

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

**Time of Meeting** The regular meeting of the Administrative Rules Review Committee (ARRC) was held on Tuesday and Wednesday, June 9 and 10, 1992, in Senate Committee Room 22, State Capitol, Des Moines, Iowa.

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

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

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

**SECRETARY OF  
STATE**

**SECRETARY OF STATE[721]**

Proposed constitutional amendment — equal rights, 21.1(4), Notice ARC 2852A Terminated ARC 3005A 5/13/92

Proposed constitutional amendment — disqualification from public office for parties to a duel, 21.1(4)

Notice ARC 3014A ..... 5/27/92

Alternative voting systems, 22.53, 22.53(1)"g" and "h," 22.53(2)"a," "b," "d," "e," "g," and "h,"

22.53(5)"b" and "d," 22.53(8), Filed ARC 3058A ..... 5/27/92

**21.1**

The first item on the agenda, termination of a Notice of Intended Action which provided opportunity to review a summary of the proposed constitutional equal rights amendment to 21.1(4), was explained by Sandra Steinbach, Director of Elections. Steinbach distributed a review of the summary and a sample ballot. She elaborated on her responsibilities to ensure that the Iowa election laws were carried out. Steinbach stated that after consideration of written and oral comments, the agency saw a need to underline new language in the amendment on the sample ballots. The summary was revised to read "The underlined words amend the Constitution to ensure equal rights for men and women." Steinbach concluded that they had drafted an accurate summary of the proposed constitutional amendment and believed it was unnecessary to adopt it as part of the Iowa Administrative Code.

Robert Wright, Jr. questioned the rationale for omitting the amendment from the IAC. Steinbach responded that the Secretary of State had authority, absent of the administrative rules process, to write the summary for a constitutional amendment. Therefore, the publication expense was unwarranted.

Steinbach clarified for Hedge that the summary of the equal rights amendment contained no mandate—the summary would not become part of the constitution.

**21.1, 22.53**

There were no comments or recommendations on ARC 3014A or 3058A.

Vice Chairman Pavich in the chair.

# HUMAN SERVICES

The Human Services Department was represented by Mary Ann Walker, Policy and Procedures, Lorraine Schott, Julie F. Pottorff, Mike Baldwin, Sally Nadolsky, Kathy Ellithorpe, Jan Gorman, Della Tracy, Rita Vodreska, Mary Codey, and Gary Gesamann. The following agenda was discussed:

## HUMAN SERVICES DEPARTMENT[441]

Entitlement programs — budget reductions rescinded, 41.8(2), 49.10(5), 52.1(3), 75.1, 78.16(6), 78.31(4)"d"(7)"6, 79.1(5)"u," ch 86, 150.3(5)"v," 156.20, 177.4(3), 202.9(1)"a"(1), 202.9(6)"a"(1),  
Filed Emergency ARC 2984A ..... 5/13/92  
 Payment for visitation days in RCF limited to 30 days per calendar year, 52.1(3)"e," Filed ARC 2986A ... 5/13/92  
 Health services application form for WIC and maternal health services and well child health services, 75.1(30), 75.1(30)"c"(3) and (4), 76.1, 76.1(3), Filed Emergency After Notice ARC 2985A ..... 5/13/92  
 Periodicity schedule for early and periodic screening, diagnosis and treatment health screens and for hearing, vision and dental screens, 78.18(3), Notice ARC 3012A ..... 5/27/92  
 Rehabilitation agency services, maintenance therapy, diagnostic or trial therapy, reevaluation, 78.19(1)"a"(2) to (7), 78.19(1)"b"(1), (5), (7), (8), (10), (12), (15) and (16), 78.19(1)"c"(1) and (2), 78.19(1)"d"(2), (5) and (6), 78.19(2)"a," Notice ARC 3010A ..... 5/27/92  
 Intermediate care facilities for the mentally retarded, 82.5(3), 82.5(14) to 82.5(16), 82.19, Filed ARC 2987A 5/13/92  
 Ill, handicapped, and elderly waivers — spousal impoverishment guidelines, 83.3(5), 83.4(1)"b," 83.23(5), 83.24(1)"b," Notice ARC 2999A ..... 5/13/92  
 PROMISE JOBS program, ch 93 preamble, 93.2(1) to 93.2(3), 93.3, 93.6, 93.8, 93.9, 93.10(1)"e," 93.10(6), 93.11, 93.11(1), 93.11(3) to 93.11(6), 93.11(11), 93.11(14), 93.12(1), 93.12(2)"c," 93.13, 93.14(1), 93.14(1)"d," 93.14(6), 93.14(10)"a," 93.14(11)"d," 93.15(4), 93.18, 93.20(3), 93.29, 93.30, 93.32, 93.32(13), 93.36, 93.39, 93.41(3), 93.41(3)"a" and "e," Filed ARC 2988A ..... 5/13/92  
 Child abuse investigations, 175.8(1), 175.8(3), 175.8(4)"b" and "c," 175.8(6) to 175.8(8), Notice ARC 2998A 5/13/92  
 Foster care services — follow-up visit, 202.1, 202.2(5), 202.2(5)"a," 202.3(2), 202.3(3)"a" and "b," 202.3(4), 202.6(3), 202.6(5), 202.7, 202.8(1), 202.9(1)"a"(9), 202.9(1)"b," 202.9(2)"b," 202.9(3), 202.13(3), 202.16(1)"f," Notice ARC 3040A ..... 5/27/92

41.8, 52.1, 75.1

Walker presented amendments to 41.8 et al. (ARC 2984A), 52.1(3)"e" (ARC 2986A) and 75.1(30) et al. (ARC 2985A) with no comments or recommendations.

78.18(3)

In the amendment to 78.18(3), Metcalf remarked on the substantial increase in the number of health screening services for which a child would be entitled. Walker advised her these were Medicaid figures and the rules set out recommended screenings.

Nadolsky advised Metcalf that the Department followed the American Academy of Pediatrics Standards and if a physician were using these standards, a child would be screened accordingly. Metcalf could foresee increased costs for the state.

Walker informed Tieden that public hearings were scheduled for the proposed amendment with which many provider groups were involved.

Maulsby inquired about funding to implement the proposed schedule. Nadolsky responded that the federal government was following the American Academy of Pediatrics guidelines to be in place by 1995. Iowa would be subject to sanctions for lack of progress in this area so the program was included in next year's budget.

Department officials offered percentages for anticipated goals. Metcalf took the position that screening more children fewer times would be preferable to having a lower percentage screened more often. She also observed that the American Academy was not mentioned in the rule. Nadolsky clarified their goal was two-fold—reach more children and increase visits of those screened.

Schrader was informed that the screening in all areas (hearing, dental and vision) was done at one time. He was supportive of a program to increase screening of older children.

# **HUMAN SERVICES(Cont.)**

Nadolsky explained to Hedge that one suggestion of the federal government was to increase payment for each screening—presently, a provider receives \$50 to \$60. Hedge wondered how this would motivate a person to bring in their child and Nadolsky admitted that the suggestions really targeted provider cooperation.

