MINUTES OF THE REGULAR MEETING
of the
ADMINISTRATIVE RULES REVIEW COMMITTEE

Time of Meeting: Tuesday and Wednesday, August 14 and 15, 1979, 9:10 a.m.

Place of Meeting: Senate Committee Room 24, State Capitol, Des Moines, Iowa.

Members Present: Representative Laverne Schroeder, Chairman; Senator Berl Priebe, Vice Chairman; Senators Edgar Holden and Dale Tieden; Representatives Betty J. Clark and John Patchett. Also present: Joseph Royce, Committee Staff and Brice Oakley, Administrative Co-ordinator.

CONSERVATION

The following rules of the Conservation Commission were considered:

Inland commercial fishing, 110.1 to 110.3 ARC 0432 ....N..... 7/25/79 93
Boats on Black Hawk County waters, 30.30 ARC 0446 ....F..... 7/25/79 95
Docks, 33.3(3) ARC 0445 ....F..... 7/25/79 95
Rabbit and squirrel hunting seasons, ch 102 ARC 0433 ....F..... 7/25/79 96
Furbearing animals hunting seasons, ch 104 ARC 0434 ....F..... 7/25/79 96

Marion Conover, Fisheries Supervisor, Kenneth Kakac, Law Enforcement, and Nancy Exline, Associate Superintendent of the Water Section, represented the Commission.

Inland comm'l fishing

Conover explained Coralville Reservoir would be reopened to commercial fishing up to Highway 218 bridge. It was closed in 1975 after pesticide analysis showed the dieldrin level was above the 300 parts per billion FDA limits. (Dieldrin is a breakdown of aldrin which was a common pesticide used by landowners and was banned in 1974.). Trammel nets would be allowed as before, but fishermen would be restricted to the use of tended nets only during the summer months due to the size of the Reservoir.

In response to Tieden's question on the definition of a "tended net", Conover described it as being in view of the fisherman. Kakac added that trammel nets can be either "deadset" or floated and attended.

On the matter of the removal of Lost Island Lake, Palo Alto County, from the inland commercial fishing list and being opened under contract, Conover explained that subsequent to the passage of Senate File 376, there had been quite a bit of interest in not only Lost Island Lake, but other natural lakes. Many of the natural lakes in northwest Iowa are "carp only" lakes and Iowa fishermen were not interested in this fish.

Relative to commercial fishing nets set in Red Rock Reservoir, Conover stated that under this notice the use of attended nets would again be allowed during the period from March 16 through April 30, one of the prime times to catch rough fish in a manmade reservoir. Kakac feels their personnel do a fairly adequate job of supervising these nets.

CONSERVATION (Cont'd)

Black Hawk County waters

In reviewing the filed rule dealing with boats on Black Hawk County waters, Exline stated this rule was requested by the City of Cedar Falls under the provisions of Section 106.17 of the Code and would establish a safety zone above the dam on the Cedar River in Cedar Falls. It would also limit the speed of vessels in that safety zone to no-wake and prohibit water skiing and similar activities in that safety zone. Schroeder asked for a definition of "wake" and Exline responded that it is any appreciable movement of water which adversely affects either the shoreline features or the activities of other persons involved.

Docks

In re docks, 33.3(3), Exline reported they had made the corrections that were requested in the notice by the committee, adding the provisions for a person who leases a lot rather than owning to be able to obtain a dock permit.

Clark recommended that subrule 33.3(3)b(3), line 8, be clarified by inserting "(s)" in the word "owner" to be consistent with "lessee(s)" in the same sentence. Exline was amenable

Hunting seasons

Kakac reported the rules on rabbit and squirrel hunting seasons will be basically the same as last year with one exception -- there will be a possession limit of twenty cottontail rabbits. For many years, there has been a daily bag limit of ten, but there has been no possession limit on cottontails for the reason that the Code still permits that they can be sold for food purposes. Now that is contrary to Department of Agriculture Pure Food Laws and creates a conflict. Schroeder suggested that Kakac make a recommendation for corrective legislation. Kakac agreed.

In regard to the seasons for taking furbearers, Kakac said the majority of the people appearing at the public hearing were satisfied with the present hunting seasons. The opening time will be changed from 6:00 a.m. to 8:00 a.m.

In response to question by Priebe, Kakac replied they felt simultaneous openings for hunters and trappers were fairest to all.

Priebe further questioned why high powered rifles were allowed to hunt foxes but not for deer. Kakac replied that this is a legislative matter. When the legislature gave the Commission authority to establish a deer season it was the legislative intent that the use of rifles not be permitted. Schroeder asked if Kakac thought the number of applications for deer permits would increase if use of high powered rifles were authorized, Kakac said there was a possibility.

COMPTROLLER

The Comptroller's office was represented by Eldon Sperry and Jim Anderson for review of the following rules:

Auditing claims, 1.2(1,4,5), 1.6(2) ARC 0363; also filed emergency ARC 0362.....N.....7/11/79 3,25
Access to official records and information, 5.3 ARC 0368.....N.....7/11/79 3

Auditing Claims

Sperry explained their rules cover three different areas: (1) Guidelines for issuing permanent in-state travel advances for employees who average over $100 per month for the preceding twelve months out-of-pocket expenses to conform with the collective bargaining contracts effective July 1, 1979 (2) Amendment to 1.6(2) which would give them the authority to establish reasonable maximum lodging guidelines without going through rulemaking process, and (3) Meal reimbursements for employees out overnight would be increased from $10.00 to $12.00 per day for a combination of any three meals. For those who are not out overnight, breakfast allowance would be increased from $2.00 to $2.50, lunch would remain at the current rate of $2.50 and dinner would be increased from $5.50 to $7.00.

Schroeder questioned the adequacy of only $2.50 for lunch. Holden noted these employees would be buying lunches out over the state, not necessarily in the Capitol cafeteria. Sperry said there had been few problems with lunch claims. This only affects those employees who are outside their domicile working 8:00 to 4:30. Those out overnight still get the benefit of $12.00 allocated as they choose.

Clark expressed concern that Item 8, which allows a maximum of $5.00 for breakfast and lunch, is inadequate for the person who is not out overnight. However, Tieden thought the amount was sufficient.

In clarification for Holden, Sperry explained that the only pertinent language in the collective bargaining contracts was that the meal limits go from $10.00 to $12.00. Collective bargaining contracts have never specified individual meal limits.

In the absence of a representative from AFSCME, Patchett mentioned their concern was that the $2.00 was going mostly to the increase in the dinner allowance which benefits a certain class of employees, and the lunch allowance which remains unchanged to the detriment of another class of employees. Priebe also was concerned with the lunch allocation. Holden felt it was a fair allocation and that you would be able to eat lunch for $2.50 over what it would cost you to prepare your own.

