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, November 15 and 16, 1994, in Room 22, State Capitol, Des Moines, Iowa.

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

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

Convened: — Representative Metcalf convened the meeting at 10 a.m. and recognized Mike Coveyou, Public Safety Department, and Clint Davis and Jennifer Dixon, Personnel Department, for the following:

PERSONNEL DEPARTMENT[581]
Transfer of certain public safety employees from IPERS to POR, 24.27, Filed Emergency **ARC 5146A** 10/12/94

24.27 — No Committee action.

PUBLIC SAFETY — Mike Coveyou, Carroll Bidler, Roy Marshall, Fire Marshal, and Gary Forshee, Public Safety Department, and Brian Johnson, Midwest Power Systems, were present for the following:

PUBLIC SAFETY DEPARTMENT[661]
Collection and dissemination of HIV-related information, 8.3, Notice **ARC 5175A**, also
Filed Emergency **ARC 5176A** 10/26/94
State of Iowa building code — energy efficiency in commercial construction, ch 16 division VIII Note, 16.800 to 16.802, Filed **ARC 5159A** 10/12/94

8.3 — No questions on 8.3.

Ch 16 — In response to Daggett, Coveyou replied that a number of changes had been made after the public hearing on amendments to Chapter 16. Coveyou noted that public hearings on building code rules were held as part of the Building Code Advisory Council meetings and these changes were presented during the hearing. Daggett inquired if the present rules reflected the concerns of those in the building industry. Coveyou replied affirmatively. Forshee added that the interests and concerns of attendees at the public hearing were recognized and addressed. He stated that there was little opposition because of the federal mandate. The major concern focused on ventilation and it was necessary to incorporate a minimum ventilation requirement into the ASHRAE standards.

11/15/94

PUBLIC SAFETY (Cont.)

In response to Daggett, Forshee replied that only the minimum ventilation values were part of the national Uniform Building Code. Portions of this code appear in the State of Iowa Building Code by reference, but these were two separate documents. Forshee stated that the State Building Code was mandatory for state-owned buildings and some cities have chosen to adopt the State Building Code. He emphasized that these changes were related strictly to mandatory provisions for energy efficiency.

Kibbie asked if the rules were applicable to fire safety in existing or new buildings, public institutions or commercial buildings. Coveyou replied that generally Chapter 5 governed existing conditions in the occupancies to which it applied, Chapter 16 applied to construction. Forshee added that it would apply to major renovations to existing buildings.

ECONOMIC DEVELOPMENT

Melanie Johnson, JoAnn Callison, LuAnn Reinders, Stacie Palmer, Bob Henningsen, Head of Business Development, and Brice Nelson, Legislative Liaison represented the Department for the following:

ECONOMIC DEVELOPMENT, IOWA DEPARTMENT OF[261]
Youth affairs — summer conservation projects, Iowa corps program, 14.3(9), 14.5(2), 14.5(5)"c," 14.5(7), Filed **ARC 5171A** 10/12/94
Tourism promotion — licensing program, 60.5(4), Filed Emergency After Notice **ARC 5172A** 10/12/94
Export trade assistance program — trade missions sponsored by United States Department of Agriculture, 61.2, Filed Emergency **ARC 5173A** 10/12/94
New Jobs and income program — rescission of definitions of "eligible project" and "average county wage," 62.2, Filed Emergency **ARC 5174A** 10/12/94

14.3(9) et al.

Callison stated that there were requests for an increase in the amount of grant awards for summer projects above the $22,000 in 14.3(9). However, the Department made no change because of the minimum wage increase and with 16 youths in a project, $22,000 was a minimum figure. Iowa Core had been removed from the line item and carry-over or additional funds could be used. No Committee action.

60.5(4)

Reinders recalled ARRC recommendation on 60.5 for a cap on the royalty rate and the Department had adjusted the rate to 1 to 15 percent for each item licensed. The average rate was 7 percent and would be changed only if there were cross-licensing agreements. An example would be the sesquicentennial program when the Department would receive half of the royalty rate. There would be negotiation with each licensee in unique circumstances.

61.2

In review of amendments to Chapter 61, Johnson stated that the U.S. Department of Agriculture was added in the definition of "trade mission". This would enable a number of small companies to participate in the program. Metcalf requested information on funding sources and Johnson agreed to provide it.

62.2

Johnson explained that "average county wage scale" and "eligible project" had been rescinded in 62.2 in response to comments generated from the ARRC. Henningsen advised Kibbie that the health benefits were not included in the calculation of wages. He added that there was a wide range of ways to calculate average county wage scales. Each application for projects would be taken on a case-by-case basis to determine eligibility and whether statutory requirements of

DED (Cont.)

$11 per hour or 130 percent of the average wage in the county were followed. Daggett wondered if each county would have a different average wage and would there be consistent criteria. Henningsen stated that the statutory floor on wages was consistent at $11.22 per hour. The Department would review the range of calculations and in questions of eligibility, the local entity would be asked to certify that the wage meets the 130 percent test or the $11.22 floor test indicated in the legislation.

Schrader was concerned that the rules did follow the Code on the wage issue but Reinders responded that the language was taken directly from the legislation.

In response to Hedge, Henningsen stated that health care was not considered when the Department was obtaining a county wage average.

Palmer asked if all employees were considered for the average county wage. Henningsen explained that one calculation did not include government but another one did include them. Under the CEBA program, government employees are not included in the calculation. Henningsen stated that it would depend on the Makeup of the county and the percentage of government employees would be considered. A handout was distributed showing average county wages using three different calculations.

Nelson reiterated that the Department was proceeding with a case-by-case analysis—wages must meet wage criteria in the current rules. Metcalf asked if criteria for the new jobs and income program was the same as for CEBA. Nelson responded it was by default. Halvorson commented that the method followed for the end number was basically the same, but the percentages were different. He recalled that the Conference Committee was trying to arrive at a beginning wage but there was none. Halvorson opined that a comparison could not be made between starting wages and average wage because there was an average of four years of longevity in the average wage. He concluded the Department must use "average wage" to follow the Code and he suspected that most small counties would be "frozen out" of the new jobs program.

Johnson pointed out that "average county wage" was not defined by statute and could not be referred to in calculating the county wage. The Department defined by rule for CEBA what the average county wage included and did not include. These rules were an attempt to find a way to measure these applications. Schrader agreed with the logic of using the CEBA formula but disagreed with using different numbers when a project did not meet the threshold. He questioned the wisdom of allowing a community to determine the average.

Henningsen advised Kibbie that the Department had approved two applications both of which exceeded the threshold and there were approximately 8 to 12 active projects. Kibbie opined that low-income counties would never benefit from projects because of the complex criteria. Henningsen pointed out that the statutory floor was $11.22, so regardless of whether the 130 percent level was below that, projects must meet the floor. No Committee action.

PROFESSIONAL LICENSURE

Carolyn Adams and Harriett Miller from the Division and Ruth Ohde and James Barr, Mortuary Science Examiners Board, Carol Fleagle, Iowa Funeral Directors Association, Fran Winegardner and Robert Witt, Physician Assistant Examiners Board, and other interested persons were present for the following:

PROFESSIONAL LICENSURE DIVISION[645]
PUBLIC HEALTH DEPARTMENT[641]"umbrella"
Mortuary science, 100.1(4)"a," 100.1(5)"c," 100.1(8)"a," 100.6, 100.7, 101.3, 101.98(3), 101.212(16), Notice **ARC 5196A** 10/26/94
Nursing home administrators, chs 140 to 149, Notice **ARC 4659A** Terminated **ARC 5195A** 10/26/94
Social work continuing education, 280.102(1)"k"(5), Notice **ARC 5194A** 10/26/94
Physician assistants, 325.2, 325.3(1), 325.3(2), 325.4(1) to 325.4(3), 325.4(5) to 325.4(10), 325.5 to 325.18, Notice **ARC 5197A** 10/26/94
Speech pathology and audiology, 301.1, 301.2(1), 301.2(2), 301.2(4), Filed **ARC 5193A** 10/26/94

100.1(4)"a" et al.

Adams stated that the Iowa Funeral Directors Association had raised opposition to the amendments to Chapter 100. Barr explained that references to "funeral director's assistants" had been deleted from the rules at recommendation of the Attorney General. Over 60 percent of complaints received by the Board were relative to nonlicensed individuals who were attempting to perform duties restricted to licensees. The Board was finding it difficult to enforce the Code and were supportive of the changes.

Doderer requested an example of the type of complaints received against an unlicensed assistant and Barr cited a written complaint that a funeral director was permitting employees to allow viewing of nude females. The allegations were denied by the licensee but when the Board inquired about "traffic" through the preparation area, the director responded that they were all his assistants who were permitted to be there under the rules. Another example was a licensed funeral director who had four employees who were removing bodies from the homes and hospitals in the area and signing the names and license numbers of deceased funeral directors. Barr stated that an unlicensed person was not authorized to make these removals because of health reasons. Another funeral director had students make removals and he also allowed employees to mix fluid, prepare the instruments and make the incisions for embalming. Barr spoke of numerous problems faced by the Board. Ohde pointed out that the law does not provide for assistants and the Board wants the rules corrected so they can proceed with suspensions or fines.

Barr explained to Metcalf that unlicensed personnel may accompany a funeral director to assist in the handling of a body, but at the point of embalming, the Board's position was that it should be done in private by a licensee. There was discussion of financial ramifications for funeral homes.

Fleagle stated that the members of the Iowa Funeral Directors Association took exception to deletion of "funeral director's assistants" in 100.1(4)"a," 100.1(5)"c" and 100.1(8)"a" and suggested that the term "authorized employee or public official" be substituted. She cited instances when the director needed assistance in the preparation room. With respect to 100.1(8)"a," the Association contended that the requirement for the body to be "fully prepared and dressed" before anyone

Prof. Lic. (Cont.) could be allowed in the embalming room was unworkable. Royce was puzzled that the funeral directors were subject to more stringent rules than physicians who could delegate to assistants and routinely do so in terms of patient care.

Metcalf directed the Division to discuss these amendments with all factions involved in an attempt to reach a compromise and perhaps seek legislation. She also pointed out that the first sentence in 100.6(3) was ambiguous and asked for clarification.

Rittmer recognized enforcement problems but was also concerned about the people in the business. Doderer wondered why there was resistance to "licensed assistants" and Ohde replied that it was the Board's understanding that the legislature was not interested in requiring more licenses. Doderer thought the issue could be addressed by setting standards of conduct.

According to Barr, Iowa has 900 licensed funeral directors and approximately 40 to 60 are added each year. Barr estimated that there were approximately 400 to 450 funeral homes and most homes in Iowa were small operations with one licensed funeral director. She added that problems occurred at small funeral homes where the licensed director owned the business and was the only licensed director. Kibbie noted that in some rural areas one director may own three or four homes in different areas. Ohde felt that the rules could still be abided by as she does embalming and removals. Ohde took the position that rules could be drafted to allow for legal exceptions. Ohde described requirements to become a licensed funeral director. Metcalf requested that the Division inform the Committee of progress with the proposals before presenting final rules.

Chs 140 to 149 No questions on Chapters 140 to 149.

280.102(1)"k"(5) No Committee action.

325.2 et al. Metcalf questioned the timeframe for registration in 325.3(2)"b" and Winegardner discussed graduation and the fact that the initial certifying exam was given once a year in October with scores being returned the following February. Metcalf suggested clarification of 325.4(5) relative to the role of PAs when a supervising physician ceases to function. She also questioned lack of a timeframe in 325.4(7) and Winegardner said that 325.4(5)"a" would apply.

Doderer interpreted 325.4(6) and 325.4(5)"b" as being in conflict but Winegardner assured her the two situations were completely different. However, the Board would review the language to clarify under what circumstances a licensee may or may not continue to practice.

301.1 et al. No questions on 301.1 et al.

PUBLIC HEALTH Carolyn Adams and Gerd Clabaugh represented the Department and Paul Stanfield represented the Iowa Dietetic Association for the following:

PUBLIC HEALTH DEPARTMENT[641]
Central registry for brain and spinal cord injuries, ch 21, Filed **ARC 5170A** 10/12/94
Organized delivery systems, ch 201, Filed **ARC 5165A** 10/12/94

Ch 21 In review of Chapter 21, Kibbie was interested in the comment made at the hearing and Adams agreed to furnish information.

Ch 201 Stanfield directed the Committee's attention to the definition of "standard benefit plan" in rule 201.2 and declared that these rules were built on a foundation that did not exist. The standard benefit plan under the small group insurance statute was to be adopted by the commissioner defining the form and level of coverage for both the standard and the basic health benefit plans. He contended this was not done. When Stanfield called this to the attention of the Insurance Commissioner, she concurred there had been an oversight. The Division was now in the process of drafting the rules to define the standard benefit plan. Stanfield stated that three insurance systems had already been built on this. This was a concern to him as a provider and to some employee groups. Stanfield mentioned the Small Employer Products Matrix which he found difficult to follow.

Clabaugh stated that the Department had attempted to couple with an existing standard that was being used in small group industry. Stanfield agreed that it should be based on the same thing but that "thing" had not yet been defined by statute or rule.

Halvorson recalled that HIPC legislation contained a definition of the basic and the standard and Stanfield stated that it was the same definition used in the ODS rules—the same plan which was required in small group insurers. This plan had never been adopted by rule as required by law. Stanfield noted that the standard coverage was a sample benefits certificate drafted by Blue Cross/Blue Shield which the Board approved for distribution but did not adopt as a rule.

Doderer asked if this was a requirement and Clabaugh replied that the ODS rules have, in reference to the standard package, a level playing field issue. Kibbie wondered if the new definition would be in place before the session was over and Clabaugh replied that this would be the responsibility of the Insurance Division. No Committee action.

