee action.

130.2(1), Ch 133;  
152.5; Ch 10

No questions on 130.2(1) and Ch 133, 152.5 or Ch 10.

22.1 et al.

In review of revisions in 22.1 et al. Priebe asked if "approximately 70" in 22.1"1" could mean an IQ of 75 or 65. Templeman described the three parts to the definition of mental retardation: IQ score, function level (handling of day-do-day routine activities) and age of onset prior to age 18. If an IQ score fell between 65 and 75, the function level would have to be considered. Templeman also stated there was no clear federal definition—the language was identical to the compromise bill.

Daggett wondered if concerns of counties were being addressed and Templeman recalled there had been considerable discussion about the rules.

Hedge wondered about the impact of the words ". . . , onset is before the age of 18. . . ." Templeman stated a person with a head injury at the age of 17 could be considered if other criteria were met. A person who had a head injury after the age of 18 would not be considered mentally retarded but would be considered brain injured. A brain injured person would have fewer services available.

Templeman told Daggett the Department did not have an accurate count on the number of mentally retarded persons served in the state but estimated 12,000—10 to 20 percent of those persons had an IQ of 71 or higher.

Priebe stated the Kossuth County Auditor suspected the word "approximately" would increase the county's cost by \$155,000. Priebe opined there would be a shift of at least \$10 million statewide to counties. Templeman pointed out that the word "approximately" had been used in the rules since 1988.

Templeman outlined the process for eligibility for services which starts early in a child's life when a physician would notice slow development. Because psychological testing was difficult at a very early age the first testing would probably be performed by the school system at the 5 to 8 year-old range. Criteria would be developed by the special education director, psychiatrist and others within the school system or someone designated by the board of supervisors.

Metcalf in Chair.

Motion to Delay

Priebe moved to delay for 70 days Items 1 and 2 of ARC 5508A (definitions of "Division" and "Persons with mental retardation") and the motion carried.

Priebe in Chair.

DHS (Cont.)  
77.33(6)"f" et al. Kibbie asked when remaining counties would be added to Medicaid Elderly Waiver Program and Walker replied it depended on the availability of funding. Cogley noted the case management program implemented by the Department of Elder Affairs was funded by 100 percent state dollars.

Metcalf in chair.

Modified Delay Priebe requested and received unanimous consent to include Item 3 in his 70-day delay in ARC 5508A.

78.1(2)"e" et al. There was discussion of the proposed vaccines for children eligible for Medicaid. In response to Metcalf, Nadolsky was unclear about the federal decision-making process on the program but suspected delays in implementation could be attributed to failure of a functional federal warehouse system for distribution of the vaccines.

Hedge asked about criteria and Nadolsky indicated that Medicaid recipients, Native Americans, uninsured and other targeted groups were eligible. Native Americans and Alaska Natives were eligible regardless of their financial status.

In response to Daggett, Department officials were not aware of senior volunteers in this program.

78.1(23) et al.;  
79.1(2) No questions on 78.1(23) et al. or 79.1(2).

185.5(4) et al. In review of amendments relative to rehabilitative treatment services, Walker said a public hearing had not been scheduled. These rules were developed with strong provider input and Terrell added that focus was on reducing administrative problems and streamlining the paperwork relative to services.

81.35(5)"a"(3) Rittmer referred to 81.35(5)"a"(3) in ARC 5469A and wondered how the amount for sanctions would be determined. Walker replied the Department of Inspections and Appeals would make this determination. Rittmer asked if this were spelled out and Walker was unsure but suspected it was in the survey requirements.

Priebe in Chair.

Ch 25 With respect to disability services in Chapter 25, Halvorson asked when a county could expect payment and Walker agreed to provide information. Halvorson noted that reporting would not be completed until 7 months into the next fiscal year.

**ATTORNEY  
GENERAL** Marti Anderson and William Brauch represented the Justice Department for the following which were under a 70-day delay:

ATTORNEY GENERAL[61]  
Victim services grant program, 9.50 to 9.65, Filed ARC 5467A, See text IAB 11/23/94 ..... 3/1/95  
Sales of former salvage and damaged motor vehicles, ch 27, Filed ARC 5462A ..... 3/1/95

Motion to Lift  
Delay 9.50 to 9.65;  
Ch 27 Doderer moved to lift the 70-day delay on rules 61—9.50 to 9.65 and Chapter 27. Motion carried.

AG (Cont.) Weigel noted there was a bill pending which addressed recycling and wondered if Chapter 27 was relevant. Brauch replied it was only tangential. He added the Department was acting under the Consumer Fraud Act to adopt as a rule the long standing position of the Attorney General.

Minutes Doderer moved to approve the minutes of the March meeting as submitted and the motion carried.

Recess The Committee was in recess for 10 minutes.

**CORRECTIONS** Fred Scaletta, Corrections Department, Marjorie Schackelford, Carlos Jayne, Paul Stanfield, Friends of Prisoners in Mitchellville, and Ellen Failor, Iowa Commission on the Status of Women, were present for the following:

**CORRECTIONS DEPARTMENT[201]**

Correctional institution for women — visiting and tours, 23.2, 23.3.

Filed Emergency ARC 5502A ..... 3/15/95

Iowa correctional institution for women — visiting, tours, 23.2, 23.3, Notice ARC 5513A ..... 3/29/95

23.2 and 23.3 Scaletta gave a brief overview of the revisions to Chapter 23. He had met with Friends of Prisoners in Mitchellville to discuss options for visitation privileges. The Department opposed using areas other than those designated because of insufficient room and it would require additional staffing. The warden and resident counsel had agreed these rules were a fair and reasonable way to address the issue. Scaletta stated he had met with all members of the resident counsel and the counsel agreed with these rules. He agreed to research the issue of who would have shorter visitation privileges such as local visitors. Scaletta indicated this process would be reviewed in July when any problems would be addressed.