Priebe asked Sperry to comment on his opening remark in reference to their authority to establish guidelines without going through the rulemaking process.

Sperry pointed out the collective bargaining contracts say that employees will be reimbursed for reasonable lodging which is very difficult to define. In the past the limit was $15.00 plus taxes and, with a reasonable explanation

COMPTROLLER (Cont'd)

as to why they exceeded that amount, the claim would be allowed. Since the collective bargaining agreements say "reasonable" lodging, Sperry would like the committee to allow them to try to keep up with what "reasonable" lodging reimbursements are by eliminating the specific limit in the rules and allowing the department to set a maximum.

Priebe opposed allowing the Comptroller flexibility to determine reasonable lodging reimbursements without review by this Committee since that is the only way people affected can be heard.

Sperry pointed out that language in Chapter 8 of the Code allows them to determine what is reasonable and proper.

Patchett tends to agree with the need for oversight. He, also, questioned the emergency filing on the grounds that it would confer a general benefit on the public. Oakley pointed out the department was bound by a July 1 effective date. Holden concluded it was a reasonable solution under the circumstances and, if change needs to be made legislatively, it can be done next session.

Sperry explained the procedure for handling travel claims for those employees having a permanent advance travel allowance.

At Oakley's request, Sperry read the current rule on lodging: "The allowance for lodging should not exceed a maximum of $15.00 plus applicable taxes per day. Lodging which exceeds the maximum amount must have justification on the claim to be considered. The state comptroller reserves the right to reduce the lodging to the stated maximum." Oakley pointed out the reasonableness was only questioned above $15.00.

Sperry pointed out the $15.00 had been in effect since July 1, 1977; however, as of January 1, 1979, departments were notified that employees staying in eight to ten specific cities would not have to justify those claims unless they exceeded $20.00, since it was obvious rooms were not available for $15.00.

Priebe reiterated his opposition to the procedure. He said in order to be fair to state employees we must have guidelines but he does not want to leave it in the hands of the comptroller and totally delegate the committee's authority. Also, he opposed the $2.50 noon meal allowance as being inadequate.

Royce wondered how the department could justify bypassing the definition of a rule in the APA. Sperry responded that he was concerned whether their rules really affect the public in the true sense that this procedure was put in the Code which seems to be an open question.

COMPTROLLER (Cont'd)

Gene Vernon, Director, Employment Relations Division, stated the $2.00 was bargained with the intent that it be apportioned .50/.50/1.00 among the three meals and, if this procedure is not followed, in the long range the comptroller will no longer have the discretion to establish the amounts since that is a bargainable item.

John Ayres, representing the American Federation of State, County and Municipal Employees, Council 61, (AFSCME), made the point they had requested the comptroller to reconsider the allocation of $2.00 inasmuch as the addition of $1.50 to the evening meal has no practical effect on most of the members of the organizations he represents. At their request, a public hearing has been set for September 11 at which time a formal presentation will be made.

Holden questioned the practicality of objecting to the emergency rule and reasoned it would be better to reserve decision for the final rules after the public hearing.

Priebe agreed to withhold an objection at this time but, if the rule is not revised regarding the allocation of the $2.00, he will object later on the basis that they are exceeding their authority.

Ayres wanted to make it clear that AFSCME was not opposed to the $2.00 increase and supported the emergency rules. He understood the need for a fixed amount, but favored allocating more of the increase for breakfast and lunch.

The committee took no formal action.

Schroeder suggested that the rule include a set figure for the reasonable maximum for lodging. Priebe restated his concern that a set figure be reviewed by the committee.

5.3

In re 5.3 access to official records and information, the department representative was unavailable but the rule was acceptable as written.

REVENUE

Elliott Hibbs, Deputy Director, and Michael Cox, Director of Property Tax Division, appeared in behalf of the Revenue Department for review of the following:

Property tax credit claim, elderly and disabled, 8.1(7) ARC 0385 ..... N 7/11/79 10
Real estate transfer tax and declarations of value, ch 79 ARC 0386 ..... N 7/11/79 10

8.1(7)

Discussion of proposed subrule 8.1(7) which is the new form that the Revenue Department will be utilizing for disabled and senior citizens to file for property tax relief at the local level as opposed to the previous system of filing at the state level to implement Senate File 495, 68th G.A. The rule was acceptable.

REVENUE (Cont'd) ch. 79

In re Chapter 79, Real Estate Transfer Tax and Declarations of Value, Hibbs explained these are new rules which formalize the practices, policies and procedures which they have been using, and cover the duties of the local officials in administering the tax.

Under 79.6(3), employees of an appraisal company working under contract with the Conference Board would have access to the declarations of value. Generally, this information is kept confidential, but the department interpreted the intent of the law was to improve the quality of the sales data available to the assessors and thereby increase the uniformity of assessments between parcels, according to Hibbs.

Schroeder called attention to what he considered unfairness in the application of 79.2(3) and 79.2(8) since contract transfers are not subject to tax.

Cox replied contract transfers are specifically excluded from the tax statutorially and the tax is collected at the time of the notation of the recording of the transfer of deed.

Priebe spoke of the problem of changing from tenants in common or joint tenants to a corporation in that many are not paying the tax, and asked what is being done about collecting this tax. Cox said they have met with recorders who maintain there is a tax on this type of transfer. Cox pointed out the problem is, the tax is not a lien against the property, and they are encouraging recorders not to record the instrument if there is tax due.

Schroeder suggested the Department propose legislation to the Ways and Means chairmen of both houses of the General Assembly to correct this situation.

Patchett raised a question in re 79.1(4) which allows a county recorder to refuse to record any deed, instrument, or writing by his own judgment in light of Iowa's new recording statute which carried criminal penalties, and the lack of guidelines about what additional facts are reasonable.

Discussion of 79.2(6) Mortgage default and 79.2(9) Easements generally.

FAIR BOARD — The Fair Board was represented by Jim Taylor, Secretary, for review of the following:

Deposits for space, 2.4, 3.5 ARC 0416 ..... N 7/25/79 73
Vo Ag/FFA Equine, exhibitors, 21.47 to 21.50 ARC 0415 ..... N 7/25/79 74
Stage and track programs, refunds, 23.3 ARC 0417 ..... N 7/25/79 74

2.4 — Taylor described the necessity for amending 2.4 is to correct problems of cancellations of space within 20 to 30 days of fair time, in particular by the commercial exhibitor and not the livestock exhibitor. Committee agreed this was good business procedure.