PHARMACY Lindy Pearson represented the Board for the following and there were no
19.2(1) questions:

PHARMACY EXAMINERS BOARD[657]
PUBLIC HEALTH DEPARTMENT[641]"umbrella"
Late renewal of nonresident pharmacy licenses, 19.2(1), Notice **ARC 5140A** 10/12/94

EPC

Christine Spackman, Anne Presiozi, Darrell McAllister and Dennis Alt were present for the following:

ENVIRONMENTAL PROTECTION COMMISSION[567]
NATURAL RESOURCES DEPARTMENT[561]"umbrella"
Air quality, volatile organic compounds, permitting requirements, 20.2, 21.5, 22.5(1)"a," 22.5(1)"f"(2), 22.5(1)"m," 22.5(2), 22.5(3), 22.5(4)"b," 22.5(6), 22.5(7), 22.105(2)"i"(5), 23.1(2), 23.1(2)"qqq,"
Filed **ARC 5168A** 10/12/94
Air quality, nonattainment areas, 20.2, ch 31, Notice **ARC 5169A** 10/12/94
Water supply operation fees and construction permits, 40.2, 40.5, 43.2(3)"b," 43.3(3)"b,"
Notice **ARC 5167A** 10/12/94

20.2 et al.

Daggett asked if amendments to 20.2 et al. would govern red chaff at elevators and Spackman replied that chaff was a particulate, a dust, a solid material and was not covered. Daggett was also informed that hog confinements would not be affected.

20.2 and Ch 31

With respect to ARC 5169A, Spackman reported that the Commission received one comment from a laboratory concerned with EPA testing methods involving use of hydrochloric acid. The Commission did not share the concerns of this individual.

40.2 et al.

McAllister stated that copies of proposed amendments to 40.2 et al. were mailed to all owners of public water supplies in the state. Halvorson stated that he received many comments on these, especially from county fairs where there would be a "peak day" and fees were based on peak day. He declared that money was being taken from one pocket and put into another as far as increased fees were concerned. McAllister replied that the federal definition of public water supply was one that serves 25 or more people or has 15 connections which have service at least 60 days each year. He added that 1,950 water supplies on inventory meet that criteria and about 95 percent of those serve a population of less than 3,300. One of the problems identified through public hearing was that some campgrounds and others thought that both the base fee and the per capita fee applied to them. Only the base fee applies to all water supplies.

McAllister clarified that fairgrounds would pay only the base fee. The per capita fee applied only to community water supplies which serve customers daily. Campgrounds would be considered a transient water supply. Halvorson pointed out that Clayton County, for example, had several parks plus a visitor's center with 200,000 visitors annually. McAllister explained they would be subject to the base fee only. McAllister advised that a definition for "transient water supply" and others had been adopted in other rules of the Commission. McAllister was willing to provide calculations on the fee amounts. He added that the Commission had provided inventory of water supplies to several people and associations so that they could go through the calculations themselves. Also, groups have provided direction to the Commission as to appropriate fees. A consultant met with drinking water superintendents from all over the state and went through a workload model and the superintendents identified where staff was needed and the time involved. McAllister replied that these additional funds would be used to add 15 FTE. Metcalf interjected that this was an either/or situation—the federal government said the state had to increase personnel or they would take it over and there would be no exemption to testing.

EPC (Cont.)

McAllister discussed several ways of developing a formula to determine a fee and consumption was an alternative. These rules were a cost of service formula. The Commission considered the fact that 95 percent of regulated water supplies serve less than 3,300 and 85 percent serve less than 1,000. Committee members expressed concern about unfairness to the smaller and rural communities which have less opportunity to generate the fees. McAllister explained that smaller water supplies would realize the most benefits—statewide, $3 to $5 million range annually in analytical fees and monitoring costs. He pointed out the Department was considering alternatives.

Economic Impact 40.2 et al.

Halvorson and Kibbie requested than an Economic Impact Statement be prepared on ARC 5167A. It was noted that the Statement must be published in the IAB at least 14 days before the rules could be adopted. McAllister said that the Commission was trying to meet the December 31, 1994, deadline set in Senate File 2314 to have the rules in place. He concluded that the federal government would allow time for the state to implement their program.

Recess

Metcalf recessed the Committee at 12:15 p.m. for lunch and reconvened it at 1:45 p.m.

INSURANCE

Susan Voss from the Division, Thom Iles, Iowa Association of Business and Industry, Jim West, representing Iowa Life and Health Insurance Association, and other interested persons were present for the following:

INSURANCE DIVISION[191]
COMMERCE DEPARTMENT[181]"umbrella"
Securities — Iowa Code citation corrections, examinations, commissions, 50.6, 50.8(1)"a"(1), 50.8(4), 50.15, 50.16(2)"a"(1), 50.25(5), 50.43(1), 50.43(2), Filed **ARC 5131A** 10/12/94
Health care access, ch 74, Notice **ARC 5161A** 10/12/94
Community health management information system, ch 100, Notice **ARC 5182A** 10/26/94

50.6 et al.

No questions on 50.6 et al.

Ch 74

Voss stated that she had received approximately 500 calls and letters on proposed Chapter 74 and she had met with several groups, industries and officials around the state. Voss realized that these rules were difficult to understand and needed revision. She believed the statute was intended to state that this was a way to inform employees as to where they could get information and purchase on their own. It was misunderstood as a way to force employers to offer and pay for health care. Voss found that not all carriers provided for a payroll deduction for individual policies but many of them offer an automatic withdrawal from savings or checking accounts and the Division wanted to allow this by rule.

Voss took the position that the definition of "employee" as used in the statute was the biggest issue. Voss informed the Committee that she was starting to redraft these rules and grant money was available to provide education on this law. The Division plans to send a brochure to every employer in the state through Job Service when the matter has been clarified.

Iles stated that his organization had provided input on the definition of "employee" and the Insurance Commissioner had been receptive to their comments. Iles spoke of the need to define certain types of employees e.g., temporary, seasonal and part-time. Question had been raised about senior citizens

INSURANCE (Cont.) who work on a part-time basis and who do not want Medicare benefits subtracted from the amount earned. Iles favored exemption for this type of employee or a standard for employers to satisfy that requirement. Another type of employee to be considered would be one from out-of-state working in the state. How would employers in border cities qualify under these rules to satisfy the standard? Iles concluded employers could become "insurance agents."

Halvorson saw two problems: definition of "employee" and "access." Voss stated that the subcommittee initially differentiated between full-time and permanent part-time versus part-time and seasonal but the Division felt this was too cumbersome. They were also reluctant to do by rule what the statute had not set out. Voss commented that some companies were using this as a marketing tool to sell group insurance. Voss advised Rittmer that access meant referral.

Schrader opined that the definition of employee was less significant than the issue of access. He felt there was no intent to make an employer an insurance agent but the hope was that employers would do more on their own.

Rittmer asked about an income tax benefit and Voss replied that there was none. She emphasized that the rules would be substantially rewritten and would not be in effect by the statutory date of January 1995. Metcalf suggested continued work on these rules and to possibly renotice them.

Royce advised that the problem with any statutory deadline was the assumption that the process would work normally.

Halvorson noted that employers were mandated to provide access by January 1 but they have no definition of access. Royce explained that without rules there was nothing for employers to implement.

Voss indicated that money was available to notify every employer in the state about the delay in implementation and news releases were ready.