It was noted that the Department files an annual report which reflects percentages—a count is made of the number of claims submitted for reimbursement. The Department also has the number of Medicaid recipients under age 21 included as part of the EPSDT program.

There was discussion of involvement of schools in this screening program and availability of statistics on the number of screenings of children who are not involved in this program.

Priebe also asked for a comparison on the number of screenings for children in this program and on those who are not involved. He was also interested in curbing abuse of the program.

Schrader was supportive of the Department's effort in attempting to implement the program. Nadolsky agreed to provide more information to the ARRC to include regional as well as county statistics.

Priebe in the chair.

78.19

Amendments to rule 78.19 were before the Committee. Regarding revision of 78.19(1)"a," Metcalf questioned the use of the term "significant other" and recommended "companion" as a better choice.

In subparagraph (8) of 78.19(1), paragraph "b," Priebe asked about composition and qualifications of the interdisciplinary team which would determine medical necessity. Ellithorpe said that persons from the agency would make the recommendations.

82.5, 82.19

Amendments to Chapter 82 were discussed (ARC 2987A). Priebe was informed that some residents of foster care group homes had been moved to ICF/MRs and costs had been shifted from state to local (county). Gesaman explained the county would pick up slightly less than 40 percent. He advised Priebe that foster care group homes were state funded and added that transfers from foster care group homes to ICF/MRs had been a practice for the past decade. Priebe voiced concern about the added burden to counties.

Walker called attention to legislation passed by the 1992 General Assembly that precluded payment for foster care in a group care facility for persons aged 18 years or older. Gesaman spoke of instances when residential care facilities that were caring for very ill or handicapped persons have been pressured by Inspections and Appeals and Human Services to change their license.

In response to Teaford, Gesaman explained cost containment as set out in 82.5(14)"b." He said the rates often go down after the start-up costs are absorbed.

Kibbie commented on a facility in his area which was converting to ICF/MR and the increased costs to the county.

Ch 83

No questions or comments on amendments to 83.3 et al., ARC 2999A.

**HUMAN SERVICES(Cont.)** There was review of amendments to Chapter 93, PROMISE JOBS Program and Schott advised that more responsibility would be delegated under the JTPA Ch 93 program in some areas. Kibbie recalled layoffs in one JTPA office but under this rule they would be given more responsibility. Walker clarified that the amendments would not substantially change the rules. No action.

175.8; Ch 202 ARCs 2998A and 3040A were presented by Walker and there were no questions or comments.

Motion Barry called attention to the objection to copayment provisions in 79.1(13) which was no longer of any consequence. Kibbie moved that the objection to 79.1(13) be deleted from the IAC. Motion carried.

**ALCOHOLIC BEVERAGES** Richard Morrell briefed the Committee on the following agenda:

**ALCOHOLIC BEVERAGES DIVISION[185]**  
**COMMERCE DEPARTMENT[181]"umbrella"**  
 Trade practices, 16.1(6)"g," 16.1(7), 16.1(8), 16.5(2) to 16.5(4), 16.13, 16.20, Filed ARC 3009A ..... 5/27/92

Ch 16 Priebe called attention to citations of the Code of Federal Regulations in subrule 16.1(7) and requested that dates certain be included. Schrader suggested that a dollar amount could be used. Morrell was amenable to including dates.

**ATTORNEY GENERAL** Marti Anderson, Director, Crime Victim Assistance, presented Filed amendments in 61—9.82(2) and 9.87 relating to sexual abuse examination payment, published as ARC 3029A, 5/27/92 IAB.

Priebe referred to 61—9.87 and questioned deletion of the 90-day limitation for appeal. Anderson agreed to follow up on the matter.

Kibbie was assured that the proposal to raise the maximum reimbursement for physician services was being deleted by a vote of the Crime Victim Assistance Board.

**BANKING** Steven Moser, Deputy Superintendent, and Donald Senneff, General Counsel, represented the Division for the following agenda:

**BANKING DIVISION[187]**  
**COMMERCE DEPARTMENT[181]"umbrella"**  
 Securities activities — state chartered banks, 2.15, 2.15(1)"a," "g," and "h," 2.15(4)"b," 2.15(6), 2.15(6)"a,"  
Notice ARC 3020A ..... 5/27/92

2.15 According to Moser, the comment period on the amendments ends June 16 and no comments had been received.

Metcalf wanted assurance that consumers understood that securities did not have FDIC backing. Moser pointed to 2.15(1)"h" which incorporates FDIC rule, part 337.4. In addition, specific disclosures must be given to the customer prior to the establishment of an account or the transaction.

**CAMPAIGN FINANCE** Kay Williams, Director, explained the following agenda:

**CAMPAIGN FINANCE DISCLOSURE COMMISSION[121]**  
 Complaint procedure, reporting requirements, campaign finance disclosure commission, civil penalties, 1.1, 1.2, 1.5, 1.7, 1.9, 4.5(4), 4.5(5), 4.5(9) to 4.5(11), 4.6, 4.7, 4.17, 4.23, 4.23(2), 4.28 to 4.32, 5.6, 6.4,  
Filed ARC 3000A ..... 5/13/92

**CAMPAIGN  
FINANCE (Cont.)**

Discussion focused on subrules 4.5(5) and 4.5(4), respectively, relative to the definitions of "yard" sign and "disclaimer" for political advertising.

In review of amendments to 1.1 et al., Williams noted that rule 4.6 governing reporting of honoraria, would be rescinded in compliance with House File 2466, which bans honoraria. Priebe advised use of emergency adoption provisions for the rescission.

It was Priebe's position that if signs were made by a campaign committee or the candidates themselves, a disclaimer was not needed. Williams pointed out that the statute was unclear and the Commission must interpret by rule. She was willing to refer suggestions to the Commission.

Williams quoted from the statute with respect to the political advertising disclaimer. The identification on yard signs must be in letters at least one inch high. However, if the yard sign were authorized by the candidate's committee, no identification would be required. According to Williams, the Commission had reprimanded those who failed to include a disclaimer on larger signs.

Considerable discussion continued regarding yard signs and their placement on corporate property or private property, disclaimers, statutory provisions, interpretations, and what constitutes a reprimand by the Commission.

Williams recommended statutory change to address the Committee concerns but reasoned that by "fixing some of the small problems, a large door might be opened." No Committee action.

**Recess**

Chairman Priebe recessed the Committee at 11:55 a.m. for lunch and reconvened it at 1:35 p.m. He called up the following:

**CORRECTIONS**

**CORRECTIONS DEPARTMENT[201]**

Institutional community placement, 20.17, Notice ARC 3028A ..... 5/27/92

Fred Scaletta, Program Manager, and Charles Lee, Deputy Director of Institutions, were in attendance.

**20.17**

Lee briefly explained the new rule 20.17 relating to placement of inmates in the community.

Priebe was advised that statutorily the Parole Board does not have to review these inmates before they are placed but by practice and policy the Department does share information on this type of release with the Board. Lee added that because of administration problems, bracelets would not be used. Also, a daily cost would be incurred since bracelets must be monitored by a computer system.

Tieden was advised that screening was performed by an internal committee at the institution made up of security, treatment and management personnel. He expressed concern about application procedures in 20.17(5)"h" which stated that "status may be revoked for any reason which may not necessarily include a discipline report...."

Doyle and Lee discussed the use of written waivers and Doyle's suggestions relative to custodial parent would be added. Further debate focused on 20.17(1)"a"(4)—eligible criteria for home care of an inmate's family and 20.17(4)"k"—travel policy. Hedge referred to privileges for temporary absence from the residence and could foresee possible abuse—20.17(4)"l." Lee recalled

**CORRECTIONS  
(Cont.)**

there were only two unsuccessful furloughs last year. He spoke of the built-in safeguards.

Kibbie inquired as to what relationship money earned in gainful employment in the community might have on payment of restitution. Lee responded that all money earned must be turned over to the Department for management and policy dictates that a minimum of 20 percent be applied toward restitution payment.

Pavich in the chair.

It was noted that the word "family" should be added in the second sentence of 20.17(2) between "immediate" and "member."

**INSPECTIONS  
AND APPEALS**

Those present from the Department included Rebecca Walsh, DIA Rules Coordinator; William Wegman, State Public Defender; Robert Haxton; and Don Mendenhall, Gaming Manager. The following agenda was reviewed:

**INSPECTIONS AND APPEALS DEPARTMENT[481]**

Consent for the sale of goods and services, ch 7, Filed ARC 3015A ..... 5/27/92  
Indigent defense — claims for compensation, ch 9, Filed ARC 2993A ..... 5/13/92  
Food and food service establishment inspections — temperature of seafood, requirements for toilets, lavatories,  
mobile food units and pushcarts, 31.4, 31.9, 32.3(4), 32.3(6), 32.4, Filed ARC 2992A ..... 5/13/92  
Annual game night, 100.60 to 100.63, Notice ARC 2979A ..... 5/13/92

Chs 7, 9

There were no questions or recommendations on Chapter 7 or 9.

Chs 31, 32

Amendments to Chapters 31 and 32 were before the Committee. Tieden questioned the increase in minimum temperature of a cooling unit for seafood. Haxton responded that the FDA has recommended 40 degrees F., the maximum for most walk-in cooling units. This is an enforceable temperature.

Brief discussion on mobile food units/pushcarts with Haxton noting that current pushcarts were "grandfathered" —32.4. These rules were for clarification.

100.60 to 100.63

Proposed amendments to rules 100.60 to 100.63 were considered. Walsh described the rules as clarifying requirements to be met in conducting an annual game night. However, because of recent legislation (SF 2249), the Notice will be terminated and rewritten to implement the Act which allows for members of the general public to be invited to an annual game night. Tieden expressed concern about enforcement.

**DEAF SERVICES**

Present were Diana Leonard, Administrator, Jill Robinson, Commission member and Margaret Elbert, Interpreter. The following agenda was discussed:

**DEAF SERVICES DIVISION[429]****HUMAN RIGHTS DEPARTMENT[421]"umbrella"**

Organization, services and procedures, forms, 1.1, 1.2(1), 1.2(2), 1.2(3)"b" and "c," 1.3(2)"h," 2.1, 2.2,  
2.3(2), 2.3(2)"d" and "e," 2.3(3), 2.3(5), 2.3(7)"i," 2.3(9), 2.3(11), 2.4, 2.4(1), 2.4(2), 2.4(3)"b" to "e,"  
4.1(1), 4.1(11), 4.1(14), 4.1(15)"g," 4.1(17), 4.1(18), Notice ARC 3060A ..... 5/27/92

1.1 et al.

Leonard gave a brief overview of the proposed amendments.

In 1.2(2)"c," Teaford called attention to use of "branch" which should be corrected to "regional" offices. Leonard concurred. Discussion focused on location of interpreters and services offered by private practitioners. Doyle expressed concern that only one person was available in his area to assist with persons arrested during the night or on a weekend. Leonard stated the Communication Center of the Highway Patrol maintains a list of interpreters

**DEAF SERVICES  
(Cont.)**

across the state. The Division could be contacted as well. Hospitals also have procedures in place to cover emergencies of deaf and hard of hearing persons. Leonard advised that the Iowa Utilities board was providing rules on the 800 number which relates to dual party relay service. U. S. Sprint has the contract to provide the service in Iowa.

Hedge inquired about the interpretation services for illiterate and Leonard responded that most deaf persons learn the American sign language first so their skills in English may vary in competency levels.

Priebe in the chair.

**REVENUE AND  
FINANCE**

Carl Castelda reviewed the following agenda:

**REVENUE AND FINANCE DEPARTMENT[701]**

Authority of chairperson to enter prehearing and procedural orders, 2.12,

Notice ARC 3032A ..... 5/27/92

Determination of net income — married taxpayers, 40.15(1) to 40.15(4), Filed Emergency ARC 3035A . 5/27/92

Determination of net income, allocation and apportionment, 53.2(6), 54.6(3),

54.6(6), 54.9, 59.2(6), Notice ARC 3033A ..... 5/27/92

Apportionment of income by service companies, 54.6, 54.6(1), Notice ARC 3034A ..... 5/27/92

2.12

There were no questions on proposed rule 2.12.

40.15

Castelda explained that the amendments to 40.15 were filed emergency to reinstate language which had been inadvertently rescinded in 2/5/92 IAB.

53.2 et al.

Amendments to 53.2 et al. were before the Committee.

Priebe and Castelda discussed 54.6(3)"b"(4) relating to the borrower living within the state or accounts maintained within the state. The rule addressed deposit and loan functions.

54.6

No recommendations for ARC 3034A.

**Committee Business  
Minutes**

Doyle moved that the minutes of the May meeting be approved. Motion carried.

**Substance Abuse**

Priebe requested that a representative from the Division of Substance Abuse be requested to appear at the July meeting to discuss funding of detoxification centers [643—Chapter 2].

**ARRC meetings**

The following dates were agreed upon for ARRC meetings: July 14 and 15, August 11 and 12, September 8 and 9 and October 13 and 14. It was noted that November 11 was Armistice Day so the November meeting was tentatively scheduled for the 9th and 10th.

**UTILITIES**

After a brief recess, the Utilities Division rules were reviewed as follows:

**UTILITIES DIVISION[199]**

COMMERCE DEPARTMENT[181]"umbrella"

Promotional practices and energy efficiency programs, 16.2(7)"56"(1), 16.2(8), 16.3(7)"56"(1),

16.3(8), 16.7(2), Filed ARC 2995A ..... 5/13/92

Flexible transportation rates and flexible charges, 19.12(1), 19.12(3)"c" and "f," 19.12(4), 19.12(5),

Filed ARC 2996A ..... 5/13/92

Rescission of I-SAVE rules, ch 27, Filed ARC 2997A ..... 5/13/92

Disposal of a public utility's assets, 32.2, Filed ARC 3018A ..... 5/27/92

## UTILITIES(Cont.)

Ch 16

No Committee recommendations on ARC 2995A.

19.12

In ARC 2996A, Priebe inquired why customer charges may be discounted in Item 3—19.12(3). Allender responded that optional discount would allow gas companies that feel competitive pressures from an electric company, for example, to discount the customer charge to remain competitive.

Ch 27

Place briefed the Committee on rescission of Chapter 27, I-SAVE. No questions or comments.

32.2

Stump explained revised rule 32.2. In response to Priebe, Stump cited the \$2 million figure as a threshold for many nonroutine transactions.

LABOR  
SERVICES

Walter Johnson, Deputy Commissioner, Mary L. Bryant, IOSH Administrator, IOSH Enforcement Bureau, and Harold Holmgaard, Safety Supervisor, were in attendance for the following agenda:

## LABOR SERVICES DIVISION[347]

EMPLOYMENT SERVICES DEPARTMENT[341]"umbrella"

General industry safety and health rules, 10.20, Filed Emergency After Notice ARC 3016A ..... 5/27/92Construction safety and health rules, 26.1, Filed Emergency After Notice ARC 3017A ..... 5/27/92Bungee jumping, 62.2(13), Notice ARC 2990A, also Filed Emergency ARC 2989A ..... 5/13/92

OSHA fines in housing construction — SPECIAL REVIEW

10.20, 26.1

There were no questions or Committee recommendations to ARC 3016A or 3017A.

62.2

Discussion focused on new subrule 62.2(13) which was emergency adopted to provide safety procedures for bungee jumping. Johnson stated that the provision was added to the rule on amusement rides. The National Association's Rules of Bungee Jumping as well as OSHA rules must be followed. Johnson indicated there were four operators in the state and he provided background information received from Crane Rental Association, Crane Manufacturers Association and Federal OSHA.

Special Review -  
OSHA Fines

The special review of OSHA fines for violations in housing construction was addressed by Johnson and Bryant.

Pavich in the chair.

Hedge asked how many inspections per month by the 6 FTEs were under discussion. Johnson responded that of the slightly more than 1,000 statewide inspections conducted last fiscal year, 521 were in construction—Principal Building to sewer construction. Hedge asked how many inspections were on housing. Johnson estimated that 14 housing sites and 26 contractors were inspected in a six-month span. Nine of the sites were single-family dwellings and five were other residential, such as apartment buildings and retirement homes. Two of the recent inspections dealt with fatalities.

Priebe in the chair.

Priebe and Johnson discussed two incidents—one regarding failure to use a hard hat and another a first-aid kit which had not been restocked.



**LABOR (Cont.)**

Schrader alluded to allegations of irrelevant inspections with unrealistic citations. Johnson highlighted situations of justified inspections and emphasized that employers have a statutory duty to provide a safe place of employment.

Bryant informed Schrader of alternatives following a citation, e.g., an appeal can be made to the Employment Appeal Board. Schrader suspected that minor infractions were being sought out for citations at a site arbitrarily selected for inspection. Johnson discussed the penalty structure, e.g., contractors with fewer than 10 employees would get a 40 percent reduction. According to Johnson, penalties of \$1,000 to \$7,000 have had a significant impact on safety awareness. Most complaints to Schrader had been from individuals with one or two employees working out of a van or truck. Johnson emphasized that a book of regulations, construction digests and checklists were available.

Bryant stated that one of the recent fatalities investigated by the Division occurred during the construction of a basement in a single-family dwelling. Shoring was permitted under available guidelines.

Charles Wasker, General Counsel, Home Builders Association of Iowa, voiced his opinion that comparison of rules of construction in commercial areas and home building areas was similar to comparing apples to oranges. Wasker estimated that three-fourths of the 1600-member association were subcontractors and the remainder general contractors. He declared that the "extraordinary fines levied" had shocked the industry. Small businesses fear loss of their livelihood. The Association had set up meetings for homebuilders and a rapport was developing with Labor Services. However, the association contends that a violation should be brought to the contractor's attention for correction rather imposing an immediate fine.

Priebe favored some reasonable grounds for negotiation of fines.

Johnson asked for help in identifying the type of project where potential violations exist. Inspectors have been told to issue citations for what they see. No Committee action.

**REGENTS**

Present from Regents Board were Wayne Richey, Executive Secretary and Carson E. Smith; Arlo Meyer, Morris Mikkelsen, Doug Jensen and Pat Geadelmann, representing purchasing divisions of the universities, and Harry Cannon, Corrections Department..

Richey reported on progress regarding purchasing by Regents institutions from Prison Industries. He offered statistics from the three universities. Because of solicitation by Prison Industries, the universities will have significant increases in purchasing.

Cannon was delighted with the relationship that had evolved and he elaborated on work at the Prison Industries.

Kibbie was also pleased with the progress made. There was discussion of Prison Industries modular furniture and how it compares with products by Herman Miller and similar manufacturers. According to Cannon, Prison Industries meet all standards of the industry but he admitted lack of options offered by larger manufacturers. Modular furniture made by Prison Industries will be on display at the University of Iowa.

**REGENTS (Cont.)** The representatives of the universities made brief comments on standardization plans and how they will utilize Prison Industries products.

Richey was confident that problems could be resolved in time.

**Recess** Chairman Priebe recessed the meeting at 4:15 p.m.

**Reconvened** Chairman Priebe reconvened the ARRC meeting at 8:45 a.m., Wednesday, June 10, 1992, and the following agenda was before the Committee:

## **NURSING**

### **NURSING BOARD[655]**

#### **PUBLIC HEALTH DEPARTMENT[641]"umbrella"**

Continuing education, 5.1, 5.2(2)"f" and "g," 5.3(2)"d"(8) and (9), Notice ARC 2856A Terminated

ARC 2994A ..... 5/13/92

Nursing education programs — qualifications for heads of programs and faculty members and elimination of consultant requirements, 2.3(2)"d"(1), 2.3(2)"d"(2), 2.3(2)"g," 2.6(1), 2.6(2)"c," 2.6(2)"d"(1),

Filed ARC 3023A ..... 5/27/92

Present from the Nursing Board were Lorinda Inmann, Executive Director, and JoAnne Kennebeck, Executive Director of the Iowa Nurses Association.

Pavich in the chair.

**Ch 5** There were no comments on Termination of amendments to Chapter 5.

**Ch 2** Inmann briefed the Committee on amendments to Chapter 2 relating to nursing education programs.

Responding to Tieden's concern regarding certain areas of the state being affected more than others, Inmann stated that the Board had granted every waiver requested and a built-in waiver was still available.

Inmann informed Hedge that a Master's degree in nursing was offered at Drake and the University of Iowa.

No Committee action.

**PUBLIC SAFETY** The following agenda was reviewed by Mike Coveyou, Administrative Rules Coordinator. Also present were Roy Marshall, State Fire Marshal, Steve Boggess, Plans Examiner, and Chris Odell, Assistant Attorney General.

### **PUBLIC SAFETY DEPARTMENT[661]**

Fire marshal — requests to grant variances, 5.1(5), 5.100(5), 5.650(8), Notice ARC 3007A ..... 5/13/92

Fire safety standards for locked units in residential care facilities, intermediate care facilities, and skilled nursing facilities licensed under Iowa Code chapter 135C and for other businesses operating in health care facilities, 5.53(3), 5.500, 5.550, 5.550(1), 5.552(3)"e," 5.552(15)"b," 5.600, 5.600(1) to 5.600(3), 5.600(7), 5.601, 5.601(1)"a," 5.601(3)"e," 5.601(15)"b," 5.602, 5.602(1)"a," "b," and "d," 5.602(3)"e,"

.602(4)"e," 5.602(17), Table 8-C, Filed ARC 3006A ..... 5/13/92

State of Iowa building code, 16.110(1), 16.110(3), 16.120(2), 16.120(4), 16.120(5), 16.121(1), 16.121(3), 16.130(14), 16.131, 16.140(1), 16.140(1)"b" and "d" to "f," 16.300(1), 16.400(1)"j," "k," "r," "s," "y," and "z," 16.401, 16.500(1), 16.500(1)"c," "d," "i," and "j," Notice ARC 3013A ..... 5/27/92

**Ch 5** Coveyou briefed the Committee on amendments to Chapter 5 addressing variance requests. Tieden reasoned that a rule could be weakened by allowing so many variances. Marshall responded that new technology would provide a greater degree of safety but it would not parallel the rules. He cited multistory school buildings as examples.

**5.53 et al.** There were no recommendations for 5.53(3) et al.

**PUBLIC SAFETY**  
**(Cont.)**  
 16.110 et al.

Coveyou explained ARC 3013 which addresses periodic need to update references to various national codes within the state building code.

Tieden inquired if the state building code applied to all cities in Iowa and was informed the cities must adopt it first. The city council approves their local code. Boggess added that three areas of the state building code would apply statewide—manufactured structures, state handicapped accessibility and the state energy code. Approximately 30 cities and one county follow the state code.

Priebe in the chair.

**PERSONNEL**

After a brief recess, the Personnel agenda was before the Committee. Clint Davis, Assistant to the Director, and Fae Brown-Brewton, Bureau Chief represented the Department. Also present were Carroll Bidler, Direction of Administrative Services for Public Safety, and the previously mentioned Public Safety representatives.

**PERSONNEL DEPARTMENT(581)**

Issuance of recall certificates, 11.3(6)"c" and "d," Filed Emergency ARC 3011A ..... 5/27/92

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

Filed ARC 3008A ..... 5/13/92

Bumping — separations, disciplinary actions and reduction in force; benefits, 7.3(1), 7.12, 11.3(1)"a,"

11.3(2)"d" and "e," 11.3(4), 11.3(5), 11.3(6)"c," 11.3(6)"l," 15.8, Filed ARC 2948A (Held from May agenda) 4/15/92

24.26

New rule 24.26, relating to withdrawal of contributions from the peace officers' retirement fund, was reviewed out of order by David, Coveyou and Bidler. The rule sets the interest rate to be paid to members of this system who withdraw their contributions. This interest will be based on the actual earnings of the investments in the system reduced by administrative costs—payments to investment counselors, actuaries, and three-fourths of one staff person. Administrative costs which average .3 to .4 of one percent will be deducted from earnings before they are calculated. For 1991, the return was 7.3 percent.

11.3(6)

No questions were posed on the emergency amendment to 11.3(6)"c" and "d."

7.3(1) et al.

Fae Brown-Brewton joined Davis to review ARC 2948A, Items 1 and 2, which were delayed 70 days at the May meeting. At issue was elimination of language which allowed shielding of certain employees from layoffs based on affirmative action needs. Brown-Brewton had recommended the deletion since she could find no statutory basis for validity of such rules. In her legal memorandum (on file with the Administrative Code Editor), Brown-Brewton addressed affirmative action exemption and determined that under constitutional theory a classification based on race must serve a compelling governmental interest and must be narrowly tailored to achieve that interest. She reviewed various court cases summarized in her memorandum. Recent U. S. Supreme Court decisions greatly restrict employers from shielding certain individuals or groups from layoff.

Responding to Teaford, Brown-Brewton saw no need to add affirmative action provisions in the statute inasmuch as the statute would then be subject to challenge.

Kibbie questioned new language in 11.3(2)"e". Davis commented that the method of determining the order of layoff was set out in Iowa Code Chapter 19A and was a combination of length of service credits (points for each month of continuous state employment) together with performance evaluation credits for a period of time prior to layoff. This result becomes the retention points for each individual in the layoff unit. Because the rules apply only to employees who are

**PERSONNEL**  
(Cont.)

not covered by collective bargaining, the posting shall include all employees (with their points) who are in the layoff unit. This provides notice to everyone for dispute or grievance purposes.

Inga Bumbary-Langston, Executive Director of the Iowa Civil Rights Commission, commended Brown-Brewton for her in-depth review of the issue and concurred with her conclusion.

Bumbary-Langston had worked with Davis and would continue involvement with the Department with respect to layoffs and recalls.

Schrader agreed with Teafor that affirmative action programs should proceed as aggressively as possible. However, he recognized logic contained in Brown-Brewton's memorandum which appeared to be without dispute and he supported the decision of the Department.

Roger Maxwell, Board of Regents Affirmative Action Office, expressed concern about persons of gender and those with disabilities. He was aware of gains in affirmative action but favored some type of statistical review. Maxwell suspected that the whole story had not yet been told and he urged delay of the rules to allow time for a task force to study the matter.

Kibbie and Priebe opined that implementation of these rules would not preclude interested persons from working together for improvement. Brown-Brewton recalled that Maxwell's concerns had been an ongoing process since passage of chapter 19B which included mandates for the Affirmative Action Task Force to gather information. She welcomed the opportunity to assist any task force or interested groups.

Alluding to Maxwell's concerns, Davis thought they involved the extent to which state government had moved forward in achieving its affirmative action goals. He continued that the amendments before the ARRC did not address that subject. He asked that the two issues be separated in consideration of ARC 2948A.

Priebe supported retention of the 70-day delay until the July meeting of the ARRC.

Davis clarified for Tieden that the effect of continued delay would place layoffs or recalls "in limbo." The rules under delay change the method by which employees would be recalled after a layoff. Davis could see no justification for extending the delay.

Royce advised against continued delay citing action of U. S. Supreme Court.

**Motion to  
Lift Delay**

Schrader moved to lift the 70-day delay on amendments in Items 1 and 2 of ARC 2948A [7.3(1), 7.12(19A), 11.3(1)"a," 11.3(2)"d, e," 11.3(4), 11.3(5)].

Kibbie asked that the minutes reflect that any ongoing discussion would not be terminated by lifting of the delay.

Priebe reasoned that affirmative action would diminish with passage of the rules and he opposed the motion.

In response to Hedge, Brown-Brewton emphasized that these rules would not destroy the affirmative action goals of the state.

**Motion to Lift  
Delay (Cont.)**

After closing remarks by Schrader, the motion to lift the 70-day delay carried with Priebe recorded as voting "no."

**ENVIRONMENTAL  
PROTECTION  
61.2(5), 61.3(5)"e"**

Diana Hansen from the Environmental Protection Commission summarized amendments to rules 567—61.2 and 61.3, relating to protected flows for particular streams, as published under Notice in IAB 5/13/92 as ARC 3004.

Questions were raised about particular rivers and streams and Hansen suggested that members contact Ralph Turkle of DNR who worked with the water quality standards. Turkle was unable to attend the meeting today.

Maulsby favored names for creeks as opposed to use of the legal description as set out in the rule. Hansen said the Department refers to an official book of Iowa streams and rivers but if no name is given, the legal description is used.

Priebe was advised that the main impact of these rules would be on cities or industries. No Committee action.

**NATURAL  
RESOURCE  
COMMISSION**

In attendance from the Commission was Steven Derrand, Law Enforcement; Richard Bishop, Wildlife Bureau; and Arnold Sohn, Recreation Programs Bureau. The following agenda was reviewed:

**NATURAL RESOURCE COMMISSION[571]**

**NATURAL RESOURCES DEPARTMENT[561]"umbrella"**

Issuance of free combination hunting and fishing license to low-income persons 65 years of age and older or low-income persons who are permanently disabled, 15.7(3)"c," Notice ARC 2761A

<u>Terminated</u> ARC 3041A .....	5/27/92
Volunteer hunter education instructors, 15.8, <u>Filed</u> ARC 3057A .....	5/27/92
Lands and waters conservation fund program, 27.2(1), 27.5(6), 27.6(3), 27.7, 27.10,	
<u>Notice</u> ARC 3047A .....	5/27/92
Boating safety equipment — lights on vessels while at anchor, flame arrester, 37.2, 37.6,	
<u>Notice</u> ARC 3045A .....	5/27/92
Wildlife refuges, 52.1(1), 52.1(2)"b," <u>Notice</u> ARC 3048A .....	5/27/92
State parks and recreation areas — Backbone and Wilson Island cabin rental, 61.2, 61.3(5)"a," 61.4(1)"a,"	
61.4(2)"a," "f," "h" to "j," "n" to "p," 61.4(3), 61.5(8)"a" and "d," <u>Filed</u> ARC 3054A .....	5/27/92
Nonresident deer hunting, 94.1, 94.2, 94.8, <u>Filed</u> ARC 3055A .....	5/27/92
Common snipe, Virginia rail and sora, woodcock and ruffed grouse hunting seasons, 97.1 to 97.4,	
<u>Filed</u> ARC 3056A .....	5/27/92
Wild turkey fall hunting, 99.1, 99.1(1), 99.1(2), 99.3(1), 99.4, 99.5, <u>Filed</u> ARC 3036A .....	5/27/92
Deer hunting regulations, 106.1, 106.2, 106.5(1), 106.5(2)"i," 106.5(3), 106.6(1) to 106.6(3), 106.7(1),	
106.8(2), 106.8(3), 106.10, <u>Filed</u> ARC 3037A .....	5/27/92
Rabbit and squirrel hunting season, 107.1 to 107.3, <u>Filed</u> ARC 3046A .....	5/27/92
Mink, muskrat, raccoon, badger, opossum, weasel, striped skunk, fox (red and gray), beaver, coyote, otter	
and spotted skunk seasons, 108.1, 108.1(2), 108.2 to 108.5, <u>Filed</u> ARC 3059A .....	5/27/92
Scientific collecting and wildlife rehabilitation — educational project permits, 111.1, 111.4, 111.7 to 111.9,	
<u>Notice</u> ARC 3042A .....	5/27/92

15.7(3)

No recommendations re Termination of Notice for 15.7(3)"c."

15.8

Derrand reviewed amendments to 15.8 regarding volunteer hunter education instructors and there were no recommendations.

Ch 27

In review of amendments to Chapter 27 in ARC 3047A, Priebe inquired about the cost of administering this program and Sohn estimated less than 3 percent. He recalled funding had been reduced to \$350,000. The annual apportionment would be divided equally between state projects and the cost-sharing program with the counties and cities. Language in 27.5(6) relative to application by state agencies was deleted since there had been only one application by another state agency in 25 years of the program.

NRC (Cont.)  
Ch 37

Sohn told the Committee that revisions in rule 37.6 and new rule 37.2 were consistent with U. S. Coast Guard requirements for boating safety equipment.

Kibbie mentioned complaints he had received on noise created by large boats on Spirit Lake and Derman indicated there were restrictions. Decibel level could be measured by use of meters to register and regulate noise.

52.1

No questions or comments on ARC 3048A.

Ch 61

Sohn summarized amendments to 61.2 et al. No recommendations.

Ch 94

Bishop reviewed amendments to Chapter 94 regarding nonresident deer hunting. Overpopulation of deer in the state, overharvesting, and length of deer seasons were discussed.

Ch 97

Amendments to Chapter 97 were reviewed with no comments or recommendations.

Ch 99

ARC 3036A, amendments to Chapter 99 regarding wild turkey fall hunting, was discussed. Priebe commented on number of turkeys killed by coyotes. Bishop indicated that if there were no heavy rains in June, the population of quail, pheasants and turkeys would increase considerably.

Maulsby inquired about hunting by nonresident owners on their vacant farms. Bishop responded that they could not hunt deer or turkey but as a landowner could hunt for small game. Bishop thought this was set out statutorily.

There was lengthy discussion on taxation of property purchased by DNR. Bishop could not respond to all of the Committee's concerns but was aware that DNR was paying taxes on everything purchased with habitat stamps, REAP, and U. S. Fish and Wildlife Service. They requested Congress to fully appropriate so that all the taxes could be paid, not just a certain percent.

Ch 106

Bishop explained amendments to Chapter 106 on deer hunting regulations. Priebe reiterated his observation of excessive herds of deer in his area. Discussion focused on rule 571—106.10(109) which authorizes a special youth deer license. Opposition had been voiced by bow hunters. Schrader took the position that a youth deer season was ridiculous. Although the negatives on this subject were not extreme, he viewed deer hunting as commanding responsibility appropriately assumed by adults. Bishop defended the Department's reasons for introducing this new rule.

Chs 107, 108, 111

The remainder of the Natural Resource agenda was reviewed with no recommendations by the Committee. (ARCs 3046A, 3059A and 3042A)

UST BOARD

Robb Hubbard, Administrator, UST Program, and Robert Galbraith, Assistant Attorney General, reviewed revised Chapter 15, Installers and Inspectors, published under Notice in IAB 5/13/92 as ARC 2991A.

Tieden and Hubbard discussed educational requirements and it was noted that there were no limitations on the number of times a candidate could take the examination for licensing. Hubbard pointed out the Board has review power on any decision made by an Administrator. That decision can be appealed. No Committee action.

**PROFESSIONAL  
LICENSURE**

Marilyn Ubalda, Administrator, Susan Osmann, Bureau Chief, and Peter Teahen, Vice Chairman of Board of Mortuary Science, were in attendance for the following:

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

Board of dietetic examiners, 80.3(4), 80.3(5), 80.4(1)"c," 80.4(2), 80.4(3), 80.5(5), 80.100(7), 80.100(8),  
Filed ARC 3001A ..... 5/13/92  
 Funeral directors, board of mortuary science, 100.5(2), 100.5(4), 100.5(7), 101.98(11), Filed ARC 3003A 5/13/92  
 Board of examiners for the licensing and regulation of hearing aid dealers, declaratory rulings, petitions for rule making, agency procedure for rule making, 120.1, 120.1(3), 120.5(4), 120.7, 120.8, 120.12, 120.200, 120.204, 120.212, chs 121 to 123, Filed ARC 3019A ..... 5/27/92  
 Physical therapy examiners and physical therapist assistants — licensing examination, documentation of name change, reinstatement for inactive licensees, 200.2(2), 200.2(5) and (6), 200.3(1)"c," 200.7(1), 200.7(2)"a," 200.9(8), 202.2(2), 202.2(5) to (7), 202.3(1)"c," 202.8(1), 202.8(2)"a," 202.10(8), Notice ARC 2983A5/13/92  
 Physical therapy examiners and physical therapist assistants — applications and fees, examinations, discipline, 200.2(6), 200.2(7), 200.3(4), 200.20(7)"c"(7), 200.20(15), 202.2(7), Filed ARC 2980A ..... 5/13/92  
 Funeral directors, continuing education 645—101.101 **SPECIAL REVIEW** IAC

Ch 80

No questions or comments on amendments to Chapter 80.

100.5, 101.98

Before reviewing amendments to Chapter 100, Teahen recalled his experiences as a bungee jumper. With respect to rescission of the requirements for burial transit permits, Teahen explained it was necessary to comply with the repeal of the statute—§144.32. He thought it was regrettable to repeal the statute. Other states require the burial permits and lack of one can create delays in burials. He advised Priebe that often death certificates are not signed for two weeks after a death occurs and long after the body has been interred. Osmann interjected that Vital Records was not aware of the function of the permit form outside of the state agency and the repeal of §144.32 was included along with other changes in legislation passed two years ago.

Motion to Refer

Metcalf moved that the matter of burial transit permits and subrules 100.5(2), 100.5(4) and 100.5(7) be referred to the Speaker of the House and President of the Senate for study. Motion carried.

Teahen was willing to provide Royce with model legislation from the National Funeral Directors Association. He stressed that the repealed statutory language was appropriate.

There was special review of continuing education requirements for funeral directors. Complaints of excessive hours had been received by an ARRC member. In comparison to other professions, Teahen maintained that 24 hours for funeral directors was not unrealistic. In his memo to the ARRC, he had enumerated some of the areas covered in continuing education courses which he considered to be very worthwhile.

Chs 120, 121-123

Osmann briefed the Committee on amendments to Chapter 120 and new Chapters 121 to 123 regarding licensing and regulation of hearing aid dealers. There were no recommendations.

Objection Removed  
120.9(2)

Barry distributed copies of an objection to 120.9(2) which had been voted December 16, 1975. The objection related to required entrances for hearing aid dealers. Pavich moved that the objection be removed. Motion carried.

Chs 200, 202

There were no Committee recommendations or comments on ARCs 2983A and 2980A.

**PUBLIC HEALTH** Representing the Department were Carolyn Adams and Don Flater for the following agenda:

**PUBLIC HEALTH DEPARTMENT[641]**

Radiation — general provisions, ch 38, Notice ARC 3051A ..... 5/27/92  
 Fee and penalty requirements — radiation therapists and nuclear medicine technologists, minimum training standards for diagnostic radiographers, 38.13(5), 38.13(6)"c," 42.1, Filed ARC 3027A ..... 5/27/92  
 Registration of radiation machine facilities, licensure of radioactive materials and transportation of radioactive materials, ch 39, Notice ARC 3052A ..... 5/27/92  
 Standards for protection against radiation, ch 40, Notice ARC 3053A ..... 5/27/92  
 Safety requirements for the use of radiation machines and certain uses of radioactive materials, ch 41, Notice ARC 3049A ..... 5/27/92  
 Nuclear medicine technologists, 42.2, Filed ARC 3026A ..... 5/27/92  
 Radiation therapists, 42.3, Filed ARC 3044A ..... 5/27/92  
 Minimum requirements for radon testing and analysis, 43.3(3)"b"(1), Filed ARC 3043A ..... 5/27/92  
 Radiation safety requirements for industrial radiographic operations, ch 45, Notice ARC 3050A ..... 5/27/92  
 State substitute medical decision-making board, ch 84 title, 84.1 to 84.8, Filed ARC 3024A ..... 5/27/92  
 Local substitute medical decision-making boards, ch 85, Filed ARC 3025A ..... 5/27/92

- Ch 38 Flater explained proposed revisions to Chapter 38, general provisions on radiation which would enable the state to remain compatible with the U. S. Nuclear Regulatory Commission. This was also the situation with Chapters 39 to 41 and 45. Teaford and Flater discussed potential hazards in use of old equipment.
- 38.13, 42.1 Adams reviewed amendments in ARC 3027A to 38.13 and 42.1 relating to fee and penalty requirements for radiation therapists and nuclear medicine technologists as well as minimum training standards for diagnostic radiographers. Flater assured Doyle there were no plans to change current practice with respect to reciprocity.
- Ch 39, 40 There were no comments or recommendations on ARCs 3052A and 3053A.
- Ch 41 Flater reviewed Chapter 41 relating to safety requirements for the use of radiation machines and certain radioactive materials. He indicated that the rules would allow physicians more latitude in use of radioactive material.
- 42.2, 42.3, 43.3;  
Ch 45; Ch 84 ARCs 3026A, 3044A, 3043A, 3050A and 3024A were reviewed with no recommendations by the Committee.
- Ch 85 In review of final rules in Chapter 85, requirements for Local Substitute Medical Decision-making Boards, Metcalf expressed dissatisfaction with the Department's brief explanation of changes made following public comment—preamble, fourth unnumbered paragraph.
- Delay 70 days Metcalf moved to delay the effective date of Chapter 85 for 70 days to allow time to study the rules and determine extent to which the original text was modified. Motion carried.

Adams then referred to her memorandum to Barry dated June 4, 1992, wherein the Department requested the ARRC to consider inclusion of "Notice of Availability of Funds for Awards or Grants" in the IAB. Other state agencies could also utilize this vehicle for such notice. The memo cited benefits: Reduced cost compared to the newspaper; equal accessibility for potential applicants; potential capability for summaries of total funds available by category.



**Defer** After some discussion, there was unanimous consent to defer the request by the Public Health Department to allow time to gather further information.

**Education -- Pupil Transportation** Chairman Priebe requested that rules of the Education Department relative to pupil transportation be placed on the July agenda [281—43.21, 43.22, 43.24, 5/27/92 IAB].

**DOT** Present from the Transportation Department were Shirley Andre, Motor Vehicle Division Director, Dennis Ehlert, OVR Director and Mike Winfrey, Assistant Director, MVE. Also present were Chuck Worlund, Secretary, and Don Corell, Director of IAR. The following agenda was before the Committee.

**TRANSPORTATION DEPARTMENT[761]**

Consent for the sale of goods and services, ch 26, Filed ARC 3022A ..... 5/27/92  
Salvage dealer definition, Iowa Code §321H.2(7) — SPECIAL REVIEW

**Ch 26** No recommendations were offered for Chapter 26.

**Special Review—  
Salvage Dealers** Chairman Priebe called up the special review of salvage dealer as defined in Iowa Code §321H.2(7) and amendment to 321.52(4)"a" by 1992 Iowa Acts, S. F. 2137. He then recognized Corell who took the position that passage of S. F. 2137 had created confusion. He thought intent was to restrict sale of salvage-type vehicles because of concerns by the EPA. Corell continued that DOT had issued a vehicle recycler license to an individual who purchases wrecked vehicles, moves them to his property and periodically auctions them.

According to Andre, DOT believed they took appropriate action since there were no grounds on which to deny the license. However, because of substantial disagreement on behalf of Corell and those he represented, the Department sought guidance from the Attorney General's office. The request was pending.

Doyle suspected that clarifying legislation would be necessary. Andre reported that their request to the Attorney General was: "Is the Department prohibited from issuing a vehicle recycler's license under Iowa Code Chapter 321H to a person whose primary business is selling 'retrodamaged' vehicles at auction and who as a part of this business routinely takes possession of the vehicles for a matter of days or weeks prior to the auction."

Corell estimated that vehicles to be sold were stored approximately one month. He had requested the legislature to include salvage pools in Senate File 2137. This would have allowed transfer of salvage-type vehicles so they could be sold.

Ehlert interjected that the license in question was issued under the current law which indicates that "a 'vehicle salvager' means a person engaged in the business of scrapping vehicles, dismantling, or storing wrecked or damaged vehicles or selling reusable parts of vehicles or storing vehicles not currently registered which vehicles are subject to registration under [Code chapter] 321." Provisions in Senate File 2137 would not be in effect until July 1. It was also noted that licenses must be renewed annually.

Royce considered the crux of the issue to be definition of "in the business of storing." Andre admitted there was genuine and honest disagreement on the meaning of that term.

Corell pointed out the need to properly dispose of tires and hazardous chemicals such as Freon gas. Salvage yards such as his were regulated in this area.

**DOT Special  
Review - Salvage  
Dealers (Cont.)**

Schrader reasoned that operations with the same type of license should have uniform regulation.

Priebe suggested a possible meeting with all factions including DNR officials.

It was Schrader's understanding that a pool was an auction whereby wrecked cars were bought and resold. This seemed no different from buying wrecked cars of which some would be salvaged and others sold.

Metcalf asked about the business of simply buying the cars and selling them without any mechanical changes. Winfrey reiterated that the definition provided for a recycler's license if wrecked or damaged vehicles were stored. He added that the salvage law passed this year would not affect Code chapter 321H, only §321.52, so the definition of "salvager" would be intact after July 1. Winfrey viewed the question as being whether or not a salvage pool could also be a recycler.

Metcalf reasoned that the legislation in question was intended for protection of the buyer of a car that had been rebuilt without his knowledge. Andre clarified that the law in question would not address the branding issue—branding and damaged disclosure both on the face of the title and on the registration receipt.

Doyle recommended that no action be taken until the Attorney General's opinion was available.

**Adopt A Highway**

Schrader requested a special review of DOT rules governing the "Adopt a Highway" program (761—Chapter 121).

Winfrey advised Priebe that special farm trucks and truck tractors would be exempt from inspection requirements of the federal regulations for annual inspection as of July 1 regardless of size.

**NO REPS**

No agency representatives were requested to appear for the following:

**AGRICULTURE AND LAND STEWARDSHIP DEPARTMENT[21]**

Proposed name change of regulatory division, 1.1(4), 1.6, Notice ARC 2382A Terminated ARC 3061A . 5/27/92  
Standard for light butter, 71.6, Filed ARC 3062A ..... 5/27/92

**EDUCATION DEPARTMENT[281]**

Pupil transportation, 43.21, 43.22, 43.24, Filed ARC 3031A ..... 5/27/92

**ENGINEERING AND LAND SURVEYING EXAMINING BOARD[193C]**

Professional Licensing and Regulation Division[193]

**COMMERCE DEPARTMENT[181]"umbrella"**

Professional land surveying examination, 1.4(4), 1.4(5), 1.9(2), Notice ARC 2981A ..... 5/13/92

**INSURANCE DIVISION[191]**

**COMMERCE DEPARTMENT[181]"umbrella"**

Motor vehicle service contracts — late filing fees, 23.10(2)"b," 23.12, Notice ARC 3021A ..... 5/27/92

Health maintenance organizations, 40.1, 40.20, 40.21, Filed ARC 2982A ..... 5/13/92

**MEDICAL EXAMINERS BOARD[653]**

**PUBLIC HEALTH DEPARTMENT[641]"umbrella"**

Licensure requirements, 11.1, Filed ARC 3002A ..... 5/13/92

**PROFESSIONAL LICENSING AND REGULATION DIVISION[193]**

**COMMERCE DEPARTMENT[181]"umbrella"**

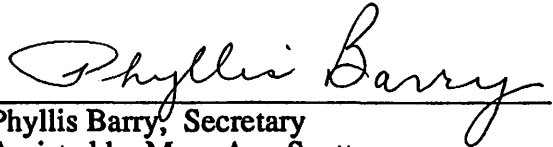
Updating of professional licensing boards and commission assigned to the division, 1.4,  
Filed Without Notice ARC 3030A ..... 5/27/92

06-10-92

Adjourn

Chairman Priebe adjourned the Committee at 12:30 p.m. The next meeting was scheduled for July 14 and 15.

Respectfully submitted,

  
Phyllis Barry, Secretary  
Assisted by Mary Ann Scott

APPROVED:

