

MINUTES OF THE SPECIAL MEETING  
OF THE  
ADMINISTRATIVE RULES REVIEW COMMITTEE

Time of Meeting The special meeting of the Administrative Rules Review Committee was held Tuesday and Wednesday, November 15 and 16, 1988, Committee Room 24, State Capitol, Des Moines, Iowa, in lieu of the statutory date of November 8, 1988.

Members Present Senator Berl E. Priebe, Chairman; Representative Edward G. Parker, Vice Chairman; Senators Donald V. Doyle and Dale L. Tieden; Representative Betty Jean Clark. Not present: Representative David M. Tabor. Staff present: Joseph A. Royce, Counsel; Phyllis Barry, Administrative Code Editor; Vivian Haag, Executive Administrator; Bonnie King, Administrative Assistant. Also present: Barbara Burnett, Governor's Administrative Rules Coordinator.

Convened Vice Chairman Parker convened the Tuesday meeting at 10:09 a.m.

HUMAN SERVICES DEPARTMENT Parker recognized Mary E. Imlau who presented rules of the Department as follows:

Refugee cash assistance, conditions of eligibility, 60.7, 60.7(1), 75.1(1) "c" filed without notice ARC 9328	FWN	10/19/88
Administration of day care program, 110.10, 154.3(3), 164.7, 170.2(3) "f", 170.7 ARC 9330	F	10/19/88
Basis for food stamp allotments, maximum monthly dependent care deduction, 65.32, 65.33, filed emergency ARC 9327	FE	10/19/88
Conditions of eligibility, procedure and method of payment, 75.5(6), 75.5(6), 80.5(3) "b" ARC 9376	N	10/19/88
Skilled nursing facility certification for Medicaid and Medicare, 77.12, 78.12(1) "b" ARC 9377	N	10/19/88
Residents of skilled nursing facilities and intermediate care facilities — mental illness or mental retardation, 78.12, 81.3 ARC 9298	N	10/5/88
Conditions of eligibility, 75.1(2) ARC 9404	N	11/2/88
Gamblers assistance program, 162.1, 162.2, 162.4(1), 162.4(3), 162.6, 162.7, 162.10 ARC 9391	N	11/2/88

Ch 60 Rules relative to conditions of eligibility for refugee cash assistance were noticed last year when the federal government proposed the regulation; however, they were not adopted within the 180-day time frame. No comments were received on that Notice so the rules were adopted without further Notice. No comments re amendments to

110.10 110.10 et al.

65.32 Priebe took the Chair and called up amendments to 65.32, 65.33 et al. 65.33, 75.5 and 80.5(3). No questions.

77.12 Discussion of 77.12 and 78.12. Imlau noted that the amendments will ensure that Medicare funds are used prior to Medicaid funding.

78.12 & 81.3 Amendments to 78.12 and 81.3 address prescreening of persons with mental illness or retardation before admittance to skilled nursing and intermediate care facilities. This federal mandate is effective January 1, 1989. Imlau suspected there would be an increase in the number of skilled nursing facilities since available coverage has increased.

Jennifer Tyler, Executive Director, Iowa Council of Health Care Centers, stated that the Council had submitted comments on the amendments which they contended were ambiguous as to whether coverage would be extended to Medicare and Medicaid patients.

HUMAN SERVICES DEPARTMENT Continued

There was discussion of care for Alzheimers patients. Imlau responded that payment would be made only for persons who are on Title XIX. She reviewed amendment to 75.1 which will provide Medicaid payment for eligible Medicare recipients for the cost of Medicare premiums, deductibles, and coinsurance. This is for persons whose income does not exceed 85% of the federal poverty level and whose resources are not twice the SSI level.

Priebe asked about "For family units with more than eight members, add \$1960 (\$1666) for each additional member" which was part of the preamble. Jan Walters responded that DHS uses the SSI family composition group and, in 99 percent of the cases, that will not go beyond two or three household members. Walters explained that \$1960 was for the poverty guideline and \$1666 was 85 percent of the federal poverty level as of January 1, 1989. Priebe questioned the fairness of the guidelines. Walters stressed that the law mandates use of the SSI resource policies, and, as of January 1, the guideline is \$2000 for one member and \$3000 for two or more persons. The law allows the resource limitation to be doubled, thus the \$4000 and \$6000 amounts.

Walters responded to Priebe's question as to fiscal impact that they were estimating \$1.3 million for fiscal year 1989. She was willing to provide additional information to the ARRC. In response to Tieden, Walters clarified that doubling of the SSI resource level was a federal mandate.

Ch 162

Amendments to Chapter 162 provide for a monthly reporting for recipients of gamblers assistance funds. No recommendations.

AGRICULTURE & LAND STEWARDSHIP DEPARTMENT

The Department was represented by William Greiner, Ron Rowland, and Lowell Anderson. The agenda follows.

Pilot lamb and wool management education project, ch 15, filed emergency ARC 9382... F.E. 10/19/88  
Pseudorabies disease, 64.147 to 64.163, filed emergency ARC 9297... F.E. 10/6/88  
Pseudorabies disease, 64.147 to 64.163, ARC 9341, also filed emergency ARC 9340... N.F.E. 10/10/88

Ch 15

Greiner had been requested to present Chapter 15 because of the untimely death of Tom Kessler, who had drafted the rules. Chapter 15 provides a framework for the establishment of pilot lamb and wool education projects at area schools. Greiner mentioned the \$100,000 appropriation for production and marketing of lamb and wool. He pointed out that Iowa exceeds all states in the number of sheep producers.

Priebe expressed the Committee's opposition to emergency rule making. According to Greiner, the rules were sent to Area Community Colleges, sheep producers, and were included in the Sheep Clippings Newsletter. Rowland defended the emergency filing which was necessary to meet specific time frames. Also, the funds had been dispensed at that point.

AGRICULTURE  
AND LAND  
STEWARDSHIP  
Continued  
Ch 64

Priebe suggested that the ARRC should be aware of legislative mandates and track the timeliness of implementation by rule.

Anderson described amendments to 64.147 to 64.153 which had been filed emergency with simultaneous Notice. There was discussion of scours in Doyle's area and the serious nature of this disease and pseudorabies.

Priebe recalled a recent meeting with Pork Producers where a consensus was reached relative to pseudorabies. If a breeding sow herd is vaccinated and a maximum of 28 pigs test clean, those feeder pigs could be vaccinated and moved freely. Federal approval would be needed. Anderson stated, in response to Tieden, that the federal government will not allow vaccinated pigs to move interstate. He added that the vaccine does not cure pseudorabies but will reduce spreading of the disease within a herd. There are still carriers. Tieden theorized that farm-to-farm sales were shifting the problem. Rowland interjected that there was no criticism of the rule at the hearing. The fact that Iowa does not allow any Wisconsin feeder pigs in was the main source of complaint. No Committee action.

TRANSPORTA-  
TION DEPT.

Representing DOT for the following were John Kelly, Gene Jones, Ruth Skluzacek and Jan Hardy:

Salvage, ch 405 ARC 9386 .....	<i>F</i>	11/2/88
Traffic safety improvement program, ch 164, filed emergency after notice, ARC 9329 .....	<i>F&amp;AN</i>	10/19/88
Abandoned vehicles, ch 480 ARC 9418 .....	<i>N</i>	11/2/88

Ch 405

Skluzacek reviewed changes from the Noticed Chapter 405. The recycling industry, the attorney general's office and the auto dealers have concurred with the significant changes. She pointed out that trailers will no longer be considered in the "salvage" area.

Ch 164, 480

No recommendations re Chapters 164 and 480.

PUBLIC  
SAFETY  
DEPARTMENT

Mike Coveyou, Wilbur Johnson, Fire Marshal, and Jan Worthington were in attendance for:

Identification section of the division of criminal investigation -- fees, 11.15 ARC 9324 .....	<i>F</i>	10/5/88
Under 70 day Delay .....		
Cellulose insulation, 5.42 ARC 9394 .....	<i>F</i>	11/2/88
Autopsy reimbursement, chapter title, 21.2 ARC 9393 .....	<i>N</i>	11/2/88

Coveyou stated that criminal history records checks are used by those in child care services and youth services agencies as well as law enforcement agencies. He said the initial fee would be \$6.00.

Motion  
11.15

Doyle moved to lift the 70-day delay of 11.15. Motion carried.

5.42

No comment re 5.42. Brief discussion of 21.2. The Committee was amenable to adoption of the amendment as Emergency after Notice.

In a matter not before the Committee, Coveyou reported

PUBLIC SAFETY Concluded

on the status of ignition interlock rules, 681--7.8. Manufacturers have advised that recalibration of the devices every 30 days is unnecessary and they prefer 60 days. The crime laboratory administrator saw no problem with this change and the amendment will be filed emergency. According to Coveyou, calibration is used to ensure that the instrument accurately measures alcohol content in the breath. Parker in the Chair.

ECONOMIC DEVELOPMENT DEPARTMENT

Melanie Johnson, Roselyn Wazny, Lane Palmer, and Diane Foss presented the following:

Iowa small business new jobs training program, 7.1 to 7.13 ARC 9368.....	FA	10/19/88
Self-employment business assistance, ch 9, ARC 9367.....	FA	10/19/88
Youth affairs, 14.3(10), 14.4(9)a," 14.7(10) ARC 9369.....	FA	10/19/88
Small business incubator center program, 62.1, 62.2, 62.6(1), 62.6(2), 62.7(2)c," 62.8(1)f" ARC 9331.....	FA	10/19/88
Iowa rental rehabilitation program, 26.3(4), 26.6(2)d"(7), filed emergency ARC: 9366.....	FA	10/19/88
Community and rural development loan program, ch 28 ARC 9367.....	N	10/19/88
Ambassador's program, 67.1 to 67.3 ARC 9360.....	N	10/19/88

7.1 No questions re 7.1 to 7.13 which will become effective November 23.

Ch 9 Johnson briefed the ARRC with respect to changes made in Chapter 9, self-employment business assistance program. Tieden called attention to language in 9.1, "...case management program..." Johnson agreed to follow up.

Ch 14 Department officials said that amendments to Chapter 14 add new methods to track expenditures which will ensure that the \$100,000 for minority youth employment is being expended according to legislative intent.

Ch 52 Wazny reviewed amendments to Chapter 52 and discussed the definition of "rural incubator centers" which were for communities under 10,000 population not contiguous to a designated community over 10,000. A public hearing was held and no comments were received.

26.3 Palmer cited federal law changes as the reason for amend-  
26.5 ments to 26.3 and 26.5--administration expenses can now be paid from program proceeds and a sliding investment scale is based on the number of bedrooms within each rental unit. No comments.

Ch 28 Palmer reported that no comments were received on proposed Chapter 28 at the public hearing held November 10. Clark questioned use of "in aid of development" in 28.4(3)c. Palmer agreed that "to aid development" was intended. He also concurred with Clark that 28.4(3)f should be amended by deleting the words "or be less than 0 percent per annum."

28.4(4) Tieden wondered if 28.4(4)c(3)--"Evidence of matching contribution of at least 25 percent of the total project cost."--were in-kind or dollars. Palmer thought it would be dollars. Parker quoted 28.4(3)b which stated that "No single project may be awarded more than \$500,000 per year." He recalled that the statute did not make that limitation.

ECONOMIC DEVELOPMENT

No recommendation re amendments to Chapter 57. No Committee action.

ATTORNEY GENERAL CH 26

Earl Willits and Cynthia Forsythe represented the Consumer Protection Division of the Attorney General's office for:

Exercise clubs, ch 26, filed emergency ARC 9326 . . . FE . . . . . 10/6/88

Forsythe explained that the rules were emergency adopted to implement 1988 Acts, S.F. 464, which requires physical exercise clubs to register with the Division. Willits indicated that additional rules were in process.

Willits advised that the provision for registration statement in 26.3(1) was aimed at new clubs once registrations are completed. Forsythe had received 40 responses from 160 letters sent. No Committee action.

Recess Reconvened

The Committee was recessed at 11:55 a.m. Chairman Priebe resumed the Chair and reconvened the meeting at 1:45 p.m.

NURSING BOARD

Lorinda Inman, Executive Director, appeared for the Board and presented the following:

PUBLIC HEALTH DEPARTMENT[601] "umbrella"  
Licensure to practice -- RN/LPN, fees 3.1"16" ARC 9296 . . . F . . . . . 10/6/88

Under 70 day Delay . . . . .  
Licensure to practice -- RN/LPN, 3.4(2)"d" and "e," 3.4(3)"a"(2) and (3), 3.4(3)"b" and "c," 3.4(6)"a"(1), 3.5(2)"a"(1) ARC 9385 . . . . . FE . . . . . 11/2/88

3.1 Motion

Tieden moved to lift the 70-day delay imposed on 3.1"16." Motion carried.

3.4

Discussion of amendments to 3.4 which will require use of a photograph I.D. card for admission to licensure examination site. This will increase security. Other amendment will remove the requirement of a "written" request for application for licensure. Inman said that most nurses favor this approach.

Priebe and Clark questioned use of "an adequate supply of application forms" in 3.4(3). Inman was willing to delete the language to avoid any misunderstanding. She told Tieden that, currently, their security measures are based solely on signatures.

ENVIRONMENTAL PROTECTION COMMISSION

The following agenda was before the Committee:

- NATURAL RESOURCES DEPARTMENT[601] "umbrella"
- Contracts for public improvements and professional services, ch 8, renumber 567-- ch 8 as 567--ch 11 ARC 9337 . . . F . . . . . 10/19/88
- Requirements for properly plugging abandoned wells, ch 39 ARC 9343 . . . . . F . . . . . 10/19/88
- Public records and fair information practices, ch 2, filed emergency after notice ARC 9205 . . . . . F.E.A.N . . . . . 10/6/88
- Water supply grants, ch 42, (filed emergency) ARC 9344 . . . . . FE . . . . . 10/19/88
- Water quality standards, 60.2, 61.2(1), 61.2(2), 61.2(4), 61.2(5), 61.2(5)"c," 61.3(1) to 61.3(4) ARC 9345 . . . . . N . . . . . 10/19/88
- State revolving fund loans for wastewater treatment, ch 92, filed emergency ARC 9336 . . . . . FE . . . . . 10/19/88
- General requirements relating to solid waste disposal, 101.4 ARC 9346 . . . . . N . . . . . 10/19/88
- Solid waste grants, 209.7"7" ARC 9347 . . . . . N . . . . . 10/19/88
- NATURAL RESOURCE COMMISSION[671]
- NATURAL RESOURCES DEPARTMENT[601] "umbrella"
- Wildlife refuges, 62.1(1) ARC 9411 . . . . . N . . . . . 11/2/88
- Equestrian and off-road vehicle trails on state lands, ch 67, notice ARC 9031 terminated ARC 9416 . . . . . N.Y. . . . . 11/2/88
- Development and management of recreation trails on state lands, ch 67 ARC 9412 . . . . . N . . . . . 11/2/88
- Waterfowl and coot hunting seasons, 91.1(1), filed emergency ARC 9389 . . . . . N . . . . . 11/2/88
- Disposition of forfeited weapons, 10.6 ARC 9408 . . . . . F . . . . . 11/2/88
- Boat motor regulations, 36.42)"b" ARC 9410 . . . . . F . . . . . 11/2/88
- Fishing regulations, 81.2(4), 81.2(6)"d" ARC 9414 . . . . . F . . . . . 11/2/88
- Fishing tournaments, ch 88 ARC 9413 . . . . . F . . . . . 11/2/88
- NATURAL RESOURCES DEPARTMENT[601]
- Description of organization, 1.3(1), 1.3(2)"j," 1.4(2), 1.4(3) ARC 9409 . . . . . N . . . . . 11/2/88

NATURAL  
RESOURCE  
COMMISSION

Those in attendance for the Department included Vic Kennedy, Randy Clark, Wayne Reed, Diana Hansen, Allan Stokes, Tom Blewett, Teresa Hay, Mike Carrier and Rick McGeough.

EPC

No questions on renumbered 567--Chapter 11. Randy Clark reviewed changes from the Notice on Chapter 39 which will implement Iowa Code supplement section 455B.190. The deadline for plugging wells larger than 8 inches in diameter was extended to July 1, 1990. Services of a registered well contractor will not be required for sandpoint wells unless the owner cannot extract the sandpoint and casing. The disinfection requirement for standby wells was relaxed. Wells 18 inches in diameter and larger or less than 100 feet deep can be sealed by the owner.

Wells

Priebe reasoned that large wells were harder to fill than the drilled ones. Reed noted that materials could be dumped into the larger wells.

Ch 39

Motion to  
delay until  
end of GA

Clark was concerned about cost and inequity in distribution of cost-share funds to assist with the plugging of wells. Further discussion. Clark moved to delay 567--Chapter 39 until the adjournment of the 1989 General Assembly and to refer the matter to the Lt. Governor and Speaker of the House for review by the appropriate Committees. Motion carried.

Ch 2

No question re 567--Chapter 2. Hansen stated that 567--Chapter 42 was filed emergency so the rules could be in effect by September 30. This would allow a three-month period for grant applications for public water supplies. The Department wanted to award the grants by March 1, 1989, so public water supplies could coordinate receipt of these funds with any other type of grant such as a block grant. They also wanted the rules in place for the construction season of March and April 1989. Hansen referenced a Departmental report concerning groundwater standards which will be submitted to the legislature early in 1989.

Chs 60, 61

Discussion of amendments to 567--Chapters 60 and 61. Hansen described the amendments covering streams essentially. However, provisions exist for lakes and wetlands. In response to question by Tieden, Stokes stated that self-monitoring is required by the discharger. Doyle asked if the Department did testing on the west side of the Missouri River. According to Stokes, jurisdiction is generally limited to the Iowa side. The exception would be Carter Lake. The Department has authority to bring enforcement action, e.g., a violation of waste water treatment plants that originated in Iowa.

Ch 92

Kennedy advised that 567--Chapter 92 was filed emergency to implement 1988 Acts, SF 2092. He emphasized that the funds are used for loans, not grants. Priebe questioned

NATURAL  
RESOURCE  
COMMISSION  
EPA cont'd

why the program had not been implemented sooner and Stokes explained the difficulty in proceeding until the legislative policy statement was available. EPA guidelines were not in place until the middle of August. Information which must be submitted to EPA includes an Intended Use Plan--how will dollars be used. Six public hearings were scheduled.

101.4

Hay presented revised rule 567--101.4 which proposes guidelines for comprehensive plans to implement solid waste management (Part I). Part I addresses alternatives to "waste management hierarchy." A public hearing was held but no comments were received on the guidelines which have been available since July 1.

209.7

Changes in 561--209.7 will coordinate demonstration projects and comprehensive plans, and facilitate comprehensive solid waste management planning in Iowa. There had been no public comment. No recommendations re 561--1.3 et al.

52.1

No recommendations re amendments to 571--52.2(1).

Ch 67

Carrier recalled hearings held on proposed 571--Chapter 67 which resulted in the need for substantial revision. The first Notice was terminated and the rules were redrafted. (ARC 9412) Guidelines for establishment and management of recreation trails in state parks and other locations were clarified.

Priebe reiterated his opposition to 67.7(4) which provides, "No trail shall be permanently closed without the approval of the director...." He contended that this authority should be limited to the Commission. Carrier referred to Code chapter 111 which sets out powers of the Natural Resource Commission with respect to state parks and recreation areas. The Commission has authority to adopt and approve master plans for development or to designate state parks and recreation areas. Carrier took the position that the rules were consistent with the law.

Donna and John Schildberg, concerned citizens for Equestrians, spoke from a prepared statement in opposition to the rules. They provided draft copies of rules which they thought would be more appropriate. Schildbergs preferred that existing trails receive more maintenance rather than developing new ones. They recommended that the Commission appoint an advisory committee since other states have such a committee. Carrier disagreed that these rules had anything to do with the Brushy Creek issue.

91.1 et al.

No recommendations re 571--91.1, 10.6, or 45.4(2)b. McGeough said that amendment to 81.2(4) would permit paddlefish snagging, except on the Missouri and Big

Ch 88

Sioux Rivers. New Chapter 88 establishes permit application procedures for the public and criteria to be met when conducting fishing tournaments.

NATURAL RESOURCE COMMISSION Concluded Royce relayed suggestion of one of Doyle's constituents that the duck and coot hunting season begin and end later since ponds in western Iowa do not freeze over so quickly. McGeough cited federal framework as making this difficult but agreed to review the matter.

UTILITIES DIVISION Susan Alexander, Vicki Place, Cindy Dilley, and Ray Vawter appeared for the Utilities Division and reviewed the following:

COMMERCE DEPARTMENT (181) "umbrella"	
Division organization and operation, 1.4 to 1.6 ARC 9376	N 10/19/88
Notice of rate increase, 7.4(1) f (2) ARC 9306	N 10/5/88
Direct assessments, 17.1, 17.3, 17.4(1), 17.4(4) ARC 9307	N 10/5/88
Notice to transportation customers, 19.13(6) ARC 9379	N 10/19/88
Customer contribution fund, 19.14, 20.15 ARC 9374	N 10/19/88

1.4-1.6 et al. No comments re 1.4 to 1.6, 7.4(1) f, amendments to Chapter 17, or 19.13(6).

19.14, 20.15 Place stated that new rules 19.14 and 20.15 address customer contribution funds which are intended to assist the utilities' low income customers with weatherization and to supplement the energy assistance program. No Committee action.

INSURANCE DIVISION The following insurance rules were presented by Gary Marquett and Kevin Howe:

COMMERCE DEPARTMENT (181) "umbrella"	
Organization of division, 1.3(1) f ARC 9316	N 10/5/88
Regulation of insurers - general provisions, 5.31, forms, 5.42 ARC 9314	N 10/5/88
Broker-dealer applications and renewals 50.1, 50.2(8), filed emergency ARC 9351	N 10/19/88
Rate filings for crop-hail insurance, 20.8 ARC 9392	N 11/2/88

1.3 Amendment to 1.3(11) removes reports of the National Association of Insurance Commissioners Insurance Regulatory Information System from those documents which are confidential agency records.

5.31 50.1 No questions re amendments to 5.31 or 5.42. In review of 50.1 and 50.2(8), Parker asked if a certain cut of the fee goes to the National System and Marquett stated the fee is collected by the system for the Insurance Division which receives 100 percent of it.

20.8 Howe described rule 20.8 as one which will lend stability to the market and provide for timely filing of crop-hail insurance rates.

Minutes Doyle moved to approve the minutes of the October ARRC meeting. Motion carried. Brief recess.

Reconvened HEALTH DATA COMMISSION Chairman Priebe reconvened the meeting at 3:05 p.m. and called up Health Data Commission. Pierce Wilson and Rose Vasquez represented the Commission for the following:

Uniform hospital billing form, submission of data, 5.1, 5.5, 6.1, 6.3(6) ARC 9419	N 11/2/88
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5.1 et al. Wilson reviewed changes from the Notice. Under the rules, hospitals of 100 or more licensed beds must use a computerized system approved by the Commission to generate patient severity codes. The coding systems will provide information which is necessary for the Health Data Commission to adjust hospital claims data for severity in order to

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HEALTH  
DATA  
COMMISSION

have comparable data for review and comparison of cost, utilization and quality of health services. Wilson commented that Iowa has become a national leader in this area.

Jeanine Freeman, Iowa Hospital Association, Des Moines, strongly opposed the rules and cited the financial impact as a main concern. She urged any relief that the ARRC might find appropriate. Freeman estimated \$5 million cost to each of the 32 hospitals affected by the rules. She cited lack of statutory authority as basis for objection to the rules. Freeman contended there was insufficient evidence to support this concept and that the rules were premature. She could foresee that the nursing shortage would become acute and spoke of the UB-82 system already in place. Data will be available next year.

Priebe called attention to a recent Des Moines Register article regarding profits of hospitals with 100 or more beds. Freeman stated that the article presented "accurate but incomplete information"--it did not address all of the burdens. Priebe referenced a lengthy list of companies and organizations which support the rules.

Parker asked what percent of the population was served by the 32 hospitals which would be affected. Perry Meyer, Iowa Hospital Association, estimated 80 percent. Parker asked if the Health Data Commission agreed with the \$5 million figure and Wilson replied it was an estimate. Wilson continued that the two vendors most visible in Iowa offer a full loan system and a possible 50 percent discount, so the figure could be an overestimation. Wilson was willing to share responses which the Commission had received from vendors. Freeman clarified that the \$5 million estimate included cost of hardware and software as well as additional personnel associated with implementing the system.

Parker and Wilson discussed means of ensuring "the integrity" of a system which was critical to success in Parker's opinion. A system would flag a severity score that was not compatible with the diagnosis and data could be re-analyzed.

In response to Doyle as to Commission authority for the rule making, Vasquez cited Iowa Code sections 145.1, 145.2, and 145.3(2)a. There was discussion of investment in a "severity system" which will be outdated in a short time. Wilson commented that forward development would not negate positive tests taken by the three states.

Clark recalled "failure" of the Certificate of Need program and pondered whether this endeavor would be similar. She concluded that implementation would be the true test.

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HEALTH  
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COMMISSION

Jim Strepe, representing special hospitals in Spencer, Iowa, stated that their hospital is licensed for 117 acute care beds. Cost of implementation of the rules was a concern since 60 to 65 percent of their patients are on Medicare. Strepe took the position that psychiatric beds should be eliminated from the bed count. He estimated a 2 percent increase in costs to the patients to implement the rules.

Don Rowan, Executive Vice President, Iowa Federation of Labor, spoke in support of the rules. He considered the issue to be the most important of the entire legislative session. Rowan urged prompt implementation.

Priebe recalled his recent campaign where "the high cost of health care" was also an important issue to senior citizens. He did not favor delay of the rules but thought the matter of small hospitals should be clarified by the General Assembly. Priebe indicated he would propose legislation to create a board which would have to justify increase in costs.

Patricia C. Goebel, President, Iowa Medical Records Association, wanted to be on record as opposing the rules. She urged more consideration on this matter. Goebel was not opposed to the concept but was concerned about shortage of personnel to collect accurate data.

Priebe reiterated his frustration with escalating health care costs and lack of data. He declared that some action must be taken.

Hugh Morrill, Health Care Representative, John Deere and Company, spoke as a health care purchaser in support of the rules. He added that national health care costs are "out of control" and for his company, that translates into millions of dollars each year. Their health care bill in 1987 was \$125 million for direct medical services and it will be \$150 million in 1988. Projected medical costs for 1989 were \$166 million. Morrill maintained that mandatory new health cost management strategies must be implemented.

Keith Goldsmith, Principal Financial Group, endorsed the rules in view of the dramatic increase in health care costs. His firm was willing to absorb some of the cost of implementation as part of the benefit payment process.

Dr. Donald Schultz, Vice President, Medical Affairs, St. Lukes Hospital, Sioux City, Iowa, spoke of measuring the quality of health care. He interpreted the rules as a mandate to provide severity data for the consumer to enable them to make informed choices. He continued that recent experience in the health care industry shows that health care has been purchased on "price without evidence of quality."

HEALTH  
DATA  
COMMISSION  
Continued

He declared, "To realize value, price must be paired with quality." It was the opinion of Schultz that to encourage the development of this system by the interested regulators and accreditors of health care would be wiser than a premature mandate at significant expense. He reasoned that "figures can be manipulated" and that Iowa may not want to be on the "cutting edge" of this issue. Schultz concluded that "value is a combination of price and quality."

Keith Larson, Pioneer Hi-Bred, supported the rules at this time. He stressed the importance of the lowest cost and highest quality of health care for their 2000 plus employees and all those in Iowa. Health care costs for their company were \$6 million in 1988 and they estimated a 30 percent increase next year.

Jay Story, Maytag Company, Newton, but representing ABI today, supported the rules. He pointed out that doctors who offer highest quality effectively get the most patients. He contended that the consumer was entitled to some measure of quality.

Mark Templeton, Coordinator of Public Affairs, Iowa Medical Society, addressed the uncertainty surrounding the rules which cover a very difficult issue. He recommended a pilot test monitored in two or three hospitals. Templeton recognized a "need to monitor health care, but mandating the system at this time is premature." He asked for delay of the rules.

Doug Wilson, Vice President and Chief Financial Officer, Ottumwa Regional Health Center, Ottumwa, Iowa, voiced his opinion that these rules were inappropriate at this time.

Rhonda Tomair, Jennie Edmundson Hospital, Council Bluffs, expressed concerns for quality, validity of the data, and skilled personnel to input severity scores.

William Meyer, Executive Director, Broadlawns Hospital, Des Moines, referred to the issue as a "star wars debate" about an untried system.

Meyer suspected that the uninsured would bear the burden of additional cost. He advised that the newspaper figures re hospitals should be disregarded.

Ben Zachrich, Executive Director, Iowa Citizen's Action Network, which represents 200,000 consumers in Iowa, was concerned about the reliability of the system.

Mel Willits, representing Des Moines Hospitals, referred to a report which he had sent to the ARRC last week. They do not oppose a valid, reliable system, but do not believe one had been developed.

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HEALTH  
DATA  
COMMISSION  
Concluded

Womack, United Auto Workers, encouraged the Committee to support the rules.

According to Gary Johnson, Executive Projects Manager, Winnebago Industries, Forest City, Iowa, health care costs are the prime concern to their company with 3500 employees. He urged ARRC support.

Bill Peterson, Deputy Director, Iowa State Association of Counties, voiced support of the rules. The counties spend approximatley \$20 million annually to purchase health care services for their 12,000 employees. They were eager to obtain any data which would enhance their ability to direct employees to low cost, quality care, and believed that the time to proceed was now.

Brief comments were received from others in the audience. The Administrative Code Editor has a list of those in attendance at the meeting and material submitted by them.

Motion to  
Delay  
Failed

Parker saw the need for a "cooling off period" and he moved to delay amendments to Chapter 5 for 70 days. Motion failed by a show of hands. Tieden was uncomfortable with the rules and was especially concerned about how the information would be utilized.

Motion

Doyle moved that, because of the importance of both sides of this issue, this Committee notify the Lt. Governor and the Speaker of the House that these rules have been before them and recommend the appropriate legislative committees should review the matter. Motion failed. Tieden and Parker asked to be recorded as voting "no" on the Doyle motion; Priebe, Clark and Doyle voting "aye."

Vote

Recess

The Committee was recessed at 5:05 p.m. to be reconvened Wednesday, November 16, 1988.

Reconvened Chairman Priebe reconvened the meeting Wednesday, November 16, 1988, at 9:10 a.m. with a quorum.

INSPECTIONS AND APPEALS DEPARTMENT The Department was represented by Xenda Lindel-Prine, Mary Oliver, and Michaela Funaro and the following was considered:

INSPECTIONS AND APPEALS DEPARTMENT 4811	
Birth centers, ch 62 ARC 9360	10/19/88
Infection control in health care facilities, 57.11(3), 57.11(6), 57.11(10) to 57.11(12), 57.12(1)c and "d," 58.10(3), 58.10(6), 58.10(8) to 58.10(10), 58.11(1)c and "d," 58.38(3)b," 59.12(3), 59.12(10), 59.12(11), 59.13(1)c and "d," 59.43(3)b," 62.9(2)a," 62.19(4), 62.19(6), 63.9(3), 63.9(6), 63.9(10) to 63.9(12), 63.11(1)c and "d," 64.12(13), 64.12(14), 64.13(12), 64.13(16), 64.13(18), 64.18(4), 64.26(8)b" ARC 9365	10/19/88
Responsibility for care of people in Medicare hospice program, 58.14(1), 59.17(8), 64.19(9) ARC 9363	10/19/88
Alzheimer's disease and related disorders unit, 58.54 ARC 9364	10/19/88
Residential care facilities for the mentally retarded — demonstration waiver project, 63.47, 63.47(1)f" ARC 9362	10/19/88
Iowa targeted small business certification program, ch 25, filed emergency after notice ARC 9417. <i>FEAN</i>	11/2/88
Administration of insulin, 57.19(3)c," 62.16(3)d," 63.19(3)c," amended notice -- hearing ARC 9301 <i>AN</i>	10/5/88
Intermediate care facilities — Increase in nursing hours required, 58.11(2)f" ARC 9302 <i>N</i>	10/5/88

Ch 52 Lindel-Prine described changes from the Notice. A birth center laboratory must be supervised by a medical director. Also, a certificate of need will be required to obtain a license for a birth center. Priebe pointed out that the federal government has eliminated the certificates of need. Funaro stated that the health department is working on corrective legislation and Priebe recommended that the state follow the federal guidelines on this issue. He asked Funaro to relay this message to the Public Health Department.

Ch 57 et al. Discussion of amendments to Chapters 57 et al. pertaining to infection control in health care facilities. Oliver commented on infection control committee which will be required in each facility. The amendments were designed for all infection control but the influx of AIDS and hepatitis patients were the impetus for revision. Federal guidelines require an infection control for all skilled facilities. No recommendation re amendments to 58.14(1) et al.

Oliver explained that standards set out in 58.54 will apply only when a facility requests license for a unit for patients with Alzheimer's Disease. She talked briefly on the special staff training for those who care for these residents. Oliver informed Tieden that the Alzheimer's Association is at 1200 Pleasant, Des Moines, and has material relative to special care.

Lindel-Prine called attention to the fact that amendments to 63.47 would expand the population eligible for the demonstration waiver project to include people aged 60 or over.

Tieden questioned the definition of family-owned business in 25.1(4), paragraph 4, "Day-to-day decisions are made disproportionately by men or nonminority family members." Prine stated that this could be a "tip off" that a business is a targeted small business. No Committee action.

57.19(3) et al. Lindel-Prine said that a public hearing was held on October 25 on amendments to 57.19(3) which require that

INSPECTIONS insulin be injected by a licensed nurse or prescriber  
AND APPEALS except when a resident is certified by a physician as able  
DEPARTMENT to self-administer. No recommendations.  
(cont.)

58.11(2) Discussion of amendment to 58.11(2) which will increase  
the number of nursing hours required in ICFs from 1.7  
hours to 2.0 hours per resident day.

Jennifer Tyler, Iowa Council of Health Care Centers, spoke  
on this issue. The Council had submitted written  
opposition to the proposal because they felt it did not  
contain language to implement the legislative intent of  
H.F. 2447, section 3. Tyler added that the appropriation  
which conditioned the increase in ratio requirement from  
the 1.7 to the 2.0 hours per resident required the 74th  
percentile. It was her understanding that 2.0 provision  
would not take effect if the 74th percentile were not  
funded. Also, if the reimbursement rate is reduced from  
74th percentile, the 2.0 ratio would be reinstated to 1.7  
hours. She recalled that this was clearly articulated  
in the Senate debate but was not incorporated in the  
proposed rule. Tyler's group urged redraft of the rule.  
Tyler added that this point was raised before the Health  
Facilities Advisory Committee last week and they voted to  
approve the proposed amendment on the condition that such  
a provision be drafted. Priebe agreed with Tyler's  
position since he had been involved in this debate.  
Oliver noted that Tyler's draft had been sent to the  
Department's legal counsel for review.

Committee Meeting dates were scheduled for December 13 and 14, 1988,  
Business and January 3 and 4, 1989.  
Meetings

Land At the request of Barry and Burnett, Tieden moved that  
Preserva- Barry be authorized under 1988 Acts, Ch 1158, sec. 2, to  
tion remove from IAC obsolete rules of the former Land Pre-  
Policy servation Policy Commission. Motion carried.

Job Service At the request of Barry, Tieden moved that Barry be  
Forms allowed to exercise her authority in Iowa Code section  
17A.6 and omit from the IAC, several pages of description  
of Job Service Forms. Motion carried.

There was discussion of an expeditious way for agencies  
to implement 1988 Acts H.F. 2430 [Ch 1109] which changed  
the term "hearing officer" to "administrative law judge."  
Barry and Burnett had prepared a memo to all agencies  
urging them to change their rules in a reasonable and  
cost efficient manner. Recommendations as to how to  
accomplish this were included. The ARRC had no problem  
with this approach.

COMMUNITY The Division was represented by Eloise Lietzow and Rod  
ACTION Hueneman for the following:

AGENCIES  
DIVISION

COMMUNITY ACTION AGENCIES DIVISION[427]  
HUMAN RIGHTS DEPARTMENT[421] "umbrella"  
Community services block grant, 22.3(2), 22.3(4), 22.5(4), 22.7(6) ARC 8903 ..... F ..... 10/5/88  
Under 70 day Delay.....

COMMUNITY ACTION AGENCIES DIVISION (Cont.)

Hueneman summarized the amendments which were delayed 70 days at the October ARRC meeting. There were no questions. Tieden moved to lift the 70-day delay. Motion carried.

DEAF SERVICES DIVISION

Diana Leonard appeared for review of the following:

DEAF SERVICES DIVISION[429]  
 HUMAN RIGHTS DEPARTMENT[421] "umbrella"  
 Organization, services and procedures, forms, 1.2(1), 1.3(1), 1.3(2), 1.3(8), 2.1, 2.3(1), 2.3(2)"d," 2.4, 4.1(15), 4.1(16)  
 ARC 9332 ..... 10/19/88

Leonard clarified that persons who would be subject to a "fee-for-services provided" are agencies that are already required by state and federal law to be paid for interpreting service. No Committee recommendations.

CORRECTIONS DEPARTMENT

Fred Scaletta and John Parmenter, Assistant Attorney General, reviewed the following rules of the Corrections Department:

CORRECTIONS DEPARTMENT[291]  
 Infectious disease standard, 40.6 ARC 9405 ..... *F* ..... 11/2/88  
 Publications, 20.6, filed emergency ARC 9362 ..... *FE* ..... 10/19/88  
 Parole violations, 45.4(1) ARC 9408 ..... *U* ..... 11/2/88  
 Jail facilities, 50.1, 50.11(2)"b," 50.12, filed emergency ARC 9407 ..... *FE* ..... 11/2/88

40.6

Scaletta said that rule 40.6 directed each judicial district to establish infectious disease procedures since there had been an increase in the number of inmates who are testing positive for human immunodeficiency virus (HIV). All newly admitted inmates are automatically tested for AIDS. Clark wondered if it would be preferable to have a consistent policy in each district. Scaletta recalled that issue had been discussed at the July ARRC meeting. The language had been approved by the judicial district directors and they did not want to change it. Scaletta responded to question by Tieden regarding isolation of inmates and confidentiality for AID's victims. If there is a threat to staff or other inmates, they would be isolated. A very good training program is used and Scaletta estimated that five inmates were in this category. He was unsure as to the number who are testing positive to HIV and what the economic impact would be for care of the AIDS victims.

20.6

Scaletta stated that amendment to 20.6 was the result of a law suit by the inmates and the Department has been forced to liberalize their interpretation of the Code. Basically, anything that can be purchased in a bookstore will be allowed in the institutions. Parker and Scaletta discussed using standards based upon the "sensitivity of the community." Parmenter spoke briefly of the court's interpretation.

45.4

Scaletta described proposed amendments to 45.4 as an attempt to comply with Parole Board rule 615--6.2(906). Tieden questioned rescission of 45.4(1) h and i and Scaletta thought that paragraph g was the substitute. Tieden asked if "prison population cap" affected the rules and Scaletta responded in the negative.

CORRECTIONS DEPARTMENT (Cont.) Tieden was informed that parole violators must be incarcerated in the state facilities unless there were an agreement, e.g., a substance abuse problem where the individual would be placed in a treatment program.

Ch 50 In review of amendments to Chapter 50, Scaletta spoke of the question which had arisen as to whether responsibility for certifying instructors to train jailers rested with the Law Enforcement Academy or Corrections. It was decided that the Corrections Department would be responsible pending clarifying legislation. Another issue was who would provide the training. Money was appropriated to the Law Enforcement Academy for that purpose this year. Scaletta pointed out that, essentially, jailers receive the same training as correctional officers. Legislative action should set out specifics.

The Committee was in recess for 15 minutes.

EDUCATION DEPARTMENT Kathy Collins, Carol Alexander Phillips, Harold Coleman, Acting Director of Children, Youth and Families Division, and member of the Child Development Coordination Council, represented the Education Department for the following:

- Agency procedure for rule making, 4.6, 4.7 ARC 9321 ..... *N* ..... 10/6/88
  - High school equivalency diploma - minimum score, 670 - 8.3 | renumbered as 281 - 32.3 | *notice* ARC 9189
  - terminated ARC 9342 ..... *N* ..... 10/19/88
  - Child development coordinating council, ch 64, ARC 9317, also filed emergency ARC 9310 ..... *N* ..... 10/5/88
  - Certificates and endorsements, 73.3, 73.5, 73.17, 82.5(1), filed emergency ARC 9318 ..... *N* ..... 10/6/88
  - Procedures for charging and investigating incidents of abuse of students by school employees, ch 102, amended *notice - hearing* ARC 9383 ..... *N* ..... 10/19/88
  - Procedures for charging and investigating incidents of abuse of students by school employees, ch 102 ARC 8187 ..... *N* ..... 9/7/88
- (\*arrived from October 1988 meeting)

4.6, 4.7 No comments re 4.6, 4.7.

32.3 Noticed rules relative to high school equivalency diploma were terminated and the issue will be studied further.

Ch 64 Child development coordinating council, Ch 64, also filed emergency. Phillips cited time schedule as reason for emergency adoption of Chapter 64. Money must be distributed by January 1, 1989. There was discussion of the complicated grant process and contract negotiations. Priebe referred to criteria for secondary eligibility in 64.8 and failed to see the relevancy of paragraph "3"--"...born to a parent who was under age 18." He mentioned Downs Syndrome in children born to older women and wondered why they were not included as "at risk." Phillips interpreted legislative intent was to award the bulk of the funds to low-income families.

The Department took the position that some children who do not meet low-income guidelines would be at risk. Coleman clarified that the purpose of the program was not to serve handicapped children, but those identified as at risk, which could include handicapped. Phillips interjected that child development grants cannot serve children who are helped by other programs. No formal action.

EDUCATION  
DEPARTMENT  
Continued

Orrin Nearhoof told the Committee that the Department, over a three-year period, had pursued legislation to strengthen both the preparation and the certification process for teachers. They plan to return to the "improved program approach" whereby individuals work with the institutions in designing those programs. Nearhoof advised Priebe that all provisional occupational post-secondary certificates were valid for five years.

The option to liberalize granting of the substitute certificates was also provided.

Ch 102

Chapter 102, pertaining to incidents of abuse of students by school employees, was before the Committee, having been carried over from the October meeting to allow the Department time to review suggestions of William Angrick, Citizens' Aide/Ombudsman. Collins distributed copies of her written response to Angrick, who had appeared at the October meeting and voiced opposition to many of the rules. Discussion centered on Angrick's recommendation to include "or omissions" after "actions" in the definition of "physical abuse".

Collins declared that this approach would "neither comport with the legislative intent nor be in the best interest of fairness to schools and school districts." She concluded that the legislature would have included teachers in Iowa Code section 232.68 if they intended them to follow the child abuse law. Collins recalled an experience where she had attempted to stop a fight between students and was criticized by her superior because of possible ramifications when you have to "physically handle kids."

After further discussion, Collins indicated that some changes would be made before the rules were adopted. No Committee action.

CITIZENS'  
AIDE

There was brief discussion as to the status of rules of the Citizens' Aide/Ombudsman and the need for possible clarifying legislation to exempt them from Iowa Code chapter 17A but still have material published in the Iowa Administrative Code.

PUBLIC  
EMPLOYMENT  
RELATIONS  
BOARD  
Ch 11

Richard Ramsey, Jim McClimon, and Jan Barry represented the Board for consideration of the following:

State employee appeals of grievance decisions and disciplinary actions, 11.1 to 11.10, ARC 9372, also filed emergency ARC 9371 ..... N.F.B. 10/19/88  
Public records and fair information practices, ch 12, ARC 9323, also filed emergency ARC 9322 ..... N.F.B. 10/5/88

According to Ramsey, Chapter 11, disciplinary action, was necessitated by the passage of HF 2339 re grievance discipline resolution. The prior practice in discipline cases was for a review by the PERBoard after a response by the appointing authority. Department officials noted that 1988 Acts, HF 2339 changed the procedure for an employee's appeal of a disciplinary action from the appointing authority to the Director of the Department of Personnel. The next step would be appeal to the PERBoard.

PERBOARD  
Concluded

Under the new procedure, the Director must respond to the third step grievance filing within 30 days.

SOIL CON-  
SERVATION  
DISTRICT

James B. Gulliford, Director, and Ken Tow, Assistant, presented proposed Chapter 21, "Water Quality Projects-- Water Protection Fund," published in 10/5/88 IAB as ARC 9299. Tow said that the rules implement HF 2381 and establish application procedures and project selection criteria for soil and water conservation districts and the division in developing and implementing water quality protection projects. A public hearing was October 25 and five written comments were received in support of the rules.

21.50

Gulliford told Priebe that budget and staff cost will be identified in the application and will be dependent upon the type of project proposed--21.50. Priebe questioned the need to include the Department and Division names in the project reports--21.62. Gulliford stated that the Department wanted to show accountability to the water protection fund. Parker saw "no self-promotion" if individual names are not used.

21.62

SECRETARY  
OF STATE

Sandy Steinbach appeared on behalf of the Secretary of State to review:

Unofficial canvass of votes, ch 24, ARC 9388, also filed emergency ARC 9387 *N.F.E.*..... 11/2/88  
Election forms and instructions, 21.1(4), notice ARC 9012 terminated ARC 9365 *N.T.*..... 10/19/88

Steinbach gave brief overview of Chapter 24 and there were no questions on the Chapter or amendments to 21.1(4).

COLLEGE AID  
COMMISSION

Darlene Lawler presented the following for College Aid Commission:

EDUCATION DEPARTMENT [281] "umbrella"  
Iowa Stafford loan program, ch 10 preamble ARC 9398 *E*..... 11/2/88  
Iowa Stafford loan program, 10.34, 10.35 ARC 9408 *E*..... 11/2/88  
Iowa Stafford loan program, 10.33 ARC 9400 *N*..... 11/2/88  
State of Iowa scholarship program, ch 11 ARC 9402 *N*..... 11/2/88  
Iowa tuition grant program, Iowa vocational-technical tuition grant program, 12.1, 12.1(3), 12.1(4), 12.1(6), 12.1(7), 12.1(8), 12.2(6), 13.1(9), 13.1(6), 13.1(7), 13.1(8) ARC 9399 *N*..... 11/2/88  
Occupational therapist loan payments program, ch 19 ARC 9401 *N*..... 11/2/88

Ch 10  
et al.

According to Lawler, the "Iowa Guaranteed Student Loan Program" was renamed as "Iowa Stafford Loan Program." Lawler continued that amendments covering due diligence and claim processing clarify requirements and follow federal guidelines--10.34(1)(2) and 10.35(261). Amendments to 10.33 set out requirements for lender due diligence for the cosigners. The Commission encourages lenders to obtain cosigners and rules were modified so as not to penalize a lender if all 10 contacts are not completed. Reasonable efforts to contact will suffice. No Committee action.

Ch 11

Lawler stated that revised Chapter 11 attempts to address 1988 legislative changes with respect to the State of Iowa Scholarship Program. Priebe was interested in the senior student who might "sit-out" a year before entering college. Lawler responded that student would be considered and a student who might go out of state for a year to complete their freshman year would be eligible for the next three years.

COLLEGE AID  
COMMISSION  
Continued

Lawler assured Priebe that, fortunately, few students fit that category. She added, "The scholarship program is a recognition as well as a monetary award and guidance counselors are encouraged to have everyone apply."

Priebe asked Lawler to propose legislation which he would introduce to cover those individuals who did not apply in their senior year but later decide to attend college.

12.1 et al. Lawler advised ARRC that Chapter 12 addresses changes in the administration of tuition grants. There is some difficulty in coordinating the program. Approximately 5000 students meet the requirements, but only 2000 will be awarded scholarships.

Ch 19 No questions re Chapter 19. No Committee action.

Recess Committee was recessed at 11:55 a.m. and reconvened  
Reconvened at 1:10 p.m. by Chairman Priebe.

REVENUE & Carl Castelda, Deputy Director, represented Revenue and  
FINANCE Finance for the following:  
DEPARTMENT

Administration, determination of a sale and sale price, 11.2, 15.3(3)"a" ARC 9380.....	10/19/88
Administration, local option sales and service tax, 11.11, 107.9"b" ARC 9378 .....	10/19/88
Sales and use tax on construction activities, local option sales and service tax, 19.2, 107.3(3)"a" ARC 9381 .....	10/19/88
Vehicles subject to registration, 34.1(3), 34.5(10) ARC 9379 .....	10/19/88
Exempt sales, taxable and exempt sales determined by method of transaction or usage, 17.19(1) to 17.19(4), 17.22, 18.20(1)"c", 18.28(1), 18.37(1), 18.37(4), 18.49 to 18.51 ARC 9390.....	11/2/88
Generation skipping transfer tax, 88.1(1), 88.2(2), 88.3(1) to 88.3(4), 88.3(6) to 88.3(17), 88.6 ARC 9396 .....	11/2/88
Interest, penalty, and exceptions to penalty, 10.2(8) ARC 9397 .....	11/2/88

Castelda gave brief overview of revisions in the sales tax law relating to the use of fuel exemption certificates. House File 2477 repealed the requirement that implements of husbandry be "self propelled." No comments had been received.

Ch 11 Castelda reminded ARRC that amendments to Chapter 11 are a result of HF 2479, better known as the "Bellas Hess" bill. The rules are identical to those published under Notice. Responding to Tieden, Castelda said that about 16 to 18 retailers register with the Revenue Department. The Department had purchased a list of mail order catalog companies and over 5000 letters have been mailed to out-of-state retailers to apprise them of the new law. No formal action.

19.2 et al. No comments or questions with respect to 19.2, 107.3(3)a, 34.1(3) or 34.5(10).

Chs 17 & 18 Amendments to Chapters 17 and 18 pertaining to exempt sales tax implement several bills passed by the General Assembly. The definition of aircraft as used in 18.28(1) has been withdrawn since the DOT statute contains a definition of aircraft. A new filing to adopt the DOT definition will be submitted.

Ch 88,10.2 No ARRC questions re amendments to Chapter 88 or 10.2(8).

11-16-88

PHARMACY  
EXAMINERS  
BOARD

Lloyd Jessen of Pharmacy Examiners explained filed emergency amendment to 10.19, ARC 9390, published 11/2/88 IAB, which added the product Benzedrex Inhaler to the list of excluded substances.

PUBLIC  
HEALTH  
DEPARTMENT

Public Health Department representatives present were Mike Guely, Carolyn Caquelin, Cheryl Christie, Donald Flater, Don Kerns, Gary Ireland and Phyllis Blood. The agenda follows.

Acquired immune deficiency syndrome (AIDS), 11.1, 11.4(4), 11.5(6), 11.10(1), 11.16 to 11.35 ARC 9334	.....	10/19/88
Radon certification, minimum requirements for radon testing and analysis, 38.13(8), ch 43 ARC 9350	.....	10/19/88
Maternal and child health program, ch 76 ARC 9349	.....	10/19/88
Emergency medical services training fund, ch 130, filed emergency after notice ARC 9333	.....	10/19/88
Immunization of persons attending elementary or secondary schools or licensed child care centers, 7.1, 7.3(1), 7.5(1), 7.5(2), 7.6(1), 7.6(3), 7.7(1), 7.9 ARC 9335	.....	10/19/88
Financial assistance to eligible end-stage renal disease patients, 11.1, 11.6(1)"f" and "h," 11.7(6)"b," Appendix 1, filed emergency ARC 9348	.....	10/19/88

Ch 11

In re Chapter 11, Guely commented that a public hearing had resulted in a number of changes. The application fee was reduced from \$600 to \$100 and other clarifications were made. Copies of rules and application forms were sent to all laboratories. To date, three applications have been returned to the Department.

38.13

According to Flater, a public hearing had resulted in the changes reflected in the adopted rules--38.13(8), Ch 43.

Charles Wasker, representing the Home Builders Association of Iowa, contended the rules extend the intent of the law. He addressed variables in radon testing and the three categories of persons who will be required to register. He questioned the stringent qualifications for radon measurement specialist as set out in 43.3(2). He opposed the annual fee for recertification--\$200, \$300, or \$500 depending on the category--38.13(8).

Wasker maintained that people are concerned and are doing something about this problem themselves. Flater reminded that the 40-hour training course was deleted from the rules. He defended the rules and stressed the importance of testing by a recognized laboratory. Flater continued that the real estate industry saw a need for technicians. He conceded that the fees were high, but pointed out the Department must recoup all costs. The fees may be reduced later.

38.13(8)c(3)

Priebe questioned 38.13(8)c(3), "Each person requesting certification and renewing certification as a radon measurement laboratory must pay a nonrefundable annual fee of \$500." Flater said this fee was intended to cover cost of processing paperwork after the person is certified. Royce suggested language: "Once certification has been issued, the fees are then nonrefundable." Flater was amenable.

Flater advised Tieden that continuing education was important because of rapidly changing methods and technology. In response to Parker, Royce described the legislation as an extremely abbreviated certification program, not a

PUBLIC HEALTH DEPARTMENT Continued

licensing program. He recognized the difficulty of knowing legislative intent but he saw nothing unreasonable in the rules, which were based on scientific approaches to the problem. Flater declared the rules would not preclude the Home Builders from testing. The Department saw a need to have some regulation over the sale of this service.

Motion to Delay

After further discussion, Tieden moved a 70-day delay on 38.13(8) and Chapter 43. Parker made a substitute motion to refer the rules to the Legislature but to allow them to go into effect. Parker motion failed.

Tieden's motion to delay 70 days and refer to the legislature failed.

Ch 76

Blood explained the maternal and child health program and several revisions since the Notice of Chapter 76. Clark had no problems with the program.

Ch 130

Guely presented a brief explanation of the emergency medical services training fund, Chapter 130. No substantive questions.

Ch 7

According to Guely, the Johnson County Board of Health had requested revision of Chapter 7, which would allow a nurse working in a doctor's office to sign immunization certificates. At the public hearing, an inactivated polio vaccine was referenced and it was recommended to remove the word "oral" for clarification. That change will be incorporated in the rules.

111.1 et al.

Wilson stated that amendments to Chapter 111 will increase benefits to program recipients of the chronic renal disease program such as raising the travel reimbursement from 10 to 21 cents per mile.

JOB SERVICE DIVISION

The Division of Job Service was represented by Joseph Bervid and Paul Moran. The agenda follows.

EMPLOYMENT SERVICES DEPARTMENT(341) "umbrella"	
Amendments to chs 3, 4, 6, 7, 8, 10, amended notice - hearing ARC 9363	10/19/88
Employer's contribution and charges, claims and benefits, benefit payment control, 3.53(1)"b," 4.12, 4.18,	10/19/88
6.7(6)"g" ARC 9364	

There was brief discussion of the amendments with no substantive comment.

LABOR SERVICES DIVISION

The Labor Services Division was represented by Walter Johnson, Deputy, and Gail Shinden. The following rules were considered:

EMPLOYMENT SERVICES DEPARTMENT(341) "umbrella"	
Construction contractor registration, 1.3, 1.04, ch 150, 200.2 ARC 9300	10/5/88
OSHA rules for general industry, 10.20 ARC 9305	10/6/88
OSHA rules for general industry, 10.20 ARC 9370	10/19/88
OSHA rules for construction, 26.1 ARC 9369	10/19/88

1.3 et al. Ch 150

According to Johnson, new Chapter 150 would implement 1988 Acts, SF 2318, sections 2 to 9. The proposal had generated considerable comment. One concern was that the statute does not provide for revocation procedures--only for the issuance of contractor registrations. Rule 150.11 addressed revocation.

LABOR  
SERVICES  
DIVISION  
150.9

Chairman Priebe recognized Kathleen Reimer, Associated Builders and Contractors, who voiced opposition to 150.9 pertaining to inspections and investigations. She contended that the issue had been dealt with, federally, under OSHA. Reimer also disagreed with the 10-day time frame for changes to the application form. Johnson indicated that 150.5 would be revised. Reimer concluded that search without a warrant and revocation of registrations were beyond the statutory authority of the agency.

150.5

Johnson stressed the importance of provision for inspections. He reasoned that with the right to grant a registration comes the authority to revoke it. Johnson added, "To merely penalize is not going to compensate for the injury." He stressed that proof of workers' compensation was a prerequisite for contractor registration.

150.6(2)

Parker wondered about enforcement in regard to exemption from fee--150.6(2). Johnson stated that they were authorized to expend up to \$50,000 of the fees generated for investigations. The cost for mailing to all of the known contractors is approximately \$7000.

Wasker viewed the inspections as "harassment." He contended, "You are begging for harassment when you do not have to disclose the complainants." [150.9(3)] Wasker concluded that the \$500 administrative fee was "punitive and not remedial."

150.5(1)

It was the opinion of Larry Cairns, ABC of Iowa, Ankeny, that 150.5(1) relative to information originally reported was unnecessary. He also noted lack of renewal provisions.

Johnson sought advice from the ARRC on the issue of revocation.

Royce commented that, "In most cases, there is a provision to grant a license and another to revoke it. On the other hand, the power to do something, by its nature, also grants the power to undo that."

Royce recommended referral to the Legislature. Parker suggested following only the strict confines of the statute at this time.

Motion to  
Refer to  
End of GA

Parker moved that proposed Chapter 150 and rule 1.3(91) be referred to the Speaker of the House and the Lt. Governor to be studied by the appropriate committees. Motion carried.

No recommendations were offered for the OSHA amendments. No other Committee action.

11-16-88

NO AGENCY REPS


No agency representatives were requested to appear for the following:

AGRICULTURAL DEVELOPMENT AUTHORITY[25] AGRICULTURE AND LAND STEWARDSHIP DEPARTMENT[21] "umbrella" Public records and fair information practices, ch 8 ARC 9384	N	10/19/88
BEEF INDUSTRY COUNCIL[101] Public records and fair information practices, ch 5, ARC 9311, also filed emergency ARC 9310	N, F, FE	10/5/88
EGG COUNCIL[301] Public records and fair information practices, ch 5, ARC 9313, also filed emergency ARC 9312	N, F, FE	10/5/88
HIGH TECHNOLOGY COUNCIL, IOWA[485] Amend and transfer 485—chs 1 to 5 to 287—chs 1 to 5 ARC 9381	N	10/19/88
LAW ENFORCEMENT ACADEMY[601] Public records and fair information practices, ch 7 ARC 9416	F	11/2/88
PERSONNEL DEPARTMENT[681] Department procedures for rule making, ch 31 ARC 9339	F	10/19/88
PUBLIC BROADCASTING DIVISION[225] CULTURAL AFFAIRS DEPARTMENT[221] "umbrella" Public records and fair information practices, 3.9 to 3.17 ARC 9304	N	10/5/88
REGENTS BOARD[681] Combined charitable campaigns, 12.7(3), 13.7(3), 14.2, 15.8(1), 16.9 ARC 9368	F	10/19/88
SCHOOL BUDGET REVIEW COMMITTEE[740] Public records and fair information practices, 1.7 ARC 9320, also filed emergency ARC 9319	N, F, FE	10/5/88
SHEEP AND WOOL PROMOTION BOARD[741] Public records and fair information practices, 2.2, 2.4(2), 2.5, 3.1(6), ch 5, ARC 9309, also filed emergency ARC 9308	N, F, FE	10/5/88
STATE PRESERVES ADVISORY BOARD[575] NATURAL RESOURCES DEPARTMENT[561] "umbrella" Public records and fair information practices, ch 3, filed emergency ARC 9325	F, FE	10/5/88
MANAGEMENT DEPARTMENT[541] Access to data in the personnel management information system, 1.8(1) ARC 9338	F	10/19/88

Next Meeting The next meeting was scheduled for December 13 and 14, 1988.

Adjourned Chairman Priebe adjourned the meeting at 2:30 p.m.

Respectfully submitted,

  
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 Phyllis Barry  
 Assisted by Vivian Haag and  
 Bonnie King

APPROVED:

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CHAIRMAN