Ch 100

In response to Daggett, Voss stated that only one comment was received on Chapter 100 and it was regarding whether dentists were subject to the CHMIS legislation. No Committee action.

HUMAN SERVICES

Mary Ann Walker, William Dodds, Anita Smith, John Fairweather, Jo Lerberg, Mary Nelson, Dan Ciha, Eric Sage, Merlie Howell, Kathy Ellithorpe, Sally Nadolsky and Eileen Creager were present for the Department. Also present were Jim Aipperspach, Maureen Tiffany and Pamela Hovden from United Way of Central Iowa, Gwenne Hays, Emma Goldman Clinic, Tom Klaus and Judy Davis from Young Womens Resource Center, Sandra Kahler, Allen Memorial Hospital, Ron Mirr and Tom Lewis, Washington Community Schools, Jill June and Judy Rutledge, Planned Parenthood of Greater Iowa, and other interested persons. The following rules were considered:

HUMAN SERVICES DEPARTMENT[441]
AIDS/HIV health insurance premium payment program, 75.22(1)"a" and "d," 75.22(2)"a," "c," and "d," 75.22(4), 75.22(8)"e" and "f," 75.22(9)"a"(5), Notice **ARC 5187A** 10/26/94
Medicaid reimbursement — medical assistance trusts, 75.24(3)"b," Filed **ARC 5133A** 10/12/94
Form for prior approval of Clozapine, nondiscrimination policy citation updated, 78.1(2)"a"(3), 78.28(1)"g," 79.5, Notice **ARC 5145A** 10/12/94
Medicaid provider policy, peer review, 78.1(14), 78.3(12)"c," 78.18(7), 78.24(4), 78.24(5), 78.31(1)"n," 78.31(4)"h," 79.1(2), 79.1(5)"u," 79.1(16), 81.6(16)"e," Filed **ARC 5134A** 10/12/94
Medicaid reimbursement — ambulance service, 78.11(5), Notice **ARC 5188A** 10/26/94
Managed health care providers, ch 88 preamble, 88.61 to 88.73, Filed **ARC 5135A** 10/12/94
IV-A emergency assistance program, 130.2(1), ch 133, Notice **ARC 5136A**, also Filed Emergency **ARC 5137A** 10/12/94
Rate-setting method for injectable contraceptive unit, 150.3(4)"a," Notice **ARC 5144A** 10/12/94
School fee allowance for children in independent living, 156.8(6), Notice **ARC 5178A** 10/26/94
Adolescent pregnancy prevention, ch 163 title and preamble, 163.1, 163.2, 163.3(1), 163.3(3) to 163.3(11), 163.4(1), 163.4(2), Filed **ARC 5138A** 10/12/94
Abuse of children, ch 175, Filed **ARC 5139A** 10/12/94

Ch 163 et al.

Chapter 163 et al. relative to Adolescent pregnancy was taken up first. Walker stated that a letter was received from Jill June, Planned Parenthood, expressing concern about medical care for sexually active adolescents. The Department responded that the rules would not preclude medical care and contraceptives if they were offered as a part of a comprehensive service.

Aipperspach, President of United Way of Central Iowa, stated that as a recipient of the FY '95 grant, they would like to offer support for the Noticed version of the rules published in the July 6, 1994, Iowa Administrative Bulletin. His agency applied for the grant believing it would have the opportunity to build a strong community base, along with educating and empowering youth to make responsible decisions about their future. This undertaking requires time for adequate planning and a three-year grant would allow them to more fully realize the long-term commitments which would result from community support and ownership.

Davis stated that the Young Women's Resource Center provided services to women aged 13 to 21 and was a recipient of the grants from the DHS. She supported the three-year funding because it would help them move toward self-sufficiency and to participate in evaluation. Davis produced letters of support from various grant recipients who favored the three-year rule. She concluded that a comprehensive set of services should be funded and that medical services were critical for sexually active teens.

Mirr urged support for three-year funding because of the evaluation process. His school district had started work on this project before they received a "multiyear project" grant and had continued work during the last two years. He referred to a class outline "Facts of Life-Table of Contents." The district had used this grant as leverage for grants from other sources and these projects were tied together. If one part of this process was lost, the entire planning would have a gap in it.

Mirr replied to Daggett that their primary focus was abstinence as the absolute best and most effective way to prevent pregnancy and disease. They did not exclude other choices, but the community favored a strong abstinence approach. Mirr was unsure if the entire program could be maintained after three years but stated that they would be able to identify the most effective segments and continue with them.

Rittmer opined that he could find no fault in the filed rules since the legislature must fund these grant programs.

DHS (Cont.)

Doderer noted protection in these rules if the grantee were failing.

Priebe opposed the three-year funding which he viewed as "built-in protection"—some would never have an opportunity for funds.

June stated that Planned Parenthood of Greater Iowa was a grant recipient and was opposed to the noncompetitive proposal. Their position was that at least some medical prevention strategy should be in place. Only about $10,000 of the grant would be spent on medical services and the remaining amount would be used for education. The state of Iowa was asked to spend nearly $3 million of pregnancy prevention money and did not provide access to contraception.

Kahler stated that her group had been funded through this program since 1987. She believed that the medical needs of the teenage community were being met either through referral or by the Title X and Title XX agencies. She supported the three-year noncompetitive funding because it was the only way to judge effectiveness of the programs.

It was Hayes' opinion that a one-year grant would result in wasted time since the agency must continually seek funds. Hayes added that half of the grant was targeted for teens incarcerated in Toledo who required more than a "quick fix."

Motion to Object

Priebe moved to object to subrule 163.3(1).

Doderer saw no need to object since unsatisfactory progress toward the program goals would result in loss of the grant and the money would be available by competitive bid. Priebe argued there was no competitive bid unless the program was evaluated. He felt this should be done on a state-wide basis rather than just in the larger cities. Doderer suggested that a grant should be developed for the small cities.

Metcalf asked about differences between this program and previous pregnancy prevention grants. Lerberg replied that there were many changes. She explained that although some of the larger cities were listed, they were serving small areas as well. For example, Ames served Nevada and Boone.

Motion failed

Metcalf spoke in opposition to the Priebe motion. The motion failed.

75.22(1)"a" et al.

In review or amendments to 75.22, Metcalf wondered why "spouse" was added. Creager replied that during the two-year pilot program there were several applications where the person with AIDS was the spouse of the policyholder and there was an economic impact. In one case it had been difficult for the spouse to maintain the insurance. The Department agreed to furnish information to Rittmer.

75.24(3)"b"

Walker stated that the Department received no comments and did not make any changes to Noticed 75.24(3)"b." No Committee action.

78.1(2)"a"(3) et al.

In response to Rittmer, Walker replied the Department was considering a petition for rule making to remove the prior authorization process. Rittmer inquired about costs and Walker agreed to provide information.

78.1(14) et al.

Walker stated that one person attended the hearing and written comments were received from ten agencies with three broad areas of concern on amendments to 78.1(14) et al. One of the areas was on nutritional services and payment for current providers. As a result, the Department revised subrule 78.1(14), 78.18(7) and 78.31(4) to allow physician screening centers and hospitals to contract with

DHS (Cont.) dietitians to provide nutritional services. Extensive changes were made in response to comments on implementation of ambulatory patient groups (APG). The major change was in allowing a two-year period to hold them harmless. Subrule 79.1(16)"r" was revised in a compromise to increase the emergency room payment for treatment of nonemergency conditions for regular Medicaid recipients and Medipass participants referred by a nonemergency room physician as documented in the claim and medical record.

78.11(5) Ellithorpe discussed Medicaid reimbursement to small town volunteer ambulance services in 78.11(5). There was a misunderstanding in that the transporting ambulance could do subcontracts to pick up paramedics on the way and would be reimbursed. Ellithorpe explained to Hedge that the ongoing policy was that only the ambulance company that transports the patient to the facility would get paid. Local hospitals had complained about unfairness of the system. Metcalf suggested possible referral to the General Assembly when the rules were final.

Ch 88 et al. According to Walker, the 55 people who attended the hearing had questions on how the program on managed health care providers would operate rather than suggestions for changes. Several revisions were made to the Noticed rule.

130.2(1) and Ch 133 No questions on 130.2(1) and Chapter 133.

150.3(4)"a" Walker stated the survey was completed and the yearly rate was set at $119.74 for family planning services. In response to Kibbie, Walker replied that a public hearing was not scheduled because there was no controversy.

156.8(6) No questions on 156.8(6).

Ch 175 Walker stated that 23 people attended the hearings on Chapter 175 and four people submitted written comments which resulted in revisions.

Doderer noted definition of "illegal drugs" and the absence of reference to it in the rule. Sage replied that it was merely a clarification of legislation passed two years ago concerning illegal drugs given to children by caretakers. Doderer contended that "alcohol" should be included as an illegal drug but Sage explained that would be investigated under another provision. According to the Attorney General, alcohol was not an illegal drug.

Ciha discussed the Department's continuing educational programs for each level of mandatory reporters and groups who work with children, e.g., hospitals, school systems, providers of foster care and providers of day care. Walker added that protective service rules were difficult to understand because so much of the program was set out by statute.

SPECIAL REVIEW Richard Bishop, Wildlife Division, DNR, and Don Spencer, Jim Graham, Frank Smith, Dale Sundall, Dorothy Smith, Robert Droadie and Jeff Rosacker from the Grass Roots Organization were present for the following:

Goose Hunting
91.4(2)

NATURAL RESOURCE COMMISSION[571]
Goose Hunting, Special Review

Kibbie stated that the special review would focus on closed segments in Area Two. A meeting was held in the area with Richard Bishop, as well as farmers and others from the area in attendance.

SPECIAL REVIEW (Cont.)

Spencer spoke for the group and voiced opposition to the signs prohibiting goose hunting which had been placed on private property. He maintained that the state had no authority to post these signs and prohibit hunting on private lands and he pointed out an incorrect Code citation on the signs. He was opposed to game management areas being established on private lands without the owner's consent required by Code section 481A.6.

In response to the Organization, Bishop stated that the Attorney General's Office had sent a letter of clarification. He stressed that the Department had the authority to open or close a season and that a correction of the Code reference would be made on the signs. There was lengthy discussion about biological balance and whether the geese should be reduced or controlled. The landowners in attendance complained about crop damage by geese in the protected areas.

Motion

Kibbie suspected there were conflicts in the Code and he moved to refer the closed-area rule to the Speaker of the House and President of the Senate for review by the appropriate Committee. Motion carried with Schrader voting "no."

Recess

Metcalf recessed the Committee at 4:15 p.m.

11-16-94

Reconvened

Metcalf reconvened the meeting at 9 a.m. on Wednesday, November 16, 1994. All members and staff were present.

AGRICULTURE

Charles Eckermann, Pam Neenan and Daryl Frey represented the Department and Arlo McDowell and Bill Bethel represented the Iowa Pest Control Association. Also present was Dr. Walter Felker, State Veterinarian. The following was considered:

AGRICULTURE AND LAND STEWARDSHIP DEPARTMENT[21]
Pesticides — structural pest control, division I preamble, division II preamble, 45.76 to 45.80, Notice **ARC 5181A** 10/26/94
Organic advisory committee, 47.9, Notice **ARC 5190A** 10/26/94
Pseudorabies disease, 64.151(2), 64.153(1), 64.153(2), 64.154(2), 64.154(3)"a" and "b," 64.156(2)"e," 64.156(4), 64.158(2) to 64.158(6), 64.161, Notice **ARC 5179A** 10/26/94

45.76 to 45.80

Eckermann stated that revisions in Chapter 45 would regulate persons performing termite inspections for real estate transactions. The proposal was the result of a home that was heavily infested with termites—this home had been inspected but the damage had been covered up by previous owners. Eckermann clarified there was no law mandating inspection but it was usually required by the lending institution. Additional personnel would not be necessary. Inspectors would be required to register and would be regulated under the licensing and certification process for commercial pesticide applicators. Frey added that the inspectors were employees of commercial pesticide applicators, not state employees.

According to Eckermann, 17 people from all areas of the state attended the public hearing. However, there were no building trade representatives. Some suggestions could be resolved with minor changes and other commenters were opposed to the rules. However, the Iowa Pest Control Association was supportive.

AGRIC. (Cont.)

Priebe recalled a bill on the issue which remained in Committee. Royce advised there was authority in pesticide control law. Frey stated the bill in question had proposed to delegate the authority to Public Health which was not acceptable to industry or the Department. There was discussion of ARRC options when or if the rules were adopted. Frey indicated that the Department was surprised to find controversy at the hearing and would take this new information into consideration and seek a middle ground.

Motion to Refer

Priebe moved to refer rules 21—45.76 to 45.80 to the President of the Senate and Speaker of the House for review by the appropriate committee. Motion carried.

47.9

In review of rule 47.9, Frey stated that the primary issue was a federal requirement that producers who want to label food as organically grown must meet certain standards, one being certification. The certification process had been occurring through private organizations over a number of years in the organics industry. Frey was uncertain as to the Department's involvement in the federal certification program. The organics industry asked that a committee be formed to provide input on issues related to organics and certification.

Neenan mentioned the Iowa Organic Food Production Act of 1988 and indicated the Department wanted to compare the national and Iowa standards. There was discussion of the process for certification of "pure land" which Frey indicated was less formal in Iowa. Producers must abide by the law which requires three-years of chemical-free production and must sign an affidavit to this effect. Growers must be able to produce records to confirm farming practices used. A falsified affidavit would subject the grower to fines. Many producers opted for independent, third-party certification in addition to self-certification because it was more widely recognized.

Halvorson asked about export of organically grown soybeans and Neenan stated that there were three private certifying agencies in Iowa. The largest was an international association that certifies 60 producers. Frey suspected the USDA would consider a national certification program. If the state were to become involved by an appropriation, the Department could be very competitive in a fee-based system for certification. This could result in private organizations being put out of business and the state was concerned about the small producers. Halvorson point out that land coming out of the ten-year program would be eligible for chemical-free status. No Committee action.

64.151(2) et al.

Felker explained proposed revisions to Chapter 64 which were agreed to by pork producers. No adverse comments were received at the hearing. Priebe and Felker discussed identification in commingling of hogs.

Doderer was interested in the total amount spent on pseudorabies eradication. Felker replied that the legislature had appropriated approximately $900,000 for pseudorabies and the Department estimated $330,000 of their funds. Approximately $1.2 million had been spent.

Kibbie and Felker discussed the process of tracking pigs from farrowing to finishing buildings. The rules set out a way to maintain the monitored status of those pigs.

Rittmer asked if any state money was used for brucellosis and Felker estimated $800,000 and said there was an assessment to the counties. The state would be brucellosis free on May 18.

VET. MEDICINE
6.1(1) et al.

Dr. Walter Felker, State Veterinarian, reviewed the following and there were no questions:

VETERINARY MEDICINE BOARD[811]
Application for licensure, 6.1(1), 6.1(2)"e," 6.2, 6.5(2), 7.2(4), 8.3, 8.10(3), Filed **ARC 5180A** 10/26/94

ALCOHOLIC BEVERAGES
4.26 and 10.1

Janet Huston represented the Division for the following and there were no recommendations by the Committee:

COMMERCE DEPARTMENT[181]"umbrella"
Licenses and permits — timely filed status; statute of limitations for administrative hearing complaints, 4.26, 10.1,
Filed **ARC 5177A** 10/26/94

ACCOUNTANCY

Glenda Loving and Bill Schroeder were in attendance for the following:

ACCOUNTANCY EXAMINING BOARD[193a]
Professional Licensing and Regulation Division[193]
COMMERCE DEPARTMENT[181]"umbrella"
Educational requirements for CPAs, 3.1, 3.2(1) to 3.2(5), Notice **ARC 5164A** 10/12/94

3.1 et al.

Schroeder stated that amendments to Chapter 3 would bring Iowa in line with educational requirements of other states for CPAs. A uniform national examination is administered. Approximately one person sits for the examination based on experience as opposed to education. Loving stated that the percentage of passing for noncollege people was lower. Doderer wondered about the relativity of a degree for persons experienced in accounting. Schroeder spoke of changes in accounting with the use of computers in audits. No formal action.

COLLEGE AID

Laurie Wolf presented the following:

COLLEGE STUDENT AID COMMISSION[283]
EDUCATION DEPARTMENT[281]"umbrella"
State of Iowa scholarship program, 11.1(4), 11.1(7), Notice **ARC 5149A** 10/12/94
Iowa work-study program, 18.3, 18.4, 18.7, Notice **ARC 5148A** 10/12/94
Cosmetology and barber grants, ch 34, Notice **ARC 5001A** Terminated, also Notice **ARC 5147A** 10/12/94

11.1(4) and 11.1(7)

No Committee recommendations.

18.3 et al.

Wolf stated that amendments to the work-study program were proposed after reviewing comments from schools over the last eighteen months. Deadlines for reports would coincide with the federal requirements because the information was the same.

Wolf advised Kibbie that the Commission did not keep statistics for the cosmetology and proprietary institutions but for the other three sectors, approximately $6 million of federal funds was available. There was $500,000 in state dollars.

Ch 34

With respect to Chapter 34 which had been revised and renoticed, Wolf pointed out that changes included additional reporting for the institutions as far as passage rates and disclosure information provided to the students. Also, in order to participate for funding in this program, schools could not have federal cohort default rate on their student loans of 20 percent or higher. Metcalf commended the Division for their responsiveness to requests from the ARRC.

COLLEGE AID (Cont.)

Kibbie asked how many schools were currently under the 20 percent and Wolf replied that only 2 schools were eligible under the original structure and would not be eligible now. There were 23 schools that do not have a joint program with community colleges but were stand-alone proprietary institutions. No Committee action.

COMMUNITY ACTION

John Burnquist, Bureau of Energy Assistance, Sue Downey and Rod Huenemann, Community Action Agencies, were present for the following:

COMMUNITY ACTION AGENCIES DIVISION[427]
HUMAN RIGHTS DEPARTMENT[421]"umbrella"
Low-income home energy assistance program, ch 10, Notice **ARC 5162A**,
also Filed Emergency **ARC 5166A** 10/12/94
Community services block grant — antipoverty services, 22.3(2), 22.4(3), Filed Emergency **ARC 5184A** 10/26/94

Ch 10

Burnquist stated the Division was expecting $26.8 million in energy assistance but funding was down to $23.9 million. He added that the Iowa program was being observed by the nation.

22.3(2) and 22.4(3)

No questions on Chapter 22 amendments.

LOTTERY

Nichola Schissel represented the Lottery Division for the following:

LOTTERY DIVISION[705]
REVENUE AND FINANCE DEPARTMENT[701]"umbrella"
Computerized lottery games — general rules, ch 13; rescind chs 9, 10, 12 to 15, Notice **ARC 5141A**, also
Filed Emergency **ARC 5142A** 10/12/94

Ch 13 et al.

Schissel stated that these rules would prevent the Division from having to File Emergency rules each time there was an individual game change. The rules would not apply to pull-tab tickets.

Doderer inquired as to the number of unclaimed minor prizes and Schissel did not have the information with her but indicated there were many. This money may be used to fund a special game or promotion or may be added to revenue. No Committee recommendations.

BANKING

Donald Senneff represented the Division for the following:

BANKING DIVISION[187]
COMMERCE DEPARTMENT[181]"umbrella"
Securities activities, 2.15, Notice **ARC 5155A** 10/12/94

2.15

Senneff stated that the Division received several written comments prior to the hearing which was attended by ten persons. There was no opposition to the oral and written disclosures given to retail customers; however, there was a concern with the role of a bank's board of directors overseeing activities in connection with a third-party independent securities broker located within the bank. Based on this, the rule making would be terminated and the issue would be studied further. According to Senneff, legislation was passed several years ago to allow banks to deal in securities. There had been concern that the products banks normally sold were FDIC insured and currently they were selling products that were not insured. The Division wanted customers to know what they were buying and what was insured. Four federal regulators placed oversight responsibilities on the board of directors and the Division tried to incorporate this oversight into the state banks. Several lawyers attended the meeting and contended the Division was imposing potential liability on the banks.

BANKING (Cont.) In response to Doderer, Senneff said that the Division notified the trade associations of the proposed rule. He felt that groups read the Bulletin. No Committee recommendations.

PETROLEUM UST BOARD

Pat Rounds, UST Fund Administrator, and Bob Galbraith, Assistant Attorney General, represented the Board for the following:

PETROLEUM UNDERGROUND STORAGE TANK FUND BOARD, IOWA COMPREHENSIVE[591]
Remedial or insurance claims — benefits to eligible claimants subject to financial hardship, 11.1(3)"n,"
Notice **ARC 5160A** 10/12/94

11.1(3)"n"

Rounds described the proposal in 11.1(3) which was initiated because claimants were starting corrective action. This amendment was also Filed Emergency as of November 1 to provide payment for cleanup as well. The lending institutions may have turned down financing for an upgrade because the tank owner would not be able to pay both cleanup costs and upgrade fees. Rounds reminded that upgrades must be made by January 1, 1995, in order for the owner to stay eligible for remedial benefits. Doderer and Rounds reviewed relevant dates and time frames.

Schrader asked what was included in net worth of a small business and Rounds indicated that it would include the house and other assets. He added that one of the definitions in the rules was that the business be independently owned. Schrader asked if a closely-held corporation would be eligible and Rounds replied in the affirmative.

It was noted that this rule was totally separate from prioritization and was an attempt to implement the statutory provision which allowed 100 percent benefits to those with a net worth of less than $15,000. Rounds emphasized that the Board would not pay for low-risk sites. The average cost for a high-risk site would be approximately $200,000 to $277,000.

Priebe was concerned that those with a net worth of $25,000 could possibly receive nothing and Galbraith reminded that the legislature drew a line at $15,000. Rounds explained interest was being received on funds not needed to pay debts. The fund had approximately $34 million from the last bond issue with another $30 million from unassigned revenues—$64 million available over the next two years. Some bonds were being paid off to avoid interest.

Rounds had contacted petroleum marketers and representatives of larger companies who agreed the rule would help small businesses.

Hedge inquired if spouse's net worth were considered in figuring net worth and it was Rounds' understanding that all of the assets of the married couple were included. Net worth was narrowly defined to include only people truly subject to financial hardship. Rounds agreed to provide to Hedge information relative to possible impact of lottery winnings and pensions. No Committee action.

Priebe in the Chair.

UTILITIES Allan Kniep, Vicki Place, Cindy Dilley, Don Stursma and Diane Munns represented the Division for the following:

UTILITIES DIVISION[199]
COMMERCE DEPARTMENT[181]"umbrella"
Tariff revisions, 7.4(5)"e," Notice **ARC 5191A** 10/26/94
Electric transmission line franchises, 11.1(5), 11.1(6), 11.3(2)"a" and "b," 11.3(2)"c"(1) and (2), 11.4, 11.4(4), 11.5(5), 11.5(8), 11.6(1), Notice **ARC 5192A** 10/26/94
Equipment distribution program, ch 37, Notice **ARC 5189A**, also Filed Emergency **ARC 5186A** 10/26/94

7.4(5)"e" Munns reviewed 7.4(5) which would benefit the Division in revision of tariffs. Some utilities were not happy with this rule, however.

11.1(5) et al. Dilley stated that comments received so far have been supportive of amendments to Chapter 11. No Committee action.

Ch 37 No questions on Chapter 37.

NO REPS. There was discussion of the following but no Committee action was taken:

CIVIL RIGHTS COMMISSION[161]
Fax number, meetings via telephone, civil rights complaints, 1.1(1)"b," 1.1(3), 3.16, Filed **ARC 5143A** 10/12/94

IOWA ADVANCE FUNDING AUTHORITY[285]
EDUCATION DEPARTMENT[281]"umbrella"
Transfer ch 1 from [515] to [285] and amend 1.1 to 1.11, Notice **ARC 5132A** 10/12/94

LABOR SERVICES DIVISION[347]
EMPLOYMENT SERVICES DEPARTMENT[341]"umbrella"
Reporting of fatality or multiple hospitalization incidents, 4.8, 4.19"2," Filed Emergency After Notice **ARC 5185A** 10/26/94
General industry — DOT markings, placards, and labels, 10.20, Filed Emergency After Notice **ARC 5163A** . 10/12/94
Construction — DOT markings, placards, and labels, 26.1, Filed Emergency After Notice **ARC 5156A** 10/12/94
Agriculture — DOT markings, placards, and labels, 28.1, Filed Emergency After Notice **ARC 5157A** 10/12/94

NURSING BOARD[655]
PUBLIC HEALTH DEPARTMENT[641]"umbrella"
Licensure — application requirements, submission of personal check for licensure verification, 3.1, 3.2(2)"d," 3.4(6), Filed **ARC 5183A** 10/26/94

REVENUE AND FINANCE Carl Castelda, Ed Henderson, Melvin Hickman and John Christensen from the Department, Harry Griger, Attorney General's Office, and Mike Ralston, Iowa Taxpayers Association, were present for the following:

REVENUE AND FINANCE DEPARTMENT[701]
Procedures, forms, interest, penalty, exceptions to penalty, jeopardy assessments, assessments, refunds, appeals, inheritance tax, fiduciary income tax, 7.8, 7.8(2), 7.11(1), 7.12, 7.17(5), 7.17(7), 7.17(8), 7.30 to 7.35, 8.4(1)"bb," 10.2, 10.2(1), 10.115, 38.7, 38.11, 43.5, 51.8, 55.4, 55.5, 57.7, 60.4, 60.5, 86.4, 89.11, Notice **ARC 5158A** 10/12/94
Interest on unpaid taxes for calendar year 1995, 10.2(14), Notice **ARC 5198A** 10/26/94
Sales and use tax, 11.4(1)"b," 11.6(2), 12.9, 26.2(8), 26.71(1)"a" and "b," 26.71(5), 32.1, Filed **ARC 5150A** . 10/12/94
Corporate income tax, individual income tax, withholding, 38.1(8), 38.15, 38.16, 40.23, 40.38, 40.38(5), 40.41(1), 40.45, 41.5(6)"a," 42.2(6), 43.3(7), 43.3(9) to 43.3(12), 46.1(2), 46.2(1)"c" and "d," 46.2(3), 52.7, 53.8(1)"a," Filed **ARC 5152A, See text IAB 8-17-94** 10/12/94
Motor fuel, special fuel, cigarette and tobacco tax, 63.3(1)"i," 63.3(2)"i," 63.3(6), 63.3(6)"g," 63.3(7)"d," 63.17(1) to 63.17(3), 63.22, 64.4(4), 64.5, 64.7(1), 64.7(4), 64.7(5), 81.11, 83.3(1)"3," 83.3(2), 83.4, Filed **ARC 5151A** 10/12/94
Assessments, refunds, estimated income tax for individuals, 38.10(13) to 38.10(15), 43.3(6), 49.7, Notice **ARC 5153A** 10/12/94
Assessment practices and equalization, property tax credit and rent reimbursement, mobile home tax, property tax credits and exemptions, 71.1(4), 71.1(5), 73.11 to 73.13, 73.16, 73.17, 73.19, 73.23, 74.1, 74.4(1), 74.5, 74.6, 74.8(2), 74.8(3), 80.1(1)"a," 80.1(4)"g," Notice **ARC 5154A** 10/12/94
Use tax on automobile leases, **Special Review**

Special Review

At the request of Priebe, there was special review of tax on automobile leasing. He contended that the current law was "double taxation." The leasee pays the full tax and if another car were leased, they would pay full tax again. If the same car were bought and traded in, the tax due would be on the difference. Priebe suggested a bill to address the problem. Castelda stated that the use tax on a leased vehicle was not the leasee's responsibility but the leasing company often passes it off as a business expense. Under Iowa statute, when a purchase was made for lease, that was not a purchase for resale so the leasee was responsible for the tax. One exception was a longer than one year lease of equipment, the leasor may purchase that equipment free of sales tax as long as it was collected on the lease payments.

Castelda advised Rittmer that a use tax on the purchase price was required every time a vehicle was registered. According to Castelda, the use tax and title fee on a rental car were usually included in the first months' rental. In the case of a car leased to a second person, that person would not pay tax because the dealer still owned the car. If they purchased the car, tax would be due. Castelda attributed the confusion to the use tax appearing to be a property tax when it was actually a transaction tax based on ownership. No formal action.

Metcalf in the Chair.

10.2(14); 11.4(1)"b" et al.

No questions on 10.2(14) or 11.4(1)"b" et al.

38.1(8) et al.

Castelda stated that no public comment had been received on 38.1 et al. A change had been made in the formula in 40.23(1).

Rittmer asked for clarification of the flat rate and Castelda replied that it dealt with supplement bonuses and the withholding tables.

63.3(1)"i" et al.

According to Castelda, no public comment had been received on 63.3(1) et al. The appeal process was lengthened from 30 to 60 days under the Taxpayer Bill of Rights. No Committee action.

38.10(13) et al.

Castelda stated that no public comment had been received. No questions on 38.10(13) et al.

71.1(4) et al.

In review of 71.1(4) et al., Daggett asked when mobile homes were taxed as real estate. Castelda explained that those located in a mobile home park were taxed based on square footage.

Daggett had received many complaints from retired farmers with mobile homes. Castelda spoke of the difficulty in determining fair-market value of mobile homes (basis for the tax) since they depreciate rapidly. Henderson stated that the statute required mobile homes new or relocated after July 1 to be on permanent foundations. Other existing homes were "grandfathered in." The homestead credit would reduce the taxes. In response to Halvorson, Henderson stated that a representative from various districts met with the assessors and he believed there should be uniformity, Henderson had heard complaints from the assessors on the definition of "mobile home park" which was currently "two or more occupied mobile homes." Assessors saw a need for corrective legislation.

REVENUE (Cont.) Henderson clarified that a mobile home taxed as real estate would be eligible for homestead tax credit. If tax was assessed by square footage, they would not be eligible for credit. Rittmer reasoned that the impact would be on the higher priced homes and when they were new. Castelda noted that the Iowa Manufactured Housing Association lobbied for a change in the method of taxing mobile homes.

Kibbie asked if there were cases where the lot on which the mobile home was placed was actually purchased by the mobile home owner. Henderson stated that this was possible and there would be a real estate tax. When two mobile homes are on one individually owned lot, tax would be on square footage. but if an individual owned a lot with only one mobile home on it, it would be subject to real estate tax.

Henderson explained to Daggett that a manufactured home and a mobile home were subject to the same tax. No Committee action.

7.8 et al. In review of 7.8 et al., Castelda admitted there had been controversy and the Department had sent copies to Burns Mossman and Linda Weindruch, attorneys associated with the Taxpayer Bill of Rights and the Iowa Bar Association. These attorneys met with the Department and a series of changes were made. On November 4, the Department received two requests for concise statements and this related to protests. The question raised was which taxes were divisible and it was recommended that the Department provide examples in the rules and they were amenable. Castelda offered some suggested examples of when a tax would be divisible and when it would not be divisible.

Castelda continued that the Department was asked to add the word "also" in the new text of 7.8(17A) before the words "represent the liability . . ." Another controversial portion was on reasonable litigation costs. The Department's position was that costs were not triggered until there was a contested case proceeding. The Department had also recognized the costs associated with dealing with the agency before the proceeding could be recovered. One of the comments surrounded the relationship between the director's authority to settle claims under Code section 421.5, the abatement process and the settlement process. The Department was willing to add some statutory language that indicated that the settlement authority under section 421.5 was distinguishable from the abatement process.

The final area of controversy was on abatement of unpaid taxes. The previous statutory provision allowed the director to abate paid and unpaid taxes. There was a general feeling that the old standard should apply. If a person would follow the Taxpayer Bill of Rights, there would be an opportunity to file a protest, if you don't, a person could file a claim for refund and all taxes would not have to be paid if it were a divisible tax. If the claim were adjusted or denied then it could be appealed and a protest filed as if there were original standing on the issue. Castelda continued that another provision in the Code addressed the director's ability to settle claims. With respect to abatement, the Department felt it was appropriate to make a distinction between relief to the taxpayer for things that have been paid or not paid.

Castelda said they had received a request for a public hearing and had been notified that this request would cover the same issues discussed previously and covered in the concise statement. Castelda questioned the need for a public hearing which would only delay the adoption of the rules. The Department had considered proceeding with adoption of the noncontroversial rules.

REVENUE (Cont.) Ralston spoke of his association's concern with some of the rules but suspected they could reach a compromise with the Department.

Castelda stressed that the Department was bound by statutory language and had spent much time on this Bill of Rights. They opposed having to pay litigation costs up to $25,000 if a taxpayer prevailed under certain circumstances and another question was when do these costs start. It was noted that litigation in the Internal Revenue system was limited to court—not the administrative level.

Royce had advised against adopting parts of the rules and holding the others for public hearing. Griger pointed out the need to have the rules in place by January 1. Priebe saw no problem with the noncontroversial rules being adopted.

Hedge stated that he was bothered that reimbursement was limited to litigation in court. He cited as an example unreasonableness by the Department to the point that a taxpayer would have to hire a lawyer and go to court. If the Department failed to proceed, the taxpayer would be left with the bill. Castelda emphasized that could happen now. Eight committees had been formed and 100 employees in the Agency had been investigating policy, procedures, newsletter changes to apprise employees of potential liability of the Department and employees. A booklet which outlines the rights which cover all provisions of the Taxpayer Bill of Rights, their ability to sue and litigation costs is provided to every taxpayer who contacts the Department with respect to assessment tax, determination of tax or collection.

Committee Business Minutes — Priebe moved to approve the October minutes as submitted and the motion passed.

Tieden Death — Metcalf noted the death of former Senator Dale Tieden on November 3. Tieden had been a member of this Committee from January 1979 to 1992 when he retired.

UST — Royce stated that the Petroleum Underground Storage Tank Fund rules relating to remediation had been delayed for 70 days and was scheduled for review in January. At that time there would be proposed legislation from the Service Bureau and the UST Board to address the crisis. Schrader stated that the Committee usually dealt with rules issues and this was a statutory matter. He was also concerned with bypassing EPC in the endeavor. Royce interjected that the material would contain "ideas" for consideration.

Meeting Dates — The January meeting was scheduled for January 3 and 4, 1995, one week earlier than the statutory date.

Christmas Party Rescheduled — The party scheduled for December 13 was rescheduled to January 3 so that all members could attend.

Delayed Rules — Schrader moved that the Committe authorize Barry to request information from the Speaker of the House and the President of the Senate regarding disposition of rules which had been delayed until adjournment of the 1994 General Assembly. The motion was carried.

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

Respectfully submitted,

Phyllis Barry

Phyllis Barry, Secretary
Assisted by Kimberly McKnight

APPROVED:

Janet S Metcalf

Representative Janet Metcalf, Co-chair