21.47-21.50 — Taylor explained rules 21.47 to 21.50 were intended to implement a new department to the junior show - an FFA/Vo Ag horse show.

23.3 — In re rule 23.3, Schroeder asked why refunds for canceled stage or track programs could be made by mail only. Why not make refunds on the same day on the grounds so that that money could be spent on other activities? Taylor responded they have neither the staff nor the cash on hand to make refunds. Also, there is the problem of tickets being torn in half and the possibility of refunding twice on the same ticket when done in haste.

Schroeder insisted there should be a designated area on the fairgrounds staffed for processing immediate refunds. Taylor emphasized it would be costly considering additional robbery protection insurance, Lewis System, plus additional tellers, and there could be a long process if everyone decided to request refunds on the same day.

Tieden was sympathetic to the idea of allowing immediate refunds, but in practice thought it would create problems.

Schroeder urged Taylor to allow a limited availability of cash refunds and to consider providing envelopes for the use of those who wanted to fill them out while at the fair. Taylor agreed to consider these suggestions.

Recess
Reconvened — The meeting was recessed briefly at 10:50 a.m. and was reconvened at 11:00 a.m. by Chairman Schroeder.

PUBLIC SAFETY — Wilbur Johnson, Fire Marshall, and Connie White were present for review of the following rules:

Liquefied natural gas, 5.275 ARC 0430 ..... N 7/25/79 75
Flammable and combustible liquids, 5.300 to 5.305, 5.350, 5.351, 5.400, 5.450 to 5.453 ARC 0429 . 7/25/79 76

PUBLIC SAFETY (Cont'd) 5.275

Johnson briefly discussed the need for rules relating to liquefied natural gas (LNG) installations which are very hazardous if not properly installed and adequate safety measures taken. Primarily, the department would adopt the NFPA pamphlet 59A which has also been adopted by 27 other states.

ch.5

In regard to the rules relating to flammable liquids, Johnson explained Chapter 101 of the Code requires these to be updated periodically and this has not been done since 1971. Upon closer review, Johnson also noted other changes and corrections which were needed, i.e. in the numbering, inadequate provisions for grandfather clause on existing facilities, inadequate definitions and the need for more information on self-service industry.

Tieden questioned the extent of the grandfather clause and Johnson replied mainly it would be not to require a tank to be moved one or two feet just to meet a rule, and existing plants would be grandfathered in.

Schroeder asked Johnson to present these changes at the public hearing to be held August 15.

ENERGY POLICY COUNCIL

Doug True, Deputy Director of the Energy Policy Council, presented the following notice rules to the Committee:

Class A energy auditors, ch 4 ARC 0395 ..... N 7/11/79 4
Federal grant program for energy measures, ch 5 ARC 0394 ... N 7/11/79 5

chs.4 & 5

True gave an overview of the two chapters. Public hearings have been held but the Council has taken no action since they have not met since the hearings.

Schroeder wondered if a large number of those passing the test to become a class "A" energy auditor were college professors. True responded most of the people who have gone through the program make their living doing energy audits, e.g. consulting firms, architectural as well as engineering, plus personnel of large companies maintaining their own engineering systems. In response to Schroeder's question of why it takes three months to notify an applicant if he has passed the test, True was hopeful the time could be shortened but reminded the committee of emergencies which took precedence such as the fuel set-aside program.

Schroeder asked whether the hospitals in the state were on a "crash program" to get energy reviews of their programs in order to get matching funds. True replied the steps in the schools and hospitals grant program are so close together that everyone has to hustle to take advantage of this funding. In response to further question by Schroeder,

ENERGY POLICY COUNCIL (cont'd)

True said the Universities will not receive priority in the allocation of these funds, and the Council is interested in getting the most energy savings for the dollars spent.

Patchett asked if they would be working with the Department of Public Instruction (DPI) in funding energy conservation programs and True advised the DPI is represented on the advisory committee plus they will review every application for funding that involves a school. True stated this is also true of the Health Department re hospitals.

Tieden inquired as to the source of matching money at the state level and how many additional employees will be needed.

True replied the matching money must be purely local or state and two programs are being dovetailed -- the schools and hospitals grants program and the program for state buildings. True advised that Ed Stanek had made it clear that they will somehow manage without additional personnel.

Tieden further questioned how they are using the balance of the money which was appropriated as phase one in the energy conservation for state buildings. Are the programs being dovetailed? True responded the same people are managing both programs which are patterned after the federal program, eliminating all the unnecessary paper work and administrative costs.

Schroeder brought up the problem of counties participating in the program due to the fact that their budgets are determined well in advance. True explained this money must be committed by the end of this calendar year, but they will have another opportunity if they fail to find matching funds in the first cycle.

True pointed out that the federal statute prohibits competition between school districts and local governments, and that schools and hospitals will probably get 80 percent of the total funds available and 20 percent is earmarked for local governments and public care facilities.

Priebe inquired how many auditors will be added. True said no state employee will be doing the audits. Priebe and True discussed who had written the test and True pointed out that an advisory committee appointed by the Council had developed the testing materials which did not involve the university.

Priebe contended that those who show a greater rate of return and who will be favored in this program are the

ENERGY POLICY COUNCIL (cont'd)

ones who were least efficient, yet they will get the dollars.

Holden called attention to the matter of this being a licensing procedure for another group and, perhaps, the proposal should come before a screening board. He further stated this is a case where a department has taken it upon itself to take registration authority for a new profession, that of providing energy audits.

Holden asked Royce if, once the notice has been published and a hearing has been held, are they under any statutory obligation to go back and present the entire rules again. Royce replied the Code permits a general notice of the areas to be discussed without publishing full text. Royce said the idea being to develop the rules through public comment and oral hearings and chapter 17A does not require publication of the whole rule under notice to again solicit comments. He considers this a flaw and a real problem. True interjected that, of course, they could not go outside of the scope of the intended action.

In answer to Holden as to how widespread was distribution of the proposed rules before the July 31 hearing, True replied all of the members of the EPC advisory committee received copies and were encouraged to send copies to all their membership. In the case of DPI, they sent a two-page summary to every school district in the state. Similar procedure was followed for hospitals. Only about fifteen people attended the public hearing.

Holden pointed out the hearing ought to be provided for the purpose of preparing rules and then let the public respond later to the actual proposal. Holden believes they have done the same thing on the set-aside rules. True pointed out that chapters 1 to 3 of their proposed rules, including "set-aside", were published in their entirety 5/30/79 IAB.

Royce stated some agencies publish notice and provide for a copy of the actual rule, upon request.

Holden was disturbed because formal rules on the set-aside program had not been adopted. He referred to correspondence between himself and Dr. Stanek. Holden had requested information on specific distribution and allocation of diesel fuel and gasoline under the program. It was noted that Stanek had advised Holden that an opinion of the Attorney General had been sought to determine whether this would be confidential information. True supplied Holden with a

ENERGY POLICY COUNCIL (cont'd)

form entitled "Iowa State Set-aside Guidelines", dated August 7, 1979 and indicated copies were also forwarded to all legislators.
True stressed that he was not prepared to discuss the set-aside issue since it was not on the agenda. He noted that the Notice of 5/30 indicated the Department was going to adopt very specific federal rules on the program.
The Committee concurred that it would be inappropriate for the Energy Policy Council to take any action until rules are promulgated.

Set-aside selective review

Priebe moved that rules relating to the set-aside program be brought up for selective review at the September 11, 1979 meeting. Motion carried unanimously.

Discussion regarding the one million gallons of diesel fuel that was traded with Iowa Power on an emergency basis.

PUBLIC EMPLOYMENT RELATIONS BOARD
4.6(3)

John Loihl, member of the PERB, reviewed amendments to their rules:
Generally. 4.6(1,3). 6.3(2,3). 6.4. 7.1. 7.3(5). 7.5(8,9). 7.6. 7.7. 9.1 ARC 0393 ...N..... 7/11/79 · 8

In re Item 2, subrule 4.6(3), relating to amendments to bargaining units, Patchett pointed out the public employment relations Act had been amended so that it takes a majority of those voting to certify a bargaining unit; however, 4.6(3) requires an absolute majority of all employees in the union. Loihl conceded the rule could be interpreted that way and he agreed to change it.

Loihl indicated there would be other significant changes in these rules and Schroeder suggested it would be helpful if the Committee was informed prior to the published filed rules.

NOON RECESS
Reconvened

Chairman Schroeder recessed the meeting at 12:05 p.m. Reconvened at 1:30 p.m. with Priebe in the chair. Schroeder and Clark out of room.

PHARMACY EXAMINERS

Norman Johnson, Executive Secretary, and Susan Lutz, member of the Board and chairperson, reviewed rules of Pharmacy Examiners dealing with marijuana and tetrahydrocannabinols, research and treatment, published under notice IAB 7/25/79.

Johnson explained that contrary to what may have been in the newspapers, there was no limitation on the type of dosage form of marijuana or tetrahydrocannabinols mentioned anywhere in these rules. A research program would be established and the dosage form would primarily be determined by the clinical investigator. The advisory group of physicians would also be instrumental in determining the

PHARMACY EXAMINERS (Cont'd)

type of program that would be submitted to FDA for approval. Patchett thought the form allowed would have to be set out in the rules and that the Board could not delegate that authority to someone else. Lutz noted they are neither authorizing nor barring -- it is completely wide open since they do not mention any type of dosage.

Priebe asked if the pill form could be given. Johnson replied a chemical ingredient of marijuana is available now in capsule form. Priebe questioned whether there was authority for pill form. Johnson explained the program would be established based on recommendations of the advisory group of physicians and on the desires of the clinical investigator and then dependent upon whether the protocol, when submitted to the FDA, is approved.

Royce asked if these protocols when developed would be incorporated in the administrative rules. Priebe insisted that when the recommendations are made they must be submitted under chapter 17A.

Patchett observed that it was clearly <u>not</u> the intent of the legislature to limit it to one particular form or another and since it was an experimental type program all forms would be investigated.

Chairman Schroeder and Clark returned at 1:40 p.m.

Department officials took the position that they would deal with the matter when the problem arose, but it was their opinion that the dosage could be more closely regulated in capsule form than, for example, in cigarettes. The only program where cigarettes are being used at this time is in New Mexico and they are obtained from the FDA.

Clark was concerned with the use of "double blind research." Tieden inquired if there had been any applicants for clinical investigators. Johnson replied that he had talked with some clinical oncologists at the University of Iowa who had expressed moderate interest.

Holden called attention to the proper sequence in which these rules were presented as compared to the way the Energy Policy Council rules were presented earlier today.

In response to Clark's question as to whether the advisory body of physicians had been established, Lutz said they had contacted the Iowa Medical Society asking for a list of names. Also, she said osteopaths could be included.

PHARMACY EXAMINERS (Cont'd)

Patchett inquired if they will be seeking applicants other than those names submitted on the list from the medical society. Department officials indicated that no one would be precluded from applying, but they hoped to include a psychiatrist, an ophthalmologist and an oncologist on the board.

Patchett explained the thrust of the law was to encourage experimentation and, specifically, not to preclude certain forms. He suggested an affirmative statement in the rules to clarify that the purpose of this program is to foster experimentation and no forms are to be precluded.

In proposed rule 12.3(2), Patchett was concerned that objection by either the board or the advisory group to any particular program would block the program's submission and suggested they consider striking the language "concurrence of the physicians advisory group" and inserting, perhaps, "advice of the advisory group". He reasoned there should be some guidelines under which both the advisory group could operate and the board.

TRANSPORTATION DEPARTMENT

Dwight Stevens, Lowell Richardson, Bob Humphrey, Ian MacGillivray, Charles Sinclair, Carol Coates and Candace Bakke represented the Department of Transportation for review of the following:

Economic impact statement, Manual on uniform traffic control devices [06,K]2.1 ARC 0370 ..... N 7/11/79 18
Highway bridge replacement program [06,Q]19.2(2) ARC 0407 ..... N 7/25/79 92
Motor vehicle dealers, manufacturers and distributors, [07,D]10.1(7,8), 10.4(1), 10.9 to 10.11 ARC 0359 . 7/11/79 19
Vehicle registration and certificate of title, [07,D]11.1(6), 11.3(5-8), 11.4(5), 11.6(7), 11.7(1), 11.18, 11.42(3), 11.50(3,4,6,7) ARC 0360 ..... N 7/11/79 20
Registration, multipurpose vehicles, motorcycles, [07,D]11.34, 11.35, 11.37 ARC 0361 ..... N 7/11/79 21
Special permits for excess size and weight, [07,F]2.3(4), filed emergency ARC 0381 ..... 7/11/79

Organization and responsibilities, [01,A]1.6(3) ARC 0418 ..... F 7/25/79 103
Highway project planning, [06,B] ch 1 rescinded ARC 0419 ..... F 7/25/79 104
Highway project planning, [06,G] ch 1 ARC 0420 ..... F 7/25/79 106

In re the economic impact statement "Manual on Uniform Traffic Control Devices", Stevens informed the committee the total was $169,000, part of which will be offset by the estimated savings of $100,000 in reduced pavement markings, making a net impact of $69,000. Stevens pointed out the manual on pavement markings now specifies a gap ratio for broken lines on rural highways of 10-foot segments separated by 30-foot gaps which were formerly 15-foot separated by 25-foot gaps. Schroeder contended that low traffic roads with high intensity in certain areas which get repainted frequently would have solid banners which would be a problem. Stevens admitted there has been some problem in recent years in getting the sequence of the lines to fall correctly and some new equipment is partly responsible for the more solid lines on the road.

TRANSPORTATION DEPARTMENT (Cont'd)

Clark favored flexibility in replacing the word message signs with symbol signs only when necessary thus reducing the burden on government. Stevens stated the changes reflected in the economic impact statement are mandatory in the federal manual which they are considering adopting. However, there are only six categories, including the markings, so the economic impact is not great.

Schroeder asked the DOT to give some thought to reducing the waste of labor and material by allowing bridge reflectors to be fastened to the ends of the bridge bannisters instead of placing them on separate posts which may also block the movement of some equipment that crosses the bridges.

During discussion of whether or not the 1978 manual ought to be adopted, Oakley stated that if you do not accept the premise that the signs are designed to provide a safer roadway, then don't adopt the manual, and the economic impact that ought to be evaluated is what are the consequences of not approving the manual. Clark was not objecting to either the signs or the manual, but thought the intelligent way would be to let attrition govern replacement of signs.

Stevens explained that many of the mandatory changes in the manual which was adopted by the Transportation Commission have a two-year compliance date and there has been no opposition from county and city interests.

Stevens discussed the use of the word message sign "Center Lane Left Turn Only" which is a relatively new concept in Iowa.

19.2(2)

Lowell Richardson, Secondary Roads Engineer, pointed out 19.2(2) provides flexibility in the funds that have been allocated to the counties out of the bridge replacement fund.

Priebe inquired about the possibility of using perhaps three inches of black top rather than cement when repairing the road surface on bridges because it would be easier to remove when repair is necessary. In response Richardson said asphalt has been considered. They anticipate using a newly developed dense concrete which will not permit salt to penetrate to the reinforcing steel and less repair will be needed.

10.1(8)

Discussion with Chuck Sinclair and Carol Coates re subrule 10.1(8) regarding the fire wall between the repair shop and the dealer's area. The rule was amended primarily on the recommendation of the fire marshal's office and reduces the fire resistance rating from two hours to one hour unless a local fire code prescribes otherwise.

TRANSPORTATION DEPARTMENT (cont'd)

Sinclair briefly explained national standards are being adopted for motor homes and they have received no adverse comments. With respect to the rules on registration of multipurpose vehicles and motorcycles, Sinclair said they had been in communication with individual van owners in Cedar Rapids who felt these rules were fair. This rule and a self-certification form which will be sent to van owners should resolve the problem of registration.

2.3(4)

Bakke led the discussion concerning 2.3(4), special permits for excess size and weight vehicles, which was filed emergency 6/21/79 to implement the Governor's proclamation of disaster emergency. The proclamation was of a 60-day duration and expired 8/13/79. Although it has been extended, the Department had not developed new rules, according to Bakke.

Oakley pointed out that an opinion of the Attorney General on this issue was to be released today and would be studied before further action on rules would be undertaken. From the perspective of the Governor, Oakley considered it imperative that our present system of issuing permits be continued to allow transportation of the grain harvest and substantial petroleum products in this state. Oakley added that to his knowledge no objections were filed to the emergency rules.

1.6(3)

Bob Humphrey, Office of Project Planning, noted the purpose of the three rule changes is to implement some administrative changes within the Department.

1.4

Pursuant to Schroeder's request, the Department has included an amendment to the rules relative to parking as it relates to predesign agreements between the DOT and cities. Humphrey explained their agreement procedure in asking for parking to be removed throughout the entire length of projects. Schroeder is vehemently opposed to their procedure. Humphrey stated they feel an obligation not only to the citizens in the community but, also, to the citizens in the state that if their tax dollars are going to be expended to make an improvement that they, also, have an obligation to have the city respond to that and precipitate in their community an extension of that improvement. Consideration is given to each project on its individual merits. Safety as well as time delay in traffic movement must be a consideration in banning parking.

ENVIRONMENTAL QUALITY

Odell McGee, Hearing Officer, and David Bach, Compliance Officer, represented the Department for review of the following rules:

ENVIRONMENTAL QUALITY cont'd

Transportation of radioactive materials, amendments to Title IV ARC 0382 ..N..... 7/11/79
Air quality pollution control, 3.5, 3.6 ARC 0410 .....F..... 7/25/79
Emission standards for air contaminants, 4.1(2) ARC 0411 .....F..... 7/25/79
Emission standards, fugitive dust, 4.3(2) ARC 0412 .....F..... 7/25/79
Emission standards, processes, 4.4(10)"f", filed without notice ARC 0409 .....F..... 7/25/79
Ambient air quality standards, 10.1 ARC 0413 .....F..... 7/25/79

Radioactive materials

McGee noted these rules were requested by two citizens' groups, ACORN and ISPIRG, and basically deal with the transportation of radioactive waste across Iowa. This notice outlines some of the items to be addressed at the upcoming hearing.

Discussion of suggested regulations which exempt U.S. government and medical personnel handling radioactive material from complying with these regulations. Tieden was assured they contemplated a statewide policy rather than allowing each community to set their own. McGee explained there are federal laws on the movement of waste, but in terms of transportation across Iowa no notice is given.

In response to question by Holden, Bach said it was their intent that after the public hearing is held on September 20 and their proposed rules are formulated, they would hold a further hearing on those specific rules.

In regard to the determination of routes, Schroeder cautioned many times it is not in the best interest to allow movement by day and, also, suggested the DOT be allowed to lay out the route with the DEQ reviewing it.

3.6

Bach briefly explained the effect of 3.6 Nonattainment area designations. In response to Tieden, Bach stated for particulates the official list is still twelve nonattainment areas. The Commission has requested the EPA to redesignate eight of those as unclassified areas leaving only four nonattainment areas for particulates.

In answer to Tieden's question about what action has been taken on the definitiveness of the nonattainment area, Bach referred to a document entitled "Criteria for Revising Nonattainment Area Designations" which provides a case-by-case basis review to determine the most reasonable boundaries, not necessarily political subdivisions. Also, Bach said the document contains specific descriptions of the non-attainment areas.

Clark inquired how pollution sources are determined. James Woll, DEQ technical staff, explained their procedure is to

ENVIRONMENTAL QUALITY cont'd

examine filters chemically and microscopically and, also, take the known emissions, such as from industry or an unpaved road and a certain background that you are dealing with and put these emissions in a computer program system which predicts what the concentration will be as well as contribution from each of these types of sources. Weather conditions are also a factor.

4.1(2)

In explanation of subrule 4.1(2), Bach noted they are proposing to adopt by reference the federal new source performance standards.

Other rules were acceptable to the Committee as published.

September agendum

Schroeder reported Rep. Virgil Corey had called attention to rules 13.18 to 13.22 of DPI as being of concern to some teachers. Rep. Corey asked that the rules which require human relations study as a condition of certification be reviewed by this Committee. There was unanimous consent to place the matter on the agendum for the September meeting.

Recess
Reconvened

Brief recess at 3:35 p.m. Reconvened at 3:45 p.m. by Chairman Schroeder.

BLIND COMMISSION

John Taylor, Director, Anthony Cobb, Deputy Director, Dave Quick, Assistant Director, Mike Barber, member of the Board, Sylvester Nemmers, President, National Federation of Blind in Iowa and Jeannette Eyerly, Chairperson of the Commission for the Blind, were present for review of amendments to rules of the Blind Commission as follows: Chapter 1, 2.6, 3.2, 3.3, 4.1(3), chapters 6 and 9, published under notice in IAB 6/13/79 as ARC 0313.

Schroeder inquired if the Commission had considered the Committee's recommendations regarding the appeal policies of employees and requiring a quorum to establish Commission policies. Taylor had always assumed that a quorum would be required. The Committee was merely asking that it be included in the rules as a safeguard for the Commission.

Patchett called attention to the language in 3.2(3) which needed clarification.

Another area of concern to Patchett was the appeals procedure set out in 3.3 which did not comply with 17A.15 in terms of setting out full rights, both with respect to the party where the ruling goes against them as well as to a party where the ruling of the hearing officer is in their favor but then could be reversed by the director without

BLIND COMMISSION cont'd

any notice, etc. Royce had prepared a memo on the matter which he would forward to the Commission.

In re 4.1(3)b, Clark thought the language too vague as "reasonable time in advance of the hearing" could be interpreted many ways.

Holden raised question as to whether the talking book machines were being utilized to the fullest extent and wondered if the Commission had a follow-up program. Taylor responded that if it appears the borrower is not using the machine, the Commission requests it be returned.

2.6

Patchett raised question as to policies concerning telephone and visitation privileges for students and Taylor said they would be willing to set out in rule form the procedures they have been following. Oakley pointed out that two public hearings were held concerning these rules and the committee might find reading the results very instructive.

Oakley referred to materials which he had reviewed concerning program instructions on procedures for administrative review and full evidentiary hearings with respect to grievances by vendors of food service. He asked for clarification as to whether the Commission felt the option was available to have an "impartial hearing officer", and Taylor thought it was.

Taylor believes the process they outlined is federally approvable in that it provides for a person to serve as hearing officer who has not been involved in the previous decisions made regarding the issue. It affords an opportunity as well to have someone who has significant program knowledge, which is important in arriving at a decision. In any event, Taylor said, that is an intermediate stage in the hearing process. If a vendor feels that he or she is still aggrieved, either over the hearing process or any other issue involved, the next stage is to appeal that through a federally administered arbitration process in which there would be a three member arbitration panel, one of which would be named by the director, one by the aggrieved individual and the third selected by the first two, so there are many, many protections for the individual in that process.

Oakley was uncertain as to whether the director makes the final decision. He understood the presiding officer at a hearing could make a tentative decision to be acted on by the Commission.

BLIND COMMISSION cont'd

Taylor referred to federal legislation under which revised regulations had not been issued. He conceded that the Commission would probably need further revision of their rules as a result.

Oakley wanted it to be clearly understood that independent hearing officers could be utilized. Taylor believed that was possible.

The following rules were acceptable to the Committee as published:

ARTS COUNCIL[100]
Grant program, 2.1(5)"f", "g" ARC 0408 ..... F 7/25/79 88

BANKING DEPARTMENT[140]
Time and savings deposit, interest rates, 8.1 to 8.6 rescinded, filed emergency ARC 0392 ..... 7/11/79 24

COMMERCE COMMISSION[250]
Areas of service, 20.3(8) ARC 0414 ..... F 7/25/79 94
Gas appliances, pilot lights, ch 26 ARC 0391 ..... F 7/11/79 34

HEALTH DEPARTMENT[470]
Chiropractic examinations, 141.6(1) ARC 0436 ..... N 7/25/79 74

LIVESTOCK HEALTH ADVISORY COUNCIL[565]
Appropriation recommendation, 1.1 ARC 0431 ..... F 7/25/79 100

REGENTS, BOARD OF[720]
University of Northern Iowa, sophomore housing, 2.36(5) ARC 0401 ..... N 7/25/79 77
Pay on promotion and leave for Olympic competition, 3.39(3), 3.151 ARC 0405 ..... N 7/25/79 78

REVENUE DEPARTMENT[383]
Hotel and motel tax, forms, 8.1(6)"a", "c" ARC 0383 ..... F 7/11/79 35

VETERANS AFFAIRS, DEPARTMENT OF[841]
Duties, meetings, disability bonus, 1.2(2,4), ch 4 rescinded, filed emergency ARC 0367 ..... 7/11/79 33

MERIT EMPLOYMENT

Committee members mentioned some questions they had with regard to Merit Employment rules and decided to request that a department representative appear at Wednesday's meeting.

Petition for rule

The Committee unanimously agreed to request Royce to draft a petition for a rule with respect to interchangeability of examinations among Merit Employment, Regents and Job Service, wherever feasible.

Public bids publication

Priebe brought up for discussion the matter of publishing public bids in IAB. He learned of this practice by other states at the San Francisco NCSL conference and the committee agreed that Royce should draft appropriate legislation.

Recess

Chairman Schroeder recessed the meeting at 4:40 p.m. to be reconvened at 9:00 a.m. on Wednesday, August 15, 1979.

Reconvened: Chairman Schroeder reconvened the meeting at 9:05 a.m., 8/15/79. Five members present, Senator Tieden having been excused to attend a funeral.

AGING COMMISSION

Glenn Bowles, Executive Director, Aging Commission, introduced the following persons who were present for review of their rules, being chapter 8, pertaining to elderly care programs, published in IAB 8/8/79 under notice as well as emergency provisions: Joseph Graham and Willa Mae Williams, Interagency Co-ordinating Committee; Eugene Fitzsimmons, Department of Social Services; Ron Beane and Mary Ann Olson, Aging Commission; Russell D. Proffitt, Heritage Agency on Aging; Ethel Mae Champ, Area XV, Agency on Aging; Donell Doering and Dennis Zegarac, North Central Iowa Area Agency on Aging; and Richard O. Wendt, C.I.R.A.L.G. Area Agency on Aging.

Bowles pointed out their main concern was the match requirements that were placed in the elderly care bill.

In response to Schroeder's question about other available funds, Olson said these will vary in each area, but some other sources are any income generated by the program could be used as match, any revenue sharing or community development black grant money (most of these funds have already been committed), in-kind matching resources and any other local cash that could be generated by local community groups.

Two important federal sources of funds that Proffitt believes should be allowed as match -- the Department of Energy is putting winterization funds into many of the communities through the Community Action Agencies and Comprehensive Employment Training Act funds (CETA) are also available. It is not only a matter of the issue of local match, but rather building and developing a truly comprehensive program. For instance, the CETA funds are available to pay for labor -- the winterization funds are frequently available to pay for materials, but the two sources at the federal level frequently are not co-ordinated. Proffitt thought that if they could use the leverage of the $800,000 appropriated in state funds to bring about co-ordination of the federal funds it would really achieve exactly what the program intended and without duplicative programs.

Proffitt and his state association were in complete support of subrule 81.9 with proposed amendment of 7/27/79 which

AGING COMMISSION cont'd

provides that local match means any money coming into the local community whether or not it originated from federal or local sources.

Since the Committee had not seen the proposed amendment, Oakley explained it would read: "Local matching in-kind contribution or cash coming from a local community whether those funds come from local or federal sources. State funds shall not be used as local match." He said they felt the legislature was not definitive in determining what it considered local effort or match. This program is a pilot program and there has been some controversy surrounding it, but not in its aims. He continued, the legislature was wise in funding for a year with plans to review what this program generates which is more of a demonstration project.

Oakley stated the reasons for the emergency filing: In considering the amount of the funds involved, the great interest in the program at the local level, a more expansive definition for the purposes of this program and because the applications and the information had to be made available.

The proposed amendment was agreeable to Holden. He could see no prohibition against their receiving new federal funds that could be considered local. He did not see that that money had to be generated right there in that community so long as it did not diminish other funding from a federal source.

Priebe agreed with the revision but indicated he was told during Senate debate that federal funds would not be used, only "in-kind" and two to one match. It was Clark's hope that they would work toward "local" in the sense that it is generated right at home. Holden observed the Commission is going to have to be very watchful of the local programs to see that there isn't some shifting, as this will be very tempting.

Priebe was hopeful that next year the law would be clarified since, in his opinion, the word "local" was being stretched.

EMPLOYMENT SECURITY

The Department of Job Service was represented by the following persons: Ed Longnecker, Director, IPERS; Paul Moran, Unemployment Insurance Administrator; James Hunsaker, Administrative Officer; Joe Bervid, Attorney, Job Insurance Division, and Ralph Wilkinson, Chief, Field Operations.

EMPLOYMENT SECURITY cont'd

Official records and information, 1.7, filed emergency ARC 0387 ..... 7/11/79 25
Employer's contributions and charges, 3.4(1-5), 3.42, 3.43(8,11,15), 3.73(3), filed emergency ARC 0388 7/11/79 26
Claims and benefits, amendments to ch 4, filed emergency ARC 0389 ..... 7/11/79 28

Bervid explained amendments to 1.7 basically cover the agencies which are authorized to obtain information from the Department and described the method by which they will give notification to various people about whom they have information in the departmental file. In addition to notice provided upon entering Job Service office, they are also sending an individual mailing to all claimants, past claimants and employers.

William Angrick, Citizens' Aide/Ombudsman and John Spinnato, General Deputy, reviewed their communications with Job Service and others on this issue. They are concerned with getting a timely response to the citizen upon investigating a complaint and feel they are seriously hampered by being required to obtain a "written" waiver before being able to secure certain types of information. They disagree with the interpretation of Senate File 373 and believe Job Service by rule could include CA/O as an authorized agency. The CA/O was not included in those enumerated in S.F. 373, §23.

Bervid noted Mrs. Shearer is currently negotiating with the Citizens' Aide office in trying to determine a method whereby they can give them information. At the present time, Job Service requires that office to obtain a "written" waiver from complainants.

Schroeder suggested they initiate the petition for the rule change. Priebe referred to 1.7(1)c and it was his opinion the CA/O function was a form of public assistance and urged an effort be made to include them as an authorized agency.

MOTION

Priebe moved the committee object to Employment Security rule 1.7(1) relating to agencies entitled to obtain claimant information from the department as being unreasonable in that it does not include all agencies that should have access to the information, and the objection can be cured by the implementation of the wording in the rule proposed by the CA/O in their memorandum of August 15, 1979.

The following objection was prepared by Royce and published IAB 9/5/79:

EMPLOYMENT SECURITY cont'd

The committee objects to subrule 1.7(1), relating to agencies entitled to obtain claimant information from the department, on the grounds this provision is unreasonable. The subrule appears in Vol. II, IAB #1 (7/11/79) as part of ARC 0387.

This subrule apparently denies access to claimant information to the office of the citizen's aide/ombudsman. The office is a legislative agency charged with the duty to assist citizens who have problems and complaints concerning Iowa government and to investigate as necessary. It is the opinion of the committee this office constitutes a "program of public assistance", which, according to the provisions of SF 373, section 23, paragraph d, and paragraph e, is entitled to receive information from the department. The committee believes the term public assistance includes all forms of assistance the government may make available to its citizens, including the functions of the citizen's aide/ombudsman. This objection may be overcome by amending subrule 1.7(1) to include the citizen's aide/ombudsman within its terms.

Motion carried

On short form vote, the motion to object carried with five ayes.

Patchett took exception to use of mass notification and stated he understood the Carr amendment to require specific notice, timely made, to an individual where information is being requested on that individual.

Bervid foresees a problem in simultaneously releasing the information with the notice to an individual that information is being released to an authorized agency because under accepted legal principles the claimant would have to receive the notice prior to release of the information. Also, this would cause an additional time delay. Schroeder encouraged Bervid to relay this information to Job Service for their consideration.

4.22(1)

Holden took the position that language in 4.22(1) is considerably different than what the statutory language would require which he interprets to require at the time persons seek unemployment benefits they be given employers' names who are offering employment rather than at some future time when Job Service decides they are not earnestly and actively seeking work. Schroeder concurred and asked Job Service for an explanation of the delayed implementation of this requirement.

Bervid commented that considering the total number of claims filed each year, if every claimant were sent out with a list of employers, it could mean every large employing unit could be confronted with thousands of forms to sign. He doubted this was the intent of the law.

Discussion of Job Service procedure in referring claimant's to prospective employers. Bervid said their current policy to refer claimants to suitable positions thus lessens the burden on employers. Holden and Priebe insisted this would circumvent the law. If the employers react negatively, their recourse is through their legislators.

In response to Priebe's question as to the extent of the

EMPLOYMENT SECURITY cont'd

follow-up, Bervid responded each local office spot checks so many each week with employers.

Discussion of processing of claims for unemployment compensation. It was Schroeder's contention they should be processed to completion under the law in effect at the time the claim was filed. Bervid indicated the Department is relying on the Needham v. Iowa Employment Security Commission case in 1963 which held that changes in benefit laws may be applied retroactively.

Lt. Governor Branstad concurred with Schroeder's position. He maintained that it was never intended that winning an appeal would be more detrimental than losing.

Discussion between Royce and Bervid on specific cases cited in the Yost memorandum dated 8/2/79 as to the application of Senate File 373 and the appeal process and sections 4.5 and 4.13 of the Code dealing with prospective and retrospective application.

Lois Cox, Staff Attorney, Iowa City Regional Office, Legal Services Corporation of Iowa, presented her interpretation of the statutes concerning the matter and urged the committee to object to the procedure. It was pointed out in the absence of a rule, it would not be possible for the Committee to object. The only recourse would be for an individual to bring an action against Job Service. Bervid indicated that a rule was being drafted on the subject.

In response to Patchett's question, Wilkinson assured him that every claimant is asked whether his unemployment is due to a business closing (which gives a greater benefit) and, if the answer is affirmative, they then obtain a statement from the claimant and follow up with the employer.

Recess Reconvened

Chairman Schroeder recessed the meeting at 10:50 a.m. and it was reconvened at 11:05 a.m.

SOCIAL SERVICES

The following rules were before the Committee:

SOCIAL SERVICES[770]

Records, 9.3 ARC 0380 ..... N ..... N 7/11/79
John Bennett correctional center, ch 16 ARC 0437 ..... N 7/25/79
Aid to dependent children, unborn and pregnancies, 40.1(3), 40.5, 40.7(4) ARC 0379 ..... N 7/11/79
Aid to dependent children, unborn, 41.4(1)"e", 41.8(2) ARC 0378 ..... N 7/11/79
Aid to dependent children, basic needs schedule and income chart, 41.8(2), filed emergency ARC 0400 ..... 7/25/79
Aid to dependent children, personal services, 4.8(3)"b" ARC 0376 ..... N 7/11/79
Aid to dependent children, transportation expenses, 41.8(5)"e" ARC 0377 ..... N 7/11/79
Supplementary assistance, eligibility, 51.3(1), 51.7, filed emergency ARC 0401 ..... 7/25/79
Supplementary assistance, amount granted, 52.1(1-3), filed emergency ARC 0402 ..... N 7/25/79
Supplementary assistance, facility participation, 51.1, 51.3(15) ARC 0375 ..... N 7/11/79
Burial benefit, 56.5, filed emergency ARC 0397 ..... 7/25/79
Medical assistance, eligibility, 75.1(4,10), filed emergency ARC 0398 ..... 7/25/79
Assistance, countable income for persons in medical institutions, 75.5(1,2) ARC 0441, also filed emergency ARC 0422 ..... N 7/25/79
Medical assistance, pharmacists professional fee, 78.2(2), filed emergency ARC 0403 ..... N 7/25/79
Medical assistance, screening centers, 78.18(1,3,4,5) ARC 0374 ..... N 7/11/79
Medical assistance, charges for services and supplies, 79.1(3) ARC 0372 ..... N 7/11/79
Intermediate care facilities, 81.2 ARC 0438 ..... N 7/25/79

SOCIAL SERVICES cont'd

Early and periodic screening, diagnosis and treatment, 84.4(2) ARC 0373	N	N	7/11/79
Inpatient psychiatric services ARC 0371	N		7/11/79
Foster care payments, 137.6, filed emergency ARC 0399	N		7/25/79
Resources, reimbursement to counties under juvenile justice law, 141.5 ARC 0434, also filed emergency ARC 0421	N		7/25/79
Rural rehabilitation student loan and grant program, 146.2(6) ARC 0439	N	N	7/25/79
Mental health services, ch 157 ARC 0410		N	7/25/79
Aid to dependent children, newborn child, social security number, 41.2(6)"b" ARC 0425		F	7/25/79
Medical assistance, hysterectomy, 78.1(16)"j" ARC 0426	F		7/25/79
Child care centers, amendments to ch 109 ARC 0427	F	F	7/25/79
Child day care services, ch 132 ARC 0428	F		7/25/79

Representing the Department of Social Services were Judith Welp, Policy, Research and Analysis; George Keiser, Bureau Chief, Correctional Institutions; John Emmett, Assistant Superintendent, and David Warner, Treatment Services Director, John Bennett Correctional Center; Harold Poore, Bureau of Family Support Services; Ira Skinner, Bureau of Children's Services; Lois Berens, Bureau of Financial Assistance; Charles Ballinger and Joe Veehoff, Medical Services.

Other persons in attendance were: Helen Henderson, Polk County Health Services; Don Heywood, Sidney Sands Center; Lois Cox and Susan Graham, Legal Services Corp. of Iowa; Carolyn Coleman, Legal Aid Society of Polk County; Bruce McDonald, Assistant Attorney General; Jill June, Co-Operative Child Care Services, Ames, and Steven Brown, Executive Director, I.C.L.U.

9.3

Amendments to 9.3 were acceptable as published.

ch. 16

Keiser commented that chapter 16 sets out specific rules for the John Bennett minimum security institution. Forty-eight hours is generally the maximum furlough allowed.

Committee suggested rule 16.1(1)m be amended by striking from line 1 the word "Only" and inserting "Not more than". Keiser was agreeable.

Keiser explained they intend to clarify the language in 16.1(1) to permit a resident, after four months, to apply for one forty-eight hour furlough and thereafter they would be eligible for a furlough once per month.

Priebe pointed out the requirements in 16.1(4) for the transportation plan do not allow flexibility and could create problems.

Welp explained amendments to chapters 40 and 41 to implement ADC for unborn children in the last trimester of pregnancy and