

MINUTES OF THE REGULAR MEETING
OF THE
ADMINISTRATIVE RULES REVIEW COMMITTEE

Time of Meeting The regular meeting was held Tuesday and Wednesday, September 9 and 10, 1986, in Senate Committee Room 24, State Capitol, Des Moines, Iowa.

Members Present Senator Berl E. Priebe, Chairman; Representative James D. O'Kane, Vice Chairman; Senators Donald V. Doyle and Dale L. Tieden; Representatives Edward G. Parker and Betty Jean Clark. Staff present: Joseph Royce, Committee Counsel; Phyllis Barry, Deputy Code Editor; Vivian Haag, Executive Administrator. Also present: Barbara Booker Burnett, Governor's Administrative Rules Coordinator.

[CONSERVATION] Chairman Priebe convened the meeting at 10:08 a.m.

Natural Resources The Department of Natural Resources representatives present were: Marion Conover, Bill Crews and Berniece Hostetter, and the following rules were considered:

Construction of basket traps, rescinds ch 13, filed without notice	ARC 6871	.....	<i>Fwy</i>	8/27/86
Unprotected nongame species, 16.1(2)	ARC 6872	.....	<i>N</i>	8/27/86
Conservation and outdoor recreation employment for senior citizens, rescinds ch 70, filed emergency	ARC 6825	<i>N + F</i>		8/13/86
Fishing regulations, 108.1, 108.2	ARC 6873	.....	<i>N</i>	8/27/86
Commercial fishing, ch 110	ARC 6874	.....	<i>N</i>	8/27/86
Turtle regulations, 115.1	ARC 6875	.....	<i>N</i>	8/27/86
Cost assistance program to promote wildlife habitat on private lands, ch 22	ARC 6785	.....	<i>F</i>	7/30/86

No questions with respect to rescission of chapter 13.

Turtles According to Conover, the proposed amendment to 16.1(2) will remove snapping turtles from the unprotected nongame list and a conflict between this subrule and chapter 115 will be eliminated. Clark reasoned that a list of protected species would be a more logical approach. Conover replied that there was no hunting season for starlings, robins, etc. and they are not protected. City ordinances also govern in this matter.

ch 70 Hostetter said that chapter 70 was rescinded since the program is operating under the Department of Economic Development.

ch 108 Conover reviewed proposed changes for 1987 fishing regulations. Tieden recommended clarification of 108.2(3) pertaining to Walleye. He also suggested protection for species when they spawn. Conover informed Doyle that De Soto Bend was a National Wildlife and Fish refuge over which Iowa and Nebraska share jurisdiction.

Discussion of 108.2(7) as to posting where federal and state regulations differ. According to Conover, the Fish and Wildlife Service posts signs on length limits. Doyle could foresee enforcement problems for Iowa if the size and limit could be changed without a rule. He favored clarification

Natural Resources (Cont.) of subrule 108.2(7) and suggested that the Assistant Attorney General be contacted. Royce advised that the federal regulation could be adopted by reference with provision that "the requirements of these regulations are posted by sign."

110.1(4) Priebe raised question in 110.1(4) as to contract approval by the Commission for fish operations over \$25,000. Conover reported that policy was being set out by rule. Priebe reasoned there was too much leeway for the director. Conover noted that the Department had plagiarized a rule pertaining to construction contracts. Priebe recalled there was a \$10,000 limitation. Royce knew of few statutes that actually specify who can approve a contract--staffer or Department head. Parker pointed out that a county and city must contract for amounts over \$5000. Conover stated there would be competitive bidding for fishing contracts. Priebe had no problem with the concept but favored \$10,000 for top figure. Commercial fishermen are provided a bid packet. In addition, advertising and "word of mouth" are effective.

110.2(6) Discussion of reporting of catch by commercial fishers--110.2(6). Tieden had received complaints from small industry re excessive license fee. He wondered if any consideration was given to dividing that so smaller catches would be reported. Conover was doubtful. Doyle pointed out that "life or limb" was archaic language--110.2(5). Doyle raised question re commercial fishermen with licenses in Nebraska and Iowa. Conover referenced a reciprocal agreemer allowing Iowans to fish either side. On the Missouri River, fishermen must follow regulations of the state in which they are licensed, and, if licensed in both states, they have more choices. It was noted that Indians have treaty rights and are not subject to regulation. Conover mentioned questions they receive concerning taking of carp in gravel pits and private waters. The Department is considering language similar to that of other states. "Commercial fishers licensed with the state may enter into contract with owners of private water bodies...for the removal of injurious fish provided approval is received from director or agents of the department..." Hearings will be held. The ARRC saw no problem in adding the provision when the rules are adopted if the situation is explained in the hearing. Committee members wanted assurance that Conservation had jurisdiction over gravel pits, etc. Conover interpreted the statute as providing that the Natural Resources Commission was guardian of all fish and wildlife.

No questions re 115.1.

ch 22 Discussion of chapter 22 which had been delayed for 70 days. [See page 3420] Royce gave brief overview of the rules and the matter was deferred until Wednesday.

COLLEGE AID COMMISSION Patricia Paddock, Division of Administrative Support, represented College Aid Commission for the following:

Iowa guaranteed student loan program, guarantee fee 10 24 ARC 6816X 8/12/86

COLLEGE
AID
COMMISSION
(Cont.)

Paddock presented information pertaining to the guarantee fee collected from students receiving proceeds from the student loan program. No questions.

PUBLIC
EMPLOYMENT
RELATIONS
BOARD

Dick Ramsey and Jim McClimon appeared on behalf of the PERB agenda as follows:

Amendments to reflect legislative and other changes. 1.2, 2.1, 2.7, 2.12(1), 2.15(1)"d" and "e," 2.15(2), 2.16, 2.21, 2.22, 3.1, 3.4, 3.8, 4.1(1), 4.1(2), 4.2(1), 4.2(4), 4.2(5), 4.2(6)"c" and "e," 4.3(2), 4.3(3), 4.6, 4.8, 5.1(2)"b," 5.1(6), 5.2(1), 5.2(2), 5.4(1)"g," 5.6(3), 5.6 to 5.8, 6.1, 6.3(2), 7.4(1), 7.4(3), 7.5(4), 7.5(10), 7.6, 7.7(1), 8.6, 9.1, 10.2(4) ARC 6885 *N* 8/27/86
Merit appeals, ch 11 ARC 6888, also filed emergency ARC 6887 *N + F.E.* 8/27/86

ch 11

Ramsey gave brief overview of the merit appeals, chapter 11, rules. Clark pointed out use of "will" in 11.5 and Ramsey was informed of Committee preference for "shall". In response to Doyle, Ramsey said the statute provides that the hearing can be opened at the employee's request. McClimon indicated the Board had attempted to incorporate existing Board policy into rules 1.2 et al. They anticipated a number of procedural changes and established a drafting session where 41 labor-management groups were in attendance. Tieden found the comprehensive preamble to the rules to be most helpful.

1.2 et al

DENTAL
EXAMINERS

Constance Price reviewed the following rules for the ARRC:

Fees, 15.1(8), 15.1(9), 15.2(3), 15.2(4) ARC 6835 *N* 8/13/86
Minimum training standards for dental assistants engaging in dental radiography, 22.6 ARC 6836 *N* 8/13/86

After brief overview by Price, the ARRC registered complaints about the new \$100 fee which they viewed as quite substantial. Priebe expressed preference for a hearing on the "major change." Price explained that no permit is required for use of the nitrous oxide. The Board has established certain standards for dentists who administer general anesthesia in their offices--mainly oral surgeons. Question was raised as to the legality of the change, and Royce was interested in justification for a different level of licensure. Price said the Board wanted to ensure that dentists who administer general anesthesia and parenteral sedation are qualified.

A survey by the Board revealed an estimated 300 to 400 will seek applications. Although the fee is not yet in place, Price contended all licensees support the change. Priebe asked that the record reflect his "qualms" about this fee. Price advised Doyle of the \$10,000 appropriated to implement the change. Doyle was interested in knowing the cost for the full year. Price indicated the Board would request additional funds next year in anticipation of hiring more enforcement personnel. No Committee action.

ECONOMIC
DEVELOPMENT
DEPARTMENT

The Department of Economic Development was represented by Diane L. Foss, Outreach Coordinator; Roselyn McKee Wazny, CDBG Coordinator; Melanie Johnson, Legal Counsel, and the following agenda was reviewed:

Regional economic development coordination plans, ch 11 ARC 6832 *N* 8/13/86
Iowa job training partnership program, 630--19.53(1)"k," 19.86(4)"d," 19.86(14), 19.86(15)"c," 19.86(18)"b," filed
emergency after notice ARC 6866 *N* 8/27/86
Community development block grant entitlement program, 630--23.7(2), 23.8(1)"c," filed emergency ARC 6867 *F.E.* 8/27/86

ECONOMIC
DEVELOPMENT
DEPARTMENT
(Cont.)

Foss said that Chapter 11 would streamline the process for approval of coordination plans. Parker recalled previous rules on the subject and emphasized that the legislation was never intended for resource--it was to ensure "communication among all of the players." Foss reported no attendance at the public hearing. She continued that because of state government reorganization, there are new "players." She viewed the new proposal as more flexible than previous rules and stressed the importance of resources. Priebe had problems with the fact that bylaws allow for regional decisions.

ch 19

According to Johnson, minor changes had been made in chapter 19 as requested by the ARRC. Their hearing was held July 22.

ch 23

Wazny called attention to changes in chapter 23 to allow acceptance and consideration of applications "on a continuous basis." Priebe questioned zero per cent in 23.8(1)c and Wazny replied that it would allow more flexibility to assist a wide range of business enterprises. Emergency adoption of the amendments was necessary to utilize funds as efficiently as possible. O'Kane recommended "continuing" basis rather than "continuous" in the first sentence of 23.7(2).

EMPLOYMENT
SERVICES
DEPARTMENT

Joe Bervid, Legal Counsel, Paul H. Moran, Bureau Chief, and Rick Hemming, Executive Assistant, were present for the following:

Employer's contribution and charges, claims and benefits, 370--3.3(1), 4.2(1)¹ c, 4.13(1)¹ a, 4.25, 4.25(41),
4.26(19), 4.26(22), 4.32(10), 4.60 ARC 6848 *N* 8/13/86

4.32(10)

There was brief explanation by Bervid with notation that proposed 4.32(10) would be withdrawn to allow for more research.

GENERAL
SERVICES
DEPARTMENT

Jerry Gamble, Administrator, and Kathleen Williams, Division Administrator, appeared on behalf of General Services for the following agenda:

Use of buildings and grounds in the capitol complex, 1.6(2), 1.6(10) to 1.6(12) ARC 6860, also filed
emergency ARC 6869 *N* *FE* 8/27/86

Gamble gave brief overview of the use of buildings and grounds in the Capitol complex. He explained the scheduling process, which had been followed for several years, was being implemented by rules. It was noted that General Services does not control or monitor the second floor of the Capitol. No action taken.

Recess
Reconvened

Chairman Priebe recessed the Committee at noon and reconvened it at 1:30 p.m. with a quorum present.

NURSING
BOARD

Those in attendance for rules of the Board of Nursing included: Ann Mowery, Executive Director, Marjorie Matzon, Board Member; Lorinda Inman, Associate Director, Nursing Education; Eleanor McClelland, Assistant Dean; Ellen Strochota, Division of Nursing Head, Grandview College.

Continuing education, 5.1, 5.2(2)¹ c(2), 5.2(2)¹ e, 5.2(2)¹ e(1), 5.3(2)¹ b(7), 5.3(2)¹ b(12), 5.3(2)¹ c(2), 5.3(2)¹ c(3),
5.3(2)¹ d(2), 5.3(2)¹ d(3), 5.3(2)¹ d(9), 5.3(2)¹ f, 5.3(3)¹ a(19), 5.3(4)¹ a(76) ARC 6824 *F* 8/13/86
Nursing education programs, ch 2 ARC 6822 *N* 8/13/86
License to practice -- RN/LPN, 3.1(6)¹ d, 3.2(1), 3.3(1)¹ b ARC 6823 *N* 8/13/86

NURSING
BOARD
(Cont.)

Also present: Evelyn Nicholson, Iowa Methodist School of Nursing; Jane Muhl, Consultant, PHOE, SDE; Kay Myers, Executive Director, and Mary Hosfne, Associate Director, Iowa Nurses Association; Lois Heskett, Director, Nursing Education, Iowa Lakes Community College; Karen Sajka, IWCC; Barbara Steen, Coordinator of Nursing Education, Waterloo; Chet Rzonca, Director, Programs in Health Occupations Education, University of Iowa; Shirley Anderson, Kirkwood Community College, Department Head in Nursing; Fred Holmes, IACCT, Des Moines; Clyde Kramer, NW Iowa Tech; Deb Shepard, Ellsworth College; Bob Kiser, Western Iowa Tech; John Hawse, President, Hawkeye Institute of Technology; Geraldene Felton, Professor and Dean, U of I; Barbara Crittenden, Southwestern Community College; and several interested persons.

No questions re amendments to Chapter 5.

ch 2

Mowery briefed the ARRC with respect to proposed substitute rules for Chapter 2 which have not had major revision in 10 years. She presented a prepared fact sheet regarding statutory authority and other pertinent information, including a comparison between old and proposed rules on nursing education. A task force had been appointed in 1985 to work on the revision which began in 1983. The Board voted in July 1986 to submit the task force recommendation as Notice of Intended Action. Mowery continued that the proposed rules are totally different in style and structure from previous rules. Areas cover administration of nursing education programs, curriculum, faculty, program, records, clinical resources and requirements for reporting to the Board and for survey visits.

The faculty credentials in previous rules were merely recommendations but the proposed version makes specific requirement for update by 1993 and 1994. Matzen offered background information on individuals who served on the task force and spoke in support of the educational requirements for faculty and heads of programs. Illinois, Kansas, North Dakota and Nebraska require Masters Degree at some levels. She contended that without the standard, there is no assurance of quality or status quo. She referenced the ever-increasing aging population which will increase the complexity of nursing care. Matzen pointed out that six years will be allowed to meet the standard. O'Kane inquired about the current requirement and Matzen said that senior colleges and universities establish qualifications for faculty and program--Baccalaureate Degree will be the minimum.

Kramer spoke for the Iowa Association of Community College Presidents as to the impact on programs offered in the state's community colleges and vocational technical colleges. He distributed copies of a position statement and contended there was lack of communication between the area colleges and the task force. Specific concerns centered on 2.2(3),

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(Cont.)

2.2(4), 2.3(2) and 2.6(2). Re 2.2(3), Kramer maintained that as chief executive, a superintendent should receive reports directed to area colleges. He viewed 2.2(4) as being unrealistic in requiring the college to notify the Board prior to closing a program. It might be necessary to close one with little advance warning. Kramer noted lack of supporting data that the mandate would improve quality of education. However, he was supportive of the Baccalaureate Degree. Hawse supported the Kramer position and urged the ARRC to oppose the proposed changes which, in his opinion, could create a serious hardship on merged area colleges of Iowa. Twenty-six programs are offered and 88 of the 204 staff members could not meet the new requirements in 6 years. Hawse saw no clear and compelling reason for the changes and concluded that the admonition, "If it isn't broke, don't fix it," may well apply.

Mowery mentioned nursing programs in other facilities which do not meet the criteria--but believes the standards should be updated. The only schools ineligible for accreditation are the community colleges. Mowery said the examination is under the auspices of the National Council of State Boards of Nursing. The national exam used in all states is designed to find the point between competency and incompetency.

Anderson spoke against the proposed rules. She viewed area schools as being committed to professional upgrading and they must meet State Department of Education certification requirements. She urged rules to meet the consumer needs of Iowans. Rzonca had concern as to the role of the licensed practical nurse in a one-year training program. He could foresee an educated faculty lacking a practice but he commended the Iowa Nursing Association and the Board for providing an awareness of the future of nursing.

Felton addressed the Committee in her capacity as President of the Iowa Association of College of Nursing. She noted that 78 per cent of nursing administrators hold Masters Degrees and 77 per cent of the faculty have nursing degrees. In her opinion, the proposal will promote excellence in nursing education. They do not differ greatly from requirements for other professionals. Felton noted the proposals were agreed upon in 1979 by associate degree nurse educators. She continued that the unfortunate consequence of a low educational standard for nurse educators and directors of programs, and what nursing can provide to society, is "a false and demeaning myth that all one needs to be a nurse educator is to have a warm body, good pair of feet and a time card."

Crittenden distributed handouts in opposition to the proposed rules. She declared it was premature to make controversial changes until the work of the task force was complete. In response to Tieden, Mowery explained there is a preliminary task force working on development

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(Cont.)

of structure for statewide planning and nursing. A Governor's Commission studied nursing in the early 1970's and reported in 1975. The Board of Nursing takes the position that the field should be studied again and about 30 people from all levels of education will be involved. The work groups will begin work by 1987--reference to rules in relationship to statewide planning should be disconnected rather than connected. In 1983, the first draft discussed increasing faculty credentials. They saw no need to wait two or three years for another committee to say, "change the rules."

Myers spoke in support of the rules and referenced the emphasis on state board exams which are not a test of excellence or of how well one functions in a clinical situation. The ultimate product would be the best education possible for those who care for our loved ones. Myers said that 1725 of approximately 26,000 RN's in Iowa belong to the Iowa Nurses Association. Discussion of a map depicting sites for Baccalaureate and Masters programs. O'Kane pointed out distance problems in western Iowa and Mowery thought some campuses would move to accommodate students. O'Kane suspected that demand would be increased with adoption of the rules. Mowery admitted the issue was not easy but she was convinced that with strong commitments, results would be positive.

Tieden recalled that area schools were established in Iowa to make education and training in various professions available to all Iowans. He was not opposed to upgrading educational requirements but he urged better communication between the factions before the rules are adopted.

Clark asked if consideration had been given to an intermediate step. Mowery reiterated that the Masters Degree would not have to be in nursing. Clark saw that concession as negating some of the Board's reasons for the proposal. Statistics were offered--statewide, there are only 14 out of 123 community college faculty members who do not have at least bachelors' degrees. Mowery commented that she did not consider an Associate Degree as a professional degree with which to teach. Clark had mixed feelings but wondered about the possibility of first requiring a bachelor's degree in nursing for any one in a teaching position. She spoke of the pressure in the nursing profession. O'Kane concurred with Clark that a logical approach would be to phase in the Masters requirement. Mowery spoke of the availability of teachers with Masters Degrees who are bypassed since it is sometimes "threatening" to have someone more qualified on the staff. Priebe favored phasing in the program. O'Kane wondered if grandfathering had been considered, e.g., for faculty nearing retirement. According to Mowery, the Board has not considered alternatives at this time. A Board member pointed out that a waiver could be requested but Committee members noted that waivers were not addressed in the rules.

NURSING
BOARD
(Cont.)

Heskett spoke of her hardship in obtaining advanced education in Iowa. She cited time and expense, not to mention the emotional hardship, as important factors in trying to hold a full-time position and devote time for family. She was of the opinion the rules would create many problems for nurses in rural settings.

Several interested persons spoke briefly of their opposition to the rules.

McClelland, who had served on the Task Force, addressed some of the earlier issues. She emphasized that much time and discussion were involved in formulation of the rules which would not be implemented for at least a year. Priebe was hopeful that new ideas would surface at the public hearing. Tieden was contemplating possible request for an economic impact statement.

Nicholson, representing diploma programs, favored the rules and pointed out that in 1974, one out of 27 held a Masters Degree and 5 years ago, it was 50 per cent. No formal action by the Committee.

3.1 et al Mowery reviewed the amendments to chapter 3.

Discussion of 3.1(6)d with Doyle reiterating his opposition to the requirement which precludes use of personal checks. Mowery noted that was not a new rule. Mowery took the position that it would not be realistic to require 2,050 licensees a year to wait two weeks for checks to clear. Doyle preferred an option. Mowery mentioned that computer costs might be excessive.

3.2(1) Discussion of 3.2(1) with Royce recommending revision for clarification as to restriction on those who have had license revocations.

EDUCATION Orrin Nearhoof, Certification; Dee Ann L. Wilson and Howard
DEPARTMENT Hammond, Consultants; and Kathy Collins, Legal Counsel,
were present for the following:

Requirements for special education endorsements, occupational and postsecondary certification and
endorsements, chs 73 and 74 ARC 6858 F 8/27/86
School personnel, interscholastic athletes, school bus drivers — physical examinations, 670—3.4(14), 9.15(3),
22.15 ARC 6880 N 8/27/86

chs 73 & 74 Chapters 73 and 74--Nearhoof briefed the Committee about the major revision in teacher education and certification. As a result of the hearing process, changes were made from the Notice and they were outlined in the IAB. Clark and O'Kane offered suggestions for condensing portions of chapter 73 for clarity.

3.4 et al Discussion of amendments to 3.4 et al. Priebe was interested in knowing when the determination is made that a bus driver is physically unfit. Collins admitted the requirements were quite rigid and the form had not changed for quite sometime. Priebe asked Collins to provide Royce information on form change.

EDUCATION
DEPARTMENT
(Cont.)

Responding to Tieden, Collins said the Code spoke to pre-1974 licensure. Chiropractors have been trained in giving physical exams since that time. Questions had been raised by school districts and the medical profession as to the liability if a chiropractor failed to make the proper diagnosis. The rule was intended to avert a legal suit. No other questions.

REVENUE &
FINANCE
DEPARTMENT

Carl Castelda, Deputy, was present for the Revenue and Finance Department rules as follows:

Sales tax — filing returns, payment of tax, penalty and interest, determination of a sale and sale price. 12.14 to 12.17, 15.327a. ARC 6847N 8/13/86
Individual income tax — filing return and payment of tax, determination of net income, adjustments to computed tax, assessments and refunds. 39.6(2)a and "f." 39.8, 40.26 to 40.29, 42.2(3), 42.2(4), 43.4(2)b. ARC 6855N 8/27/86
Motor fuel administration — bonding procedure. 63.23, items 2 and 3 of notice ARC 6732 terminated. ARC 6854N 8/27/86

12.14(2)

Clark questioned figures in Example in 12.14(2) and was told there were some limitations on the amount of contribution to the business and there is some shifting. The formula basically follows the method used for withholding.

12.16

Robert Anderson, Iowa Sportsmen Federation, raised question as to sales tax on used items sold at flea markets, special craft shows, etc. It was his opinion that an "impossible burden" would be imposed on the sponsor of the show or event. He addressed the second paragraph of 12.16 relative to exclusions and noted that some sponsors are corporations. He wondered if an incorporated "John Doe" could operate a flea market fewer than three times a year and avoid the liability. Castelda responded that they were getting complaints from retailers and the rule repeats the statute. He offered to work with Anderson to resolve his concerns.

39.6 et al
43.4(2)b

Castelda briefed the Committee with respect to the changes in 39.6 et al. Doyle referred to 43.4(2)b and suggested that unpaid court costs should be included in the list of taxpayer's obligations. Castelda said it was a new setoff provision and he agreed to follow up on the possibility that the matter was addressed in another rule. He added that the provision does not take effect until tax year 1986. No questions re 63.23.

63.23

TREASURER
OF STATE

Mike Tramontina, Deputy; Karl C. Koch, Investment officer; and Randi McLaughlin, Administrative Assistant, were present for the following:

Disclosure of information regarding open-end credit, credit cards, and financial services, ch 5 ARC 6834N 8/13/86 371

ch 5

Tramontina said the disclosure of information re open-end credit, credit cards, and financial services was pursuant to 1986 legislation sponsored by Representative Parker. Each year, banks, savings and loans or credit unions which offer checking or savings accounts must report the different service charges applicable to those accounts and, in addition, those offering credit cards, e.g., Mastercard or Visa, are required to report their annual percentage rates. Forms and rules have been sent to 50 different interested groups and financial institutions.

Discussion of the procedure the Department plans to follow to identify credit card companies since there is no central registry.

CORRECTIONS DEPARTMENT Hal Farrier, Director; Don Parmeter, Assistant Attorney General and Fred Scaletta represented the Department of Corrections for special review of criteria for inmate reclassification. Also present: Don Hadwiger, Professor, ISU; Polly McPherrin, Newton; Clarence Key, Jr. and William Angrick, Citizen Aide/Ombudsman; Gary Sherzan, State Representative.

Chairman Priebe recognized Scaletta who summarized the issue of classification policies and institutional movement of inmates in Iowa's correctional system. Farrier referenced the four recommendations for administrative rules submitted by the State Ombudsman and reported that the Corrections Department had implemented three of them. He emphasized that the Board regularly has public input on all of the policies that they promulgate. A primary concern presented to the Board was one of liberty interests which Farrier would not attempt to define. However, it was his understanding that once rules were promulgated, the door would open for inmates to sue the Department if they disagreed with their placement. One to two additional attorneys as well as extra staff would be required according to estimates by the Attorney General. Inmates with minimum secure scores would have to be housed in minimum secure institutions, when oftentimes they may be kept in maximum or medium security in the interest of public safety.

Farrier continued that they currently have 210 minimum security-classified inmates inside fences of medium security and two are in maximum secure institutions. One hundred seven inmates classified by score as medium secure are living in minimum security. A majority of those are close to release in terms of time or the Parole Board has advised early or gradual release. One concern the Department has which was not addressed by the Board was shared with the Committee. Inmates are moved regularly from minimum security environments back to Anamosa or a fenced institution. When circumstances dictate a potential escape or marginal behavior, flexibility is important to move those individuals to a greater secure environment. Farrier cautioned against a rigid classification system.

The above were reasons cited for not implementing the 4th recommendation of the Ombudsman.

Polly McPherrin, mother of slain police officer Dan McPherrin, killed last year during a robbery of the Newton Hy-Vee Store, presented petitions which were circulated last year relating to violent criminals in Iowa. She also presented a petition in support of reinstatement of capital punishment.

Parmeter addressed two legal questions in regard to the recommendation of the Ombudsman. He advised that the Department had no legal obligation to promulgate rules under Code Chapter 17A in regard to classification--this policy would be under the exception of 17A.2(7)k.

CORRECTIONS
DEPARTMENT
(Cont.)

Parmeter addressed the second question in regard to possible creation of a liberty interest. He pointed out that the 14th amendment requires certain procedural protections when a person has a reasonable expectation for a liberty interest. Those procedures can be created by administrative rules and policies. It was their position that implementation of classification criteria could be interpreted by the federal courts as creating a liberty interest. Inmates would be able to sue in federal court, alleging that they were not placed at proper custody level and asking the court to direct the state to place them in minimum security. Law suits could also result if an inmate disputed classification procedures in terms of a number. Parmeter discussed the vulnerability of the state to tort claim liability. By providing criteria that gives an inmate substantive expectation or essentially a right to be classified at a certain level, the state may well have eliminated all of their discretion. Parmeter concluded that the classification policy should not be promulgated as a rule.

McPherrin thought it was regrettable that "criminals get all the breaks." She was convinced that the Newton robbery which resulted in her son's death was initiated through telephone calls by the two men who had been in minimum security.

She discussed the situation at Newton where inmates frequently walk away from the minimum facility. Scaletta admitted there were few restrictions on telephone use if the party is making the call at his own expense.

Parker questioned Parmeter as to the number of states which circumvent the administrative process in setting policy for classification or reclassification. When Parmeter could not provide a number, Parker asked how the conclusion was reached and Parmeter indicated it was by virtue of case law. Parmeter reiterated that the Department currently has a policy and procedure, both of which are public record. Their concern in following the Ombudsman's recommendation in writing out specifics on decision making is that it would create a liberty interest. Their current documents have been tested in court. Parmeter advised O'Kane that noncontact visitation does impact the public through family members and those who wish to visit inmates.

Parmeter assured O'Kane it was not the job of the Attorney General's office to limit the right of inmates to access to the courts. They were, however, concerned about expanding state liability. Scaletta described the inmate classification system as having 11 points with 90,000 variations. He mentioned the 200 inmates classified by a number as minimum security who are not in those settings. Scaletta was unsure that a classification system could be designed with the necessary flexibility.

Chairman Priebe recognized Angrick who saw the issue as one of responsibility. He was not advocating a particular policy to expand the rights or limit the rights of inmates.

CORRECTIONS
DEPARTMENT
Continued

Angrick continued that it is a question of whether the public has a right to know the procedure followed to move inmates. He discussed the scoring system and suggested that Iowa should follow other states to allow the flexibility lacking in the system. Angrick pointed out there were rules for furloughs, trips of inmates, work release and home release to name a few. He had heard no argument that an expansion of liberty interests was created. Angrick urged caution in custody classification and classification overrides.

Sherzan found it difficult to argue that the classification system does not have an impact on the public safety of the state. He interpreted the law in 17A.2(7)k as mandating this issue to be promulgated through the rulemaking process. Farrier did not wish to respond, but would report ARRC suggestions to the Board of Corrections.

As to obligation to promulgate a rule, Parmeter admitted he was in a difficult position to argue that classification has no impact on the public in light of the Newton incident. He continued, "The tragic proportions of that event tend to diminish any plea of incidentalness or indirectness. However, I truly believe that is what it was."

Parmeter suspected that the Newton situation developed from the present furlough system. He concluded that it would be difficult to find an avenue of inmate life which has no impact on the public.

General discussion. Priebe took the position that inmates must expect to be scrutinized.

Motion

O'Kane moved that the Board of Corrections initiate rulemaking on classification and movement of inmates. Tieden discussed rule as opposed to policy requirement and Parmeter emphasized that a rule carries the force and effect of law--policy does not--it is a procedure. Royce advised Tieden that the ARRC could not compel rulemaking on any subject.

Carried

The O'Kane motion carried with 5 "ayes." Tieden voted "no."

Farrier agreed to report ARRC sentiments to the Board.

Recess

Chairman Priebe recessed the Committee at 5:00 p.m.

Reconvened Chairman Priebe reconvened the Committee Wednesday, September 20, 1986, in Room 24, 8:30 a.m. All members and staff were present.

COMMERCE Priebe called on Pat Cavanaugh, Director of Commerce
DEPARTMENT Department, who presented the following:

Organization and operation 1.4 ARC 6761.....July 30..IAB

1.4

There was discussion of the objections voted on rule 1.4 at the August 20 meeting. Cavanaugh indicated that the word "supervisors" would be rescinded in 1.4 since SF 2175, 1986 Acts, did not give the Department power to supervise any regulatory functions. The final set of rules would clarify independence of regulatory functions by divisions.

Cavanaugh assured the ARRC that inclusion of a division of administrative services, along with the other eight divisions within the Department of Commerce, was not an effort to exercise authority beyond the scope of the statute. Cavanaugh compared six of the other new departments as functioning in the same administrative manner. He planned to rescind the objectionable subrule.

A consultant study had recommended that creation of a department administrative unit would eliminate some supervisory positions and enhance services for specialization. The governor's budget reflected reduction of \$256,000 among the divisions with creation of the unit. The Committee concurred that an Attorney General's opinion on the rules would not be necessary.

Conservation Al Farris and Terry Link were present for rule 22.7--
22.7 Penalties for violations of contracts, which was delayed at the August meeting for further study.

Farris stated that Department officials viewed the rule as an avenue for recovering costs--not as a fine. Similar provisions were contained in the switchgrass program. Link offered statistics--out of 300 cooperators, six have defaulted, two died, two took bankruptcy and two defaulted but refunded the full amount. Doyle reiterated his position that the rule seemed to infer an additional penalty. With contractual rights, it is a breach of contract--not a penalty. There is a civil remedy. Farris was willing to rescind rule 22.7.

Royce offered a suggestion that substitute language be used for the catchwords. Farris indicated the Commission would meet October 15. The Committee was amenable to an emergency filing in October.

COMMERCE Ray Vawter, Bureau Chief; David Lynch, Assistant General
DEPARTMENT Counsel; Susan Allender, General Counsel; Dean Stonner,
[Utilities Assistant General Counsel; Gordon Dunn, Energy Conserva-
Division] tion Section; Cynthia Dilley, General Counsel, were

COMMERCE
DEPARTMENT
[Utilities
Division]

present for review of the following Utilities Division rules:

Discontinuance of service incident to utility property transfer, 250--7.12 ARC 6883F. 8/27/86
Gas and electric utilities, billing procedures, 19.3(7), 19.4(2)"a", 19.4(6), 19.4(11), 19.4(15), 20.3(6), 20.4(3)"a",
20.4(7), 20.4(12), 20.4(15) ARC 6881F. 8/27/86
Time limitations for rate case procedural schedules, 250--7.7(15)"a" and "b" ARC 6826N. 8/13/86
Mobile telephone service and paging service, notice ARC 6458 terminated, ARC 68828/27/86
I-SAVE America's vital energy, 27.1, 27.2(3)"b"(4), 27.2(4)"b"(3), 27.2(4)"b"(4) and (5), 27.2(4)"b"(17) to (20),
27.2(5)"b", 27.4(6)"b"(3) and (4), 27.4(6), 27.5(2)"b"(3), 27.5(2)"d", 27.5(2)"h", 27.6(2), 27.13(3) ARC 6827N. 8/13/86

Also present: Barbara Johnson, Public Affairs Assistant, United Telephone; Robert M. Kreamer, Attorney; Serge Garrison, Iowa Life Association.

7.12 No questions re 250--7.12. In re 19.3(7) et al, ARC 6881, Lynch said the amendments were adopted after a second notice.

7.7 Tieden was told that the definition of "larger customers" should be defined by the utility, but it should be those of a sufficient size to implement billing procedures on an economic basis. Lynch said that 7.7(15)"a" and "b" will provide flexibility on rate case procedural schedules. No questions.

ch 27 In re amendments to I-Save, Doyle and Lynch discussed billing procedure and penalties. Doyle had received complaints from constituents re budget billing date changes by utilities. Lynch pointed out that the statute allows assessment of a 1½ per cent overcharge for late payment. Lynch was unsure if that should apply when the customer has a credit balance. Lynch said meter reading dates are in a state of flux for Iowa Public Service, Iowa Gas, and North Central, which are merging into a single company. Lynch was willing to pursue the matter for Doyle.

LIVESTOCK
HEALTH
ADVISORY
COUNCIL

Mark Truesdell represented the Council for the following:

Recommendations for fiscal year 1986-1987, ch 1 ARC 6818F. 8/13/86

After brief comment by Truesdell, Priebe and Tieden expressed dissatisfaction with the fact that allocations for certain disease research were increasing. Tieden cited pseudorabies as an example since a good vaccine and program are in place. Priebe asked that the Council be apprised of Committee concerns as to prudent use of research funds.

O'Kane observed a substantial increase in Newcastle disease research, and wondered if a problem were developing. Truesdell responded in the negative but explained that the project was started by Dr. Hofstedt in 1984 and graduate students continued the work after Hofstedt's mandatory retirement. Another professor will undertake the project. Tieden and Priebe will be invited to meet with the Council at a future date. Clark and Parker arrived.

AGRICULTURE
& LAND
STEWARDSHIP

Bette Duncan, John Hinshaw, and Lillian Moore were present for the following agenda:

Registration of Iowa-foaled horses and Iowa-whelped dogs, 30-14.12(1), 14.13-8," 14.15(3) a," 14.16(2), 14.22(1),
14.23-8," 14.25(3) a," 14.26(2), 14.33-8," 14.35(3) a," 14.36(2), 14.42 ARC 6868 F 8 27/86
Animal welfare, 30-20.1 ARC 6869 F 8 27/86
Dairy trade practices - gifts and promotions, 30-25.6 ARC 6870 F 8 27/86

ch 14

In response to suggestion by Priebe to reduce paperwork for broodmare registration, Hinshaw contended that removal of the word "continuously" from the rules would help.

No recommendation for 20.1. Duncan gave brief overview of amendments to rule 25.6 which conforms with 1986 Acts, H.F. 2066--restrictions on use of coupons for dairy products were repealed. Duncan agreed to send a written response to Tieden with respect to contaminated dairy products reaching the market place.

25.6(2)b

Priebe questioned provision in 25.6(2)b, ninth paragraph, that "equipment may not be furnished for a promotion predominantly commercial in nature..." He asked about a dairy that sets up two or three freezers and runs specials on milk or ice cream. Duncan commented that the language in question was part of the old rule. Moore knew of no instance like that. Priebe thought "for a promotion" should be stricken. Duncan agreed to refer the matter to Fred Stout in the Department.

Recess

Chairman Priebe announced a 10-minute recess.

Committee
Business

After reconvening the Committee, Priebe recognized Royce who spoke of the lack of response from the Department of Cultural Affairs to his April letter of request for rule-making. Tentative decision was made to place the matter on the November ARRC agenda. O'Kane in the chair.

COMMERCE
DEPARTMENT
[Insurance
Division]

Denise Horner was present for the following Insurance Division amendments:

Insurance agents, license fees, 10.8(6) ARC 6862 F 8/27/86
Regulation of insurers, examination for admission and submission of quarterly financial information, 510-5.2,
5.3 ARC 6884 AY 8 27/86
Unfair trade practices, debtor coercion, 510-15.10, filed emergency ARC 6861 FE 8 27/86

Horner gave brief explanation of 10.8(6)--no questions. In re 510-5.2, 5.3, ARC 6884, examinations, Tieden was curious as to how comprehensive the exams were and Horner responded that they varied from state to state. She assured Tieden that rate structures were provided in the 60 pages of information in the financial statement.

510--15.10

Horner briefed the Committee with respect to amendment which clarifies what constitutes an unreasonable disapproval of proof of insurance in certain debtor-creditor situations.

No other questions.

PERSONNEL
DEPARTMENT

Clint Davis, Division of Administration, represented the Department of Personnel for the following:

Revision and transfer of rules, chs 1 to 3, 4.1 to 4.6, 4.8, 4.11, 4.13 to 4.16, 5.1, 5.2(4), 5.5(4), 5.5(11), 5.6, 5.9, 6.1, 6.4, 6.5, 7.2, 7.3, 7.3(1), 7.6, chs 8 to 10, 11.1(1), 11.2, 11.3(1)"c" and "d," 11.3(2)"b" to "e," 11.3(3) to 11.3(7), chs 12 to 19 ARC 6851.....N. 8/13/86
Affirmative action, ch 20 ARC 6819N. 8/13/86

- 4.1(3) According to Davis, rules before the Committee reflected changes to implement government reorganization. Re 4.1(3), Davis advised Clark that Merit has approximately eight pay plans. The managerial and noncontractual, nonsupervisory pay plans do not have steps but they do have minimum and maximum rates.
- 14.11 In review of 14.11, re election leave, Davis agreed to check the statutory provisions as to length of leave. He recalled that the director of a state department could grant leave in excess of six years. Clark called attention to 16.1(1) and (2) as being identical. Clark referred to chapter 17 and asked if letters of recommendation would be part of the employee's file. Davis thought they could be. Clark reasoned that a writer of a recommendation might hesitate to be frank if they had knowledge that the employee would have access to the letter. Davis did not foresee problems since letters of recommendation are part of the pre-employment process and the rule addresses on-the-job record.
- 16.1
ch 17
- 18.1 Clark questioned last sentence in 18.1 as to use of "impartiality". Davis said it would probably be in favor of the program the employee was working in or administering.
- 14.12 Doyle and Davis discussed legislation which allows maternity leave for fathers. In re 14.12(19A), court and jury leave, Doyle asked if a party to a criminal or civil action would be permitted to take time off from work. Doyle was advised that an employee who was sued would be required to take vacation time for the court appearance.
- 19.2 In discussion of 19.2, Doyle noted that most agencies include reasons why they would not have an obligation to respond to request for declaratory ruling. Royce noted model rules in process on declaratory rulings will resolve this matter. Davis advised Tieden that a provision was included in the rules to ensure that collective bargaining agreements supersede the rules.
- 1.1 Royce had received complaints from two division heads re the definition of "appointing authority" in rule 1.1. The definition in SF 2175 differs from the one in personnel. Davis had talked with boards and commissions and had received written communication. He was contemplating expansion of the definition to include the administrative head of boards and commissions as well as departments in statutory agencies and independent agencies.
- ch 20 Dave Lundquist, Bureau Chief of Pre-employment, Equal Opportunity and Affirmative Action Bureau, explained

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PERSONNEL
DEPT.
Concluded

chapter 20, affirmative action. The rules were previously under the Civil Rights Commission but are being revised and transferred to Personnel Department as provided in S.F. 2175. Davis discussed pay changes an individual might receive--step, comparable worth, cost of living.

O'Kane was informed that the definition for "affirmative action" was taken from federal regulations. Priebe resumed the chair.

Royce
Salary
Motion

Chairman Priebe recognized Senator Doyle for a motion. Doyle moved that Joseph A. Royce be given a one-step pay increase, to be effective September 5, 1986. [\$1225.60 biweekly] Motion carried.

Committee was in recess.

TRANSPOR-
TATION
DEPARTMENT

Gretchen Tegler, Transportation Planner, was present for the following:

RISE program. (06,Q) 4.2, 4.3(1)"e" and "f," 4.4(2)"a," 4.8(7)"d," 4.11(2)"c" and "d" ARC 6817*N*. 8/13/86

[06,Q]4.2

O'Kane in the chair. Tegler said she had worked with the rules initially and had been with the RISE program since its inception. O'Kane suggested deletion of "retail trade" in [06,Q]4.2(315). Tegler said they consider activity which generates new jobs or income in Iowa as a whole rather than in one community as opposed to another. O'Kane pointed out that "retail trade" can be a value-adding activity and should not be included in the rule as not generally value adding. Tegler said the intent was to consider those exceptions. O'Kane and Clark concurred that judgment could be exercised either way if the words "retail trade" were omitted.

4.4(2)

In discussing the allocation of funds in 4.4(2), Parker voiced opposition to new language to allow reconciling the statutory percentages over a period of up to five years. O'Kane recalled the bill had passed by one vote and that reconciling of percentages was not intended. Tegler took the position that, over a five-year period, balance would be maintained. They had viewed the proposal as an accounting exercise with no intention of "meddling with percentages." O'Kane could foresee local governments waiting four years for funds. There was lengthy discussion of the problem with Tegler reiterating there would be a balance with 50-25-25 per cent at the end of five years. It was noted that the statute, §315.4, 1985 Code Supplement, did not contain "annually."

4.4(2)a

Committee consensus was to object to 4.4(2)a if it is filed without revision. Priebe recalled the legislative debate where specifics were spelled out. He asked for a report on distribution of funds to date, anticipating the 5-year plan. Tegler replied that less money had gone to state primary roads, more to cities, and less to counties. Priebe was of the opinion the Department had exceeded their authority. Tegler emphasized there

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TRANSPORTATION
Cont'd

was no intent to defy legislative intent--their objective was to reconcile those percentages but not necessarily in the first year. Priebe questioned the delay in submitting rules since the law had been in effect since July 1985. According to Tegler, the amendments to existing rules are being proposed based on their experience with the program. They are trying to determine how to spend the state's share of RISE funds. Local government programs were implemented first. No formal ARRC action on the Notice.

Chairman Priebe resumed the Chair.

HEALTH

Rules of the Department of Public Health were before the Committee as follows:

Physical therapy examiners, licensure, 470-137.3(1)	ARC 6856	.....F	8/27/86
Chiropractic examiners, penalty fee, 470-141.16(5)	ARC 6820	.....F	8/13/86
Optometry examiners, branch offices, 470-143.9(1)	ARC 6830	.....F	8/13/86
Optometry examiners, declaratory rulings, license reinstatement fee, 470-143.11, 143.10(5), 144.1(5)	ARC 6831	.....F	8/13/86
Hearing aid dealers, advertisement, 470-145.212(8)"r"	ARC 6821	.....F	8/13/86
Social work examiners, declaratory rulings, 470-161.3(5)	ARC 6866	.....F	8/27/86
Medical examiners, 470-135.102(6)	ARC 6850, also filed emergency	ARC 6849	.....N.F.F.
Chiropractic examiners, 470-141.11(1), 141.11(2), 141.11(3)"a", 141.13(6), 141.62(1), 141.62(2), 141.62(4), 141.62(6), 141.70(2)"b", 141.12(3)	ARC 6828	.....N	8/13/86
Optometry examiners, 470-143.9(2), 143.10(5)	ARC 6829	.....N	8/13/86
Social work examiners, 470-161.4(1), 161.4(3), 161.5(1)	ARC 6864	.....N	8/27/86

Irene Howard and Harriett Miller were in attendance. Howard said that subrule 137.3(1) changed application filing deadline from 45 to 60 days. No questions.

In review of 141.16(5), Miller told Doyle that no penalty existed previously. Miller contended that the Department was within their statutory limits and she saw no need to provide a waiver for the penalty. Extension of time for completion of continuing education would be arranged for extenuating circumstances such as illness. No comments had been received. Royce cited Code Chapter 258A as authority for agencies to impose up to \$1000 penalty. According to Howard, penalties average \$25.00. Priebe approved of the penalty concept but questioned whether \$100.00 was excessive.

143.9(1) and
143.11 et al

No questions were raised on the remaining agenda items.

NATURAL
RESOURCES
DEPARTMENT
[WAWM Division]

Mark Landa, Attorney; John Seyb, Technical Assistant; Bruce Hemming, Bureau Chief; Pete Hamlin, Section Chief; Ralph Turkll, Technical Assistant; and Diana Hanson, Attorney, appeared on behalf of the WAWM division. The following agenda was before ARRC:

Water use designations for Iowa streams, 61.3(5)"e"	ARC 6863	.....F	8/27/86
Criteria for siting hazardous waste management facilities, 140.1, ch 151	ARC 6857	.....N	8/27/86

Hanson recapped the amendment to 900--61.3(5). Priebe observed that reclassification of a river can generate much public comment. He had received mail from Dakota City where 56 homes are for sale because of exorbitant

NATURAL
RESOURCES
DEPARTMENT
(Cont.)
140.1,
ch 151

sewage and water bills--an average of \$60 per month to finance a \$1.2 million sewer plant. No ARRC action taken.

Landa explained proposed criteria for site of a hazardous waste storage treatment or disposal facility. It will be applied to facilities owned or operated by the state on state-owned land or privately owned or operated facilities on land owned by the state. Three public meetings have been held with one comment received so far.

151.3(1)

Doyle was informed that 151.3(2) addressed criteria for cultural areas such as Indian mounds.

O'Kane was in the chair.

BOARD OF
REGENTS

R. Wayne Richey, Executive Secretary; Roger Maxwell, Affirmative Action, and Marsha Peters, Assistant Director, Personnel and Employment Relations, were present for the following:

Equal employment opportunity, affirmative action, targeted small business, and purchasing, ch 7, 8.1(2),
8.6(5) ARC 6846, also filed emergency ARC 6845 N+FE 8/13/86

Richey summarized substitute rules for Chapter 7, which track the statute--Senate File 2175. Revisions will be submitted following report to the Board of Regents at its October meeting.

Parker mentioned a letter sent by Representative Hatch. Richey had responded to the letter and would recommend changes to the Board as suggested by Hatch. They will define "bonafide occupational qualification." The equal employment committee has existed since 1975 and it will be continued, as clearly required by law; language will be inserted authorizing division of procurements into economically feasible units; provisions will be developed to identify the relationship that exists between the Department and their institutions, and the Department of Economic Development in negotiating bids.

Richey emphasized that academic freedom is not relevant to the purchasing process. O'Kane provided Richey with a definition of "affirmative action" developed by the Personnel Department and suggested that Regents might wish to include it in these rules.

Priebe resumed the chair.

Committee
Business
Motion
Carried

Doyle moved approval of the minutes of the August meeting. Motion carried.

Barry discussed rules from Labor Services where "will" was used in instances where "shall" would be preferable. Committee recommended that the department be apprised of their preference for use of "shall".

Meetings

Statutory meeting dates were agreed upon as follows:
October 14 and 15, November 11 and 12, possibly
November 13, and December 9 and 10, 1986.

PUBLIC
SAFETY
DEPARTMENT

Connie White, Manager, Program & Policy, and Michael
Rehberg, Laboratory Administrator, were present for
the following:

Devices and methods to test blood for alcohol or drug content, 7.2(1), 7.2(3), 7.3(5) ARC 6833F 8/13/86

White briefed Committee with respect to revision since
Notice which was basically nonsubstantive changes
suggested by Clark.

7.3(5)

Doyle was interested in policy for urine collection
as it affects the defendant who may wish to keep a
sample--7.3(5). Rehberg explained that the defendant
could have a portion of the sample taken by a peace
officer.

Doyle commented that some states have ruled that even
a breath sample must be available for defendants.
Rehberg stated that Iowa and the Federal Court has
ruled that to be unnecessary. No Committee action.

HUMAN
SERVICES

Mary Ann Walker, Linda Foster, Vivian Thompson,
Lawrence Sagard, and Carl L. Meisel were in attendance
for the following:

Developmental disabilities — governor's planning council and basic grant program, 1.7, ch 38 ARC 6842F 8/13/86
Confidentiality and records of the department, 9.3(3)g ARC 6843F 8/13/86
ADC, application for aid, granting assistance, unemployed parent, recoupment, work incentive demonstration
program, 40.1, 41.4, 41.4(1), 41.4(1)a"(4), 41.4(1)f," 41.4(3) to 41.4(7), 41.4(7)a" and "b," 41.4(7)b"(3), 41.4(8),
42.4(2)a," 42.4(3), 42.4(5)c," 42.4(6), 46.4(1), 90.3, 90.4, 90.6(1), 90.14 to 90.16, filed emergency after
notice ARC 6844FFAN 8/13/86
ADC, continuing eligibility, 40.7(1)a"(3) ARC 6876N 8/27/86
Interim assistance reimbursement, 57.1 ARC 6840N 8/13/86
Relief for needy Indians, reporting requirements, 64.3 ARC 6877N 8/27/86
Food stamp program, 65.3, 65.8(4), 65.18, 65.19(20) ARC 6839, also filed emergency ARC 6838N+FE 8/13/86
Federal surplus food program, 73.1(1), 73.3(1) to 73.3(3), 73.12(2), 73.11, 73.15 ARC 6878N 8/27/86
Medical and remedial services, intermediate care facilities, 78.12(18), 81.1(10), 81.3(2), 81.6(11)," 82.10(2)
ARC 6841N 8/13/86
Providers of medical and remedial care, policies relating to, 79.1(3)a" ARC 6879N 8/27/86
Economic impact statement (ARC 6570—ch 88, HMO coverage of Medicaid clients) ARC 6837N 8/13/86

Walker briefly explained the amendments set out in
the first eight agenda items.

Doyle was interested in the impetus for 73.15 prohibit-
ing commodity distribution for political purposes.
Walker said the Department included the federal regula-
tion but had no knowledge of problems in Iowa.
No other questions regarding the rules.

Discussion of the Economic Impact Statement on
proposed Chapter 88 (5/21/86 IAB) which will allow
the Department to enter into contractual agreements
with HMOs for coverage of Medicaid clients.

Department officials offered background on the method
of payment for mental health services and their proposal
to implement services under the HMO concept. HMO
groups have been informed they cannot provide lesser
level of service in a given category than what is
currently provided.

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HUMAN
SERVICES
DEPARTMENT
(Cont.)

They continued there was no evidence that mental health services under an HMO would differ from the current fee-for-service program.

Tieden wondered about reaction from HMOs. Response was that, currently, HMOs do business with the mental health providers contracted by the Department of Human Services; for example, they have four categories. All HMOs do business with psychiatrists but not all do business with community mental health centers or with psychologists as the Department does. In that sense, some HMOs, if they elect to provide other services to community mental health centers and independent practicing psychologists, will have to enter into subcontracts. Walker stressed that this was a major change and John Fairweather was willing to answer any questions of the ARRC prior to their review of the adopted rules.

Doyle was informed that the Insurance Commissioner was aware of the rulemaking. He licenses HMOs and works through an HMO consortium--Human Services Commissioner, Public Health Director and Iowa Foundation for Medical Care. No Committee action.

NURSING
BOARD

Discussion of possible request for Economic Impact Statement on the Board of Nursing proposed Chapter 2 on Nurses education. O'Kane recognized the difficulty in preparing such a statement, particularly, since the rules would not be in affect for six years. Tieden recognized the complexity of the issue but was concerned that all aspects be considered.

It was agreed that the Board of Nursing be asked to appear before the ARRC after the public hearing on their rules, probably in November.

Noon recess.

Meeting was reconvened at 1:25 p.m. and the following was before the Committee:

No Agency Representatives requested to appear

FAIR BOARD[430]	
Competitive exhibits and competitions, 6.1 ARC 6886.....	F 8/27/86
LABOR SERVICES, DIVISION OF[530]	
Occupational safety and health rules for general industry, 10.20 ARC 6852	N 8/13/86
Occupational safety and health rules for construction, 26.1 ARC 6853.....	N 8/13/86

Adjournment

There being no further business, the Committee was adjourned at 1:30 p.m. Next regular meeting was scheduled for October 14 and 15, 1986.

APPROVED:

Beck & Tieden

CHAIRMAN

Respectfully submitted,

Phyllis Barry

Phyllis Barry, Secretary
Assisted by Vivian Haag