Jayne spoke of the significance of visitation for prisoners and he opposed the rules.

Stanfield agreed with Jayne and reasoned that staff should be added, if necessary.

Doderer expressed concern for those who travel long distances and could be refused visitation. It was her understanding that other rooms were available at the Mitchellville facility.

Motion to Delay Doderer moved to delay the rules for 70 days. Kibbie wondered if staff employed during the week could be shifted to the weekend. Scaletta spoke of the cycle to visitation and added no other spaces were available for visitation other than the administration building where it was currently held. Any other arrangement would present security problems.

Priebe and Halvorson wondered about possible use of a section of the gym for the minimum security prisoners. Scaletta replied that evenings were for recreation and leisure time and the prisoners preferred to be able to use the gym for this purpose. The gym was used frequently and there were two paid activity specialists. Halvorson asked if visiting hours could be extended from 7:30 p.m. to 9 p.m. Scaletta indicated this was discussed with the resident counsel who agreed to try this until July when the rules would be evaluated.

In response to Halvorson, Scaletta explained the rules were Noticed to obtain public input and the Department had decided not to implement the Emergency rules until April 19 even though they were effective April 3.

# CORRECTIONS (Cont.)

Weigel asked about hours at other correctional facilities and Scaletta replied that, except for the penitentiary, most were open 40 hours. Weigel wondered if the three-hour visit was standard and Scaletta responded it varied by institution—size of the visitation room, staff, type of security institution and number of inmates were factors.

Approximately two to three visitors were being turned away each weekend. When the visiting room was full and there was a waiting list, some must leave the grounds which creates frustration.

Daggett asked if an appropriation had been considered for extra staff and Scaletta indicated this had been the subject of discussions with the warden. The warden believed the cheapest way to solve the problem would be to purchase a portable building but Scaletta was unsure of the status of this approach.

It was Dierenfeld's understanding that the rules would not automatically shorten visitation but would allow the institution, on those occasions when there were many visitors, to shorten the period of time to ensure everyone an opportunity. Scaletta concurred.

Royce advised Doderer that a 70-day delay was not in order because the rules had been filed Emergency and the effective date of April 3 had passed.

Metcalf suggested allowing the rules to be implemented by May 1 and Scaletta found that to be reasonable.

Halvorson reasoned the visitation opportunity was more important than length of the visit.

## Motion to Refer

Kibbie moved to refer ARC 5502A to the Speaker and President of the Senate for study by the appropriate Committee. Discussion followed.

Scaletta pointed out that Oakdale was having the same problem and planned to promulgate rules similar to these. Priebe stressed that only rules before the Committee could be referred but a note could be added regarding Oakdale.

## Motion Withdrawn

Doderer withdrew her original motion to delay amendments to Chapter 23 and made a substitute motion to object to the Emergency filing. Priebe supported Doderer's substitute motion but was concerned about litigation.

Metcalf spoke against the motion but suggested special review in July. An objection could be made at that time.

Priebe asked for Scaletta's word that these rules would not be implemented until May 19 which would be after adjournment of the legislature and after the next ARRC meeting and Scaletta gave his word.

## Motion Withdrawn

Doderer withdrew her motion to object.

Scaletta questioned the Committee as to intent of the referral and Priebe stated the issue would be reviewed in attempt to find a resolution—possibly add a building or increase staff.

## CORRECTIONS (Cont.)

Hedge commented that by failing to implement the rules a solution might be missed. He felt there were people who could visit at times other than a weekend and if they knew they would not be allowed a long visitation, they would schedule visits for weekdays.

Daggett suggested the Department be prepared to make recommendations.

## Motion to Refer

The motion to refer the rules to the Speaker of the House and the President of the Senate was carried.

Doderer suggested the Committee visit Mitchellville at the next meeting. Hedge noted that Committee action had not improved the situation. Kibbie asked if the Department could administratively request visitors living near the facility to visit during the week. Scaletta pointed out that rule 201—20.3 authorized the warden, in emergency situations, to modify, terminate or suspend visitation.

## INSURANCE

Susan Voss and other interested persons were present for the following:

INSURANCE DIVISION[191]

COMMERCE DEPARTMENT[181]"umbrella"

Health care access, ch 74, Filed ARC 5476A ..... 3/15/95

## Ch 74

Voss gave a brief history of the rules.

It was Doderer's observation the "law does nothing and the rules comply." Rittmer was concerned with the payroll deduction portion which he interpreted to apply only when the employer was furnishing insurance. According to Voss, this was discussed with interest groups and reviewed by the Division. It was determined that payroll deduction could be allowed even though there was no contribution by the employer. Voss was doubtful this would be used since many carriers do not provide for payroll deduction. The rule stated if the carrier did not provide for payroll deduction on an individual basis, an automatic withdrawal from the employee's savings or checking account would suffice.

Halvorson took the position the key to the issue was access for employees. Kibbie reasoned that many employees would not have insurance otherwise. If this were the case, he saw no need for opposition.

Rittmer reiterated the burden for a small employer in allowing a payroll deduction. Kibbie contended employers would negotiate with employees and there would not be a problem.

## Motion to Object Failed

Rittmer moved to object to rule 74.5(505) regarding payroll deduction and the motion failed.

## ECONOMIC DEVELOPMENT

JoAnn Callison, Mike Miller and Melanie Johnson were present for the following:

ECONOMIC DEVELOPMENT, IOWA DEPARTMENT OF[261]

Youth affairs — bonus for successful completion of Iowa conservation corps young adult program,

14.7(8)"b," Filed ARC 5484A ..... 3/15/95

Entrepreneurs with disabilities program, ch 30, Notice ARC 5486A, also

Filed Emergency ARC 5485A ..... 3/15/95

## 14.7(8)"b"; Ch 30

No questions on 14.7(8)"b" or Ch 30.

NRC

Rick McGeough and Al Farris were present from the Commission for the following:

NATURAL RESOURCE COMMISSION[571]

NATURAL RESOURCES DEPARTMENT[561]"umbrella"

Waterfowl and coot hunting seasons, 91.1 to 91.3, 91.4(2)"d," "g," "h," and "p,"

Notice ARC 5450A ..... 3/1/95

Deer population management areas — Lake Darling Recreation Area, 105.4(1),

Notice ARC 5515A ..... 3/29/95

Landowner Deer Hunting, 106.5(3), Special Review ..... IAC

91.1 et al.

In review of chapter 9, Daggett reported on complaints from duck hunters in his district about the reduction of days due to combining seasons.

Farris indicated that complaints were limited to Daggett's district. He added that at a recent meeting, explanation was given to the hunters. One condition of a hunting zone in the state was not to increase the duck hunting opportunity or lengthen the season. Part of the agreement with the Fish and Wildlife Service was that the September season could not start before September 17 and the second season could not start before October 15. Another constraint was that the season be opened on a Saturday for maximum opportunity. There was a 40-day limitation, even for one season. Recommendation for the southern zone was September 23 through September 27 and October 21 through November 26. Farris added there were two additional days in the September season in northern Iowa—September 23 through September 27. The late seasons in the northern zone would be October 21 through November 24 which was two days shorter than the southern zone. Farris noted in the northern zone the Commission recommended five days early and in the southern zone only three days early.

Priebe wondered if the season was open for ducks a week earlier than for geese in the northern zone. Farris responded the goose hunting season recommendation in the northern zone was October 7 through December 15 and the duck season would be open September 23 through 27 with no hunting of any kind from the 28th through October 6. The goose season would open October 7 and run through December 15, two weeks before the duck season opened in the northern zone.

Priebe stated he had received many complaints from goose hunters in his area because the duck season was open before the goose season and the geese moved to the preserves where they could not be taken. Farris noted the policy had not changed from last year.

105.4(1)

Farris described amendment to 105.4(1) as providing flexibility if another deer hunt were necessary at the Lake Darling Recreation area. Complaints from landowners do not occur until August or September and the Commission was trying to develop a rule to respond to this situation without further modification. In answer to Priebe, Farris explained hunting on the federal reserves would be regulated by the Fish and Wildlife Service. No Committee action.

Special Review  
Landowner  
Deer Licenses

Chairman Priebe announced special review of deer hunting permits for landowners. Farris explained that two years ago the Commission developed a system of having county recorders issue landowner/tenant deer licenses. Because the law was not clear on who qualified for a free landowner/tenant deer license, problems ensued. The Commission wanted to be consistent statewide and Farris sought guidance on legislative intent. Farris quoted from conflicting statutes—483A.24. Subsection 4 stated the person did not need to reside on the



Special Review  
(Cont.)

farm unit but in subsection 7, as part of the definition of "tenant," it stated "... who resides on the farm unit . . . ." He pointed out the expression "actively engaged in farming the farm unit" was not defined in the Code. Farris offered examples of frequent questions. Priebe was doubtful that rules could resolve the problems and he favored a law change.

Committee members offered numerous scenarios, e.g. people who lived on the land and owners who lived in the city but were enrolled in the conservation reserve program; cash rent lease and conservation reserve agreement.

Daggett asked what advice the Commission gave to county recorders who were unclear on what to do. Farris replied that it depended on which part of the law they were addressing. Certain parts of the law were very specific. If a husband and wife both had their names on the deed to the land, one of them gets the landowner license, but if they separately own land which was farmed together, each could have a license. Some people see this as an inconsistency but Farris felt the law was clear that only one license be issued. Farris reiterated that county recorders often seek guidance from the Commission on interpretation of the law. Farris was uncomfortable in making judgment calls in these situations.

Priebe opined that someone living out of state but paying taxes on land in Iowa should qualify for an out-of-state license before someone who simply lives out of state. Royce noted that the issue of single licenses was debatable. Iowa law stated that unless otherwise specifically provided singular included the plural and plural included the singular. Royce added this was not absolute because it stated unless otherwise intended.

## Motion to Refer

Kibbie made a motion to refer the issue of deer hunting by landowners to the President of the Senate and the Speaker of the House and the motion carried.

## EPC

Christine Spackman, Anne Preziosi and Catharine Fitzsimmons represented the Commission for the following:

ENVIRONMENTAL PROTECTION COMMISSION[567]  
NATURAL RESOURCES DEPARTMENT[561]"umbrella"  
Air quality — update of federal regulations, corrections to insignificant activities, Title V operating permit program, acid rain program, compliance sampling manual.  
20.2, 22.4(1), 22.100, 22.101(1), 22.102, 22.103, . . . . . 22.105(1)"a"(5), 22.105(3), 22.107(1)"c,"  
22.107(5), 22.108(19), 22.110(1)"c" and "d," 22.120, 22.123(3)"a," 22.124(3)"a,"  
22.124(4)"c," 22.125(7)"g," 22.130(2), 22.132(6)"b," 22.132(7)"a"(1), 22.134, 22.139(1),  
22.141(1), 22.141(3)"c," 22.142(1)"a," 22.146(2), 22.147(3), 23.1(2), 23.1(3), 25.1(9), 25.2  
Notice **ARC 5487A** . . . . . 3/15/95  
Submission of Part 2 of Title V operating permit application, 22.105(1)"a"(1), 22.203(1)"a"(1),  
Filed Emergency **ARC 5489A** . . . . . 3/15/95  
Emission standards for contaminants — open burning exemption, 23.2(3)"d," "g," "h," and "i,"  
23.2(4), Notice **ARC 4963A** Terminated **ARC 5488A** . . . . . 3/15/95  
Emission standards for contaminants — open burning exemption, 23.2(3)"d," "g," "h," and "i," 23.2(4),  
Filed Without Notice **ARC 5490A** . . . . . 3/15/95

## 20.2 et al.

In review of air quality amendments, Spackman explained that the rules were restructured at the recommendation of the EPA but exemptions had not changed.

Priebe spoke of an asbestos removal problem confronted by a school district in trying to dispose of an abandoned building. Preziosi advised there was an exemption to a portion of the regulations for a building that had been condemned. No Committee action.

EPC (Cont.)  
22.105(1)"a"(1);  
22.203(1)"a"(1);  
23.2(3)"d" et al.

No questions on 22.105(1)"a"(1), 22.203(1)"a"(1) or 23.2(3)"d" et al.

## FAIR BOARD

Marion Lucas and Joanne Giles were present for the following agenda items:

### FAIR BOARD[371]

Mailing address; board members; insurance requirements for exhibitors; elimination of classification; buildings, machinery and services available for interim events, 1.2(1), 1.2(2), 1.2(4)"c," 4.9, 4.27(1), 5.2, 6.21, 6.31, 7.2(1), 7.2(1)"e," 7.2(2)"a" to "d," 7.2(3)"b," 7.4(1), 7.4(3)"a" and "c," 7.4(5)"a," 7.5(1), 7.5(3)"a," 7.5(5)"a," 7.6(1), 7.7(5)"b," 7.8(1), 7.8(5)"a," 7.15, 7.16(7), 7.16(10), 7.17(1), 7.18(1), 7.18(2), 7.19(1), 7.20(1), 7.20(5), 7.21(1), Notice ARC 5405A ..... 2/15/95

1.2(1) et al.

Priebe referred to 1.2(4)"c" and stated his opposition to quorum requirements. Barry pointed out this was corrected in the Adopted and Filed version published in the Iowa Administrative Bulletin April 12, 1995.

## ARTS

Mark Peitzman, Cultural Affairs, and Julie Bailey, Arts Programmer for the Iowa Arts Council, were present for the following:

### ARTS DIVISION[222]

#### CULTURAL AFFAIRS DEPARTMENT[221]"umbrella"

Program changes, amend chs 2, 4, 6 to 8, 11 to 14, 21, 23, 25; adopt new chs 5, 10, 18, 24; rescind chs 22 and 30, Notice ARC 5482A ..... 3/15/95

Ch 2 et al.

Peitzman stated the Department utilized input from constituents, board and staff as well as from review panels when drafting the proposed rules. No comments had been received.

In response to Daggett, Bailey explained that each individual program which awarded grants had scores based upon the nature of the program.

Kibbie asked for clarification of 2.3(8) regarding eligibility of organizations in bordering states. Bailey pointed out that many arts organizations in border communities actually serve a majority of Iowans. Previously, the policy required the organization to be in a border community but it was difficult to regulate. By use of "in neighboring states" review committees could determine eligibility of a project. Wisconsin had agreed and Illinois was considering reciprocity. Nebraska had expressed interest.

Kibbie questioned whether the Division had statutory authority and Peitzman and Bailey responded they had allowed funding to communities that actually bordered the state for several years.

Kibbie suggested clarifying legislation.

Motion to Refer

Metcalf moved to refer Item 1 subrules 2.3(8) and 2.3(9) to the Speaker and President of the Senate for review. Motion carried.

## RACING AND GAMING

Jack Ketterer, Administrator, and Karyl Jones, Executive Assistant, represented the Commission for the following:

### RACING AND GAMING COMMISSION[491]

#### INSPECTIONS AND APPEALS DEPARTMENT[481]"umbrella"

Applications for track licenses and racing dates, occupational and vendor licensing, manufacturers and distributors, riverboat operation, rules for keno, 5.16(12), 13.6(8)"j" and "k," 13.11, 22.14(2), 25.18(7), 25.19(5), 26.22, Notice ARC 5503A ..... 3/29/95

RACING (Cont.)  
5.16(12) et al.

Discussion focused on 25.18(7) relative to investigation of electronic chips, slot machines and video games. Ketterer explained the Commission wanted to emergency adopt the subrule. There was no staffing from 2 a.m. to 10 a.m. and a jackpot could not be paid. He noted the machines were under surveillance, all signature chips were taped with evidence tape and there had never been a problem when they were checked following a jackpot. He felt the subrule would benefit the public and the licensees.

Ketterer offered details on the checking of electronic chips to ensure the contents of the slot machine and the chip that operated the game had not been tampered with or compromised. These checks were made on a random basis on every machine throughout the year by the gaming representatives.

Priebe took the position the stricken language in 5.16(12) was clearer than the new language. According to Ketterer new language was meant to be broader in scope to address activities such as using a slug instead of a token or the wrong denomination of token in a machine, not just bookmaking or solicitation of bets. Priebe asked how it would be proven that someone encouraged others to participate in any illegal wagering. Ketterer replied this was the same as any other crime, if not proven, nothing could be done. He noted that everyone was under surveillance in a gaming activity and tapes could be reviewed. Priebe suggested retention of old language with the new language. No formal action.

## REVENUE

Carl Castelda, Deputy Director and Coadministrator of the Compliance Division, represented the Department for the following:

### REVENUE AND FINANCE DEPARTMENT[701]

Tax exemption for medical devices, 20.7(1)"c," 20.8, 20.9(3)"e," Filed ARC 5493A ..... 3/15/95

Electronic filing of Iowa individual income tax returns, 39.13, Filed ARC 5491A,

See text IAB 1/18/95 ..... 3/15/95

Withholding, composite returns, corporate tax, franchise tax, 46.1(1)"c," 48.3"4," 48.4, 52.1(3)"w," 52.1(4), 52.2(4) to 52.2(6), 52.4(2), 52.5(2), 53.1, 53.19, 54.6(5), 58.2(3), 58.2(4), 58.4(2), 59.10, 59.12,

Filed ARC 5492A ..... 3/15/95

Inheritance tax, 86.9, 86.12(1), Notice ARC 5514A ..... 3/29/95

Priebe in Chair.

20.7(1)"c" et al.

No recommendation for Chapter 20.

39.13

Castelda described 39.13 as "a mirror of the Internal Revenue Service rules on electronic filing of income tax returns." No Committee action.

46.1(1)"c" et al.

With respect to 46.1 et al., Castelda assured Daggett that corporations and individuals would receive equal consideration. Under the Kraft case, the refund claim would have to be filed within three years from the date the return was due. In the case of federal retirees, approximately \$32 million was paid out in refunds. A number of individuals failed to file in a timely manner, thus the legislation. The statute prohibited the Department from extending a normal statute of limitations. No Committee action.

REVENUE (Cont.)  
86.9 and 86.12(1)

In consideration of inheritance tax rules, Weigel requested an example of when someone would want the state valuation different from federal. Castelda cited a family-owned corporation with stock where there was difficulty determining the fair market value of the stock or the value of a piece of property which could change between the date of death and the time of the filing of the tax return. Currently, a person could petition for a different value and the Department would adopt the federal value unless the state was petitioned. This avoids going through the process twice.

AGRICULTURE

Ron Rowland and Jake Wakefield were present for the following:

AGRICULTURE AND LAND STEWARDSHIP DEPARTMENT[21]

Dairy — update of federal documents used in inspections of dairy farms and approval of dairy laboratories, 68.13(2)"1," 68.14, 68.36(11)"a." Notice ARC 5406A ..... 2/15/95

68.13(2)"1" et al.

Wakefield gave a brief overview of the rules. Rowland told the Committee that amendments to Chapter 68 would be equally applicable to all dairy operations and would comply with the federal Pasteurized Milk Ordinance.

UST BOARD

Pat Rounds and Bob Galbraith represented the Board for the following:

PETROLEUM UNDERGROUND STORAGE TANK FUND BOARD, IOWA COMPREHENSIVE[591]  
Eligibility for remedial account benefits, 10.1(1)"e," 10.1(2)"i," Notice ARC 5495A ..... 3/15/95  
Financial responsibility — closed tanks, 11.1(3)"b," 11.1(3)"p" and "q," Notice ARC 5501A 3/15/95  
Benefits to eligible claimants subject to financial hardship, 11.1(3)"n," 11.5(9). Filed ARC 5497A3/15/95  
Financial responsibility — temporary closure of tanks, 11.1(3)"o," Filed ARC 5498A ..... 3/15/95  
Benefits to counties, 11.7(1)"d"(2)"1," 11.7(1)"d"(2)"3," Filed ARC 5500A ..... 3/15/95  
Calculation of net worth, 11.7(1)"g." Filed ARC 5499A ..... 3/15/95  
Appeals — contested cases, use of legal assistants or paralegals, 17.33, Filed ARC 5496A .. 3/15/95

10.1(1), 10.1(2)

No questions on 10.1(1)"e" or 10.1(2)"i."

11.1(3)"b" et al.

Kibbie and Rounds discussed previous back dating of premiums which was set up so that a tank owner had to have insurance after October 26, 1994. After the release was reported, the insurance had to have been maintained in order to keep remedial benefits. Insurance was a new concept to storage tank owners but without it they were no longer eligible for remedial benefits. The Board allowed leniency if they paid their premiums and submitted required information by reinstating previous coverage. Rounds cited the various types of errors made by the owners whose sites were already eligible for remedial benefits.

Rounds admitted that problems could be encountered after July 1, 1995, where one was back dated and others were not. However, this was to be a stop-gap measure until insurance became available. The Board was trying to run this like an insurance program until July 1.

Kibbie asked how notification was handled and Rounds replied it was sent by certified mail and they were advised of 60-days' notice. The Board notified them again after final cancellation.

Hedge requested the definition of a "temporarily closed tank." Rounds referenced the DNR's guidelines which defined the tank as one taken out of service. The Board relied on the temporary closure which was strict and stated the tanks must be pumped dry, pumps removed and tanks capped. The rules require this to be done while the tanks were still insured and in the future the coverage would not be required as long as it could be confirmed they were empty and not a threat for future release.

UST (Cont.)  
Chs 11 and 17

Galbraith commented that ARCs 5497A, 5498A, 5500A, 5499A and 5496A had been published under Notice and Emergency and were before this Committee previously. Public hearings were held and there were no public comments. The amendments were identical to those filed previously and would supersede the emergency versions. No Committee action.

## INSPECTIONS AND APPEALS

Mary Oliver, Pearl Johnson, Nancy Ruzicka, and Rebecca Walsh represented the Department. Also present were Jennifer Tyler, Iowa Hospital Association, Diana Nicholls Blomme and Becky Groff, Iowa Association of Adult Day Care and Respite Providers. The following was before the Committee:

### INSPECTIONS AND APPEALS DEPARTMENT[481]

Care facilities, 41.15, 57.12(3), 57.19(3)"a," 57.39(6), 57.51, 57.52, 58.11(3), 58.21(6), 58.43(11), 58.56, 58.57, 59.3(2)"a," 59.13(1)"h," 59.13(3), 59.26(6), 59.48(11), 60.3(5)"f," 61.3(5), 62.9(5), 62.15(2), 62.23(25), 63.11(3), 63.18(3)"a," 63.37(6), 64.4(9), 64.34, 65.1, 65.9(5), 65.17(1), 65.25(5), Notice ARC 5478A ..... 3/15/95  
Hospitals — nursing services, 51.9, Notice ARC 5479A ..... 3/15/95

41.15 et al.

Walsh gave a brief overview of the rules relating to care facilities.

Tyler pointed out that the rules required health care facilities to submit a written résumé of care, however, there were no guidelines for the components. The same problem existed with the requirement for a description of individualized care for each adult day care participant. Tyler suggested that the rules include guidance in developing these documents.

Johnson stated that controversy over these rules prompted the Department to seek legal review which revealed that the Department's authority was limited to the adoption of definitions. It was the intent of the Department to rescind this rule making and proceed with more limited scope.

Groff encouraged the Department to provide clarity relating to definition of the service. She submitted written recommendations for rules 481—58.52 and 58.57.

Johnson was unaware of any pending legislation on this issue. She pointed out that the Department had adopted statutory definition of adult day care which differed from the one adopted by the Department of Elder Affairs.

Tyler brought up amendments to Human Services rules in ARC 5469A, Chapter 81 on nursing facilities, and stated the Hospital Association had commented to the Department concerning the lack of informal dispute resolution process in the rules. Federal law requires states to offer this to facilities. She understood the Department would be addressing this issue in renote of the rules.

Tyler added that the Human Services rules which implemented the federal regulations also listed the factors to be considered by the Department of Inspections and Appeals when they select a sanction. She referred to a letter she had distributed to the Committee wherein she expressed concern about vague terms and lack of examples of deficiencies which would comprise each factor. Tyler viewed the rules as creating a subjective enforcement system and she urged ARRC monitoring of the issue.

51.9

No questions on 51.9.

**PROFESSIONAL  
LICENSURE**

Carolyn Adams, Marge Bledsoe, Lalah McGowen and Mark Schoeberl, Division personnel; Libby Coyte, Iowa Board of Physician Assistant Examiners, Norman Pawlewski and Kevin de Regnier, D.O., Winterset physician and President-elect of the Iowa Osteopathic Medical Association; Becky Roorda, Keith Luchtel and Paul Bishop, Iowa Medical Society; Ann Martino and Dennis Carr, Iowa Board of Medical Examiners; Pat Shissler and Jeanine Gazzo, Iowa Academy of Family Physicians, and other interested persons were present for the following:

**PROFESSIONAL LICENSURE DIVISION[645]****PUBLIC HEALTH DEPARTMENT[641]"umbrella"**

Nursing home administrators, rescind chs 140 to 142, 149; adopt chs 140 to 143, 146 to 148,

Notice ARC 5477A ..... 3/15/95

Social work, work experience, examination fee, 280.3(3)"b," 280.7(2), Notice ARC 5494A ..... 3/15/95

Physician assistants, 325.2, 325.3(1), 325.3(2), 325.4(1) to 325.4(9), 325.5 to 325.18,

Notice ARC 5197A Terminated, Notice ARC 5466A ..... 3/1/95

Ch 140 et al., Ch 280 No questions on Ch 150 et al., 280.3(3)"b" or 280.7(2).

325.2 et al.

Priebe recognized Dr. de Regnier who voiced disagreement with the statement that amendments to Chapter 325, physician assistants (PAs), clarify issues. He declared dramatic changes were proposed on the way in which physician assistants function in Iowa. Dr. de Regnier felt it was important to note that a bachelors degree was not required for a PA. Most schools still require only two years of undergraduate study, a one-year medical training program, a one-year clerkship program and successful passing of a national examination. A physician must have two and a half years of medical training, 18 months of clinical clerkship, one additional year of training and most take an additional two years of residency. There were considerable differences in training for a physicians assistant and a physician.

Dr. de Regnier questioned the expression "remote medical clinic" in 325.7(4). He continued that the supervision required in this clinic was considerably less than that required of a physician assistant in another type of clinic and he contended this was not legislative intent. Under these rules, the delegating physician had authority to delegate medical functions but a list of these procedures was not included.

The requirement for the physician to sign records had been removed so there would be no definite written proof that the physician was even there. The requirement that a physician be assigned to supervise a physician assistant was removed. Dr. de Regnier spoke of an agreement between the Board of Medical Examiners and the Physician Assistants Board where the Medical Examiners would approve a physician to supervise physician assistants generically. The information would be forwarded to the Examiners and as long as the physician assistant worked with a physician who had been approved by the Board of Medical Examiners, they could practice together. Dr. de Regnier maintained that without the designation, the physician assistant could seek out a physician who would allow flexibility rather than the required supervision.

Martino pointed out that the rules were processed through a joint rules review committee—three representatives from the Board of Physician Assistant Examiners and two representatives from the Board of Medical Examiners as required by law. However, the Medical Board objected strongly to the lack of opportunity to meet face-to-face with members of the PA Board—only one member agreed to appear in person. The Board also opposed lack of opportunity

PROFESSIONAL LICENSURE (Cont.) to review all of the rules as required by statute and to the denial of their request for additional time to work out complementary rules.

Martino spoke of Medical Board concerns with the substance of the rules and she referred to a handout prepared by the Medical Board with proposed alternative language relative to responsibilities of supervising physicians. Martino continued that the PA Board's effort to regulate supervising physicians exceeded their statutory or enforcement authority and the Medical Examiners Board voted to promulgate their proposal. This proposal was intended to encourage physicians to fulfill their supervisory responsibilities.

In addition, the Board planned to address the eligibility for supervising physicians issue with a rule making. However, this was put on hold when pending legislation on the issue died. The Board of Medical Examiners had strong reservations about some of the tasks which were to be delegated to PAs but believed it would be preferable to address this statutorily. According to Martino, confusion over these issues created so much disagreement and dissension between the two Boards that a formal opinion was requested from the Attorney General's office, specifically about which Board had the proper authority to regulate supervisory physicians and whether it was appropriate for one Board to dictate to another Board on how to fulfill statutory responsibilities.

Luchtel reiterated that supervision of physician assistants and the minimal qualifications for physician assistants was the major concern. He recalled the process originated with the concept that with minimal education, PAs would be teamed up with physicians who would have a large degree of responsibility in continuing the PA's training. Consequently, PAs with several years of experience would have better qualifications than those initially licensed. Luchtel believed the rules should address the least qualified PA, not the highest in order to protect the public safety. He expressed concern about the process in general and concluded the PA status should be obvious and names of supervising doctors should be known.

Coyte pointed out that essentially, the Board of PA Examiners was comprised of physicians, PAs and consumer members—a specific bias. The Board had a specific charge to draft rules to encourage the use of PAs and to extend the services of physicians. Coyte said that 77 percent of PAs were in primary care, 53 percent were in federal or state underserved areas and this was directly related to the concerns about regulation and how it hampers the physicians. She disagreed that PAs were not tied to physicians, they were still jointly licensed with physicians. She continued the definition of "rural clinic" had been in place since 1990. The majority of PAs did not have less than a bachelors degree, many were obtaining masters degrees and their education continued.

Coyte contended the rules would not interfere with the Medical Board's ability to legally determine if a physician were ineligible to supervise a PA. The rule required information to be provided as to when the physician became ineligible. Coyte recalled four statutory requirements for the Medical Board when the PA Board was formed in 1988. One requirement was to write rules to ensure communication between the Boards but this was not done. She alluded to rules of the Medical Board which outlined eligibility or ineligibility criteria for physicians. The PA Board felt that they could not dictate to a physician and they attempted to provide a sense that this was ongoing supervision which was patterned after a statement by the American Academy of Family Physicians.

**PROFESSIONAL LICENSURE (Cont.)** Coyte described the problem as one of miscommunication between the Boards. The PA Board had invited all the people who had comments on the rules to meet with them and would have invited the Medical Board but they had sent no comments.

Metcalf preferred that the ARRC not be placed in the position of referee. She urged continued dialogue between the two factions. She was concerned with public safety, particularly for the elderly and people in rural areas. She wondered why training had been dropped from one year to six months. Metcalf indicated she would resist these rules if they were adopted in the same form unless she was convinced both sides agreed.

In response to Daggett, Coyte said that many adjustments had already been made to the rule but many people do not want change, e.g. they want a physician to be required to visit a remote clinic once a week. The Board cited bad weather or emergency situations which could create problems. The federal guidelines for rural health clinics require the visit every two weeks which seemed more realistic to the PA Board. Coyte denied that public safety would be affected by these rules.

Kibbie agreed that the two Boards should reach a compromise before appearing before the ARRC. He noted that any abuse of the rules should be addressed within the system, in his opinion. Martino reviewed differences in the two sets of rules.

Weigel emphasized the need for PAs in rural Iowa.

## **EDUCATION**

Jeananne Hagen, Chief of the Bureau of Special Education, Ann Marie Brick, Legal Consultant, Jim Reese, Ann Molis and Sandy Schmitz, Department representatives, Cathy Smelser, concerned parent, Mary Gannon, Iowa Association of School Boards, Drew Bracken, Ahlers Law Firm, Kathy Lee Collins, School Administrator of Iowa, Dr. James Sutton, Iowa State Educational Association, Wayne Haddy, AEAs of Iowa, Lorelei Brewick and Winifred Carr, Learning Disabilities Association, were present for the following:

EDUCATION DEPARTMENT[281]

Special education, ch 41, Notice ARC 5516A ..... 3/29/95

Ch 41

Hagen stated the purpose in formulating new rules was to improve services for students with disabilities and was based on three needs—to allow more flexibility for local school districts to determine their own configuration of services, support the school reform efforts and to be more consistent with federal regulations. Hagen outlined accomplishments by the Department. The Department was asked by the legislature to do a fiscal impact study of these rules to determine whether additional financial resources would be needed. The report acknowledged that the special education count was rising but the report did not investigate all the possible factors contributing to this increase. The data in no way demonstrated a causal relationship between RSDS and this increase in special education identification. The Department worked with the constituent groups which Hagen introduced: School Administrators of Iowa; Iowa Association of School Boards; Iowa State Education Association; AEA and parents. The recommendation to the executive board was to cautiously support these rules. The Iowa Protection and Advocacy, a group for parents, had endorsed these rules also. Twenty-two information meetings were held around the state where the Department attempted to communicate what was being done. A communication plan was developed where information would be mailed directly to teachers and school administrators.



EDUCATION  
(Cont.)

The Department also formed work groups for most controversial issues. The pupil/teacher ratio was one issue that had been resolved. The purpose of these rules was not to diminish any of the current services provided to students.

Hagen added that the Department planned to hold six hearings in various parts of the state.

Daggett was concerned about a report that special education needs would be met at the expense of general education students. His basically rural district had an above average number of special education students and most of the school districts had a deficit in special education.

Hagen discussed the involvement of AEAs in special education. Also, the Department had tracked the cost of doing business under the new system versus the old system and had found no correlation between the reform and the amount of money. Hagen cited Marshalltown as one of the first to adopt the new system. Daggett pointed out that the Marshalltown area was far lower than his area in percentage of special education students.

Metcalf was interested in an analysis of identification per capita either by AEA, county or school district and Hagen agreed to provide this information to the Committee.

Hagen was well aware of both sides of the issue but reminded the Committee that much of the concern about the inclusion of special education students and general education was not a result of these rules but of mandates by national court decisions. She stated 75 percent of school districts run a deficit in special education at the end of any fiscal year. Between 80 and 90 percent of those districts levy local property tax.

Kibbie reminded that the legislature favored funding special education in the same way as general education which would eliminate arguments for funding at the local level. He wondered how nonpublic schools fit into the scheme of things. According to Hagen, special education support services such as speech therapy were available to all students on neutral sites until the last legislative session. A change was made so that support for students with physical disabilities in mobility and communication could be given at the site of the nonpublic school. In terms of instructional programs, those students were provided the services at a public school nearest the nonpublic school with transportation being the responsibility of the public school. These rules would have no impact on current practice in this area.

Daggett asked if the Department had made arrangements for staff development through the local area education agencies in-service training. Hagen stated that in the fall, the Department would convene a group of general and special educators, and all of the interest groups to develop a statewide plan necessary to educate students in these inclusive environments. Hopefully, with a comprehensive statewide plan, the state could utilize available resources.

In response to Daggett, Hagen emphasized that the rules would not eliminate the special classes or special time out of the regular education classroom. The Iowa State Education Association was involved and other school groups were meeting to address the issue of special education finance and to make some recommendations.

# EDUCATION (Cont.)

Rittmer asked about maximum class size and Hagen indicated case load was the determining factor. The rules allow the district two options: pupil/teacher ratios or a district may develop its own configuration of classes.

Smelser, parent of four learning disabled children and a board member of LDA told the Committee LDA was preparing comments to the proposed rules. She summarized that the rules do not support noncategorical as an identification process and LDA preferred whole language that was incorporated under IDEA in the federal Code pertaining to learning disabilities. Some specific language had been dropped in the proposed rules. Another area of concern was the evaluation procedures. Smelser spoke of her personal experiences with the waivers and the difficulties it had created for children. She noted that noncategorical was an opportunity for children not to be identified and she mentioned two self-contained classrooms in Ames where no child was identified. With this concept, the parent lacks a knowledge base because all research and support services revolve around the identification of the disability. Teachers are not aware of specific strategies to work with the child and must use curriculum-based measurement and problem-solving strategies which can take an extensive amount of time. The curriculum-based measurement was developed for monitoring children, not for an evaluative tool. Specifics of a disability and needs of an evaluation procedure for learning disabilities, emotional, behavior or autism were not addressed with this measurement. Smelser suspected it could be an appropriate tool for MD children. She had a concern with the general education interventions and had current data which revealed a regression of special education students identified—the decrease was 11.7. Smelser stressed the importance of identifying learning disabilities by third grade. Emotional and behavioral problems occur when services are delayed. Smelser concluded there were many positives to the program but there were negatives as well.

Metcalf expressed appreciation for all the work that had been done and pointed out these rules were under Notice and would be before the Committee again after they are adopted.

## NO REPS.

No agency representative was requested to appear for the following and there were no questions:

### EDUCATIONAL EXAMINERS BOARD[282]

#### EDUCATION DEPARTMENT[281]"umbrella"

Election of chair, 1.2(5)"b," Filed Emergency ARC 5483A ..... 3/15/95

### LABOR SERVICES DIVISION[347]

#### EMPLOYMENT SERVICES DEPARTMENT[341]"umbrella"

General industry — hazard communication, 10.20, Notice ARC 5480A ..... 3/15/95

Construction — hazard communication, 26.1, Notice ARC 5481A ..... 3/15/95

### PUBLIC HEALTH DEPARTMENT[641]

Radiation, 38.1, 38.8(8)"c," 38.8(9)"b," 38.8(10)"c," 39.1(3), 40.1(5), 40.16(3), 40.16(4), 40.17(1), 40.18(1) to 40.18(4), 40.18(7), 40.18(7)"a," 40.26(1), 40.32(1)"a," 40.32(2), 40.32(2)"f," 40.32(6), 40.42(5), 40.42(6), 40.44(1), 40.44(2)"c" and "d," 40.48, 40.49, 40.50(1) to 40.50(4), 40.56(1), 40.56(2), 40.60(2), 40.61(4), 40.61(5), 40.63(1), 40.63(2), 40.64, 40.65(1) to 40.65(6), 40.70(1), 40.70(2), 40.71, 40.72(1), 40.72(2), 40.73, 40.74(1) to 40.74(3), 40.82(3), 40.84(2), 40.85(3), 40.87, 40.88(1), 40.88(2), 40.95(1), ..... 40.96(4), 40.102, 40.105, 41.1(1), 41.1(12)"a" to "f," 41.1(12) Appendix I, 41.2(20)"b" and "c," 42.1(1), 42.1(2)"c," 42.1(5)"b," 42.1(6)"c," 42.1(11)"a," 42.1(11)"c," 42.2(5)"b," 42.2(7)"a," 42.3(3)"c," 42.3(5)"b," 45.1(1), 45.1(10)"b"(1)"2," 45.1(10)"h"(3), 45.1(10)"i," 45.1(17)"e," 45.3(6)"c," Notice ARC 5505A ..... 3/29/95

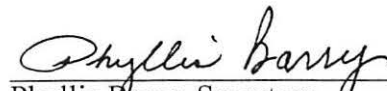
### TRANSPORTATION DEPARTMENT[761]

Bikeways and walkways, rescind ch 127, Filed ARC 5504A ..... 3/29/95

Meeting Dates      The next meeting was scheduled for the statutory date of May 9 and 10, 1995.

Adjournment      The meeting was adjourned at 12:15 p.m.

Respectfully submitted,

  
\_\_\_\_\_  
Phyllis Barry, Secretary  
Assisted by Kimberly McKnight

APPROVED:

  
\_\_\_\_\_  
Senator Berl Priebe, Co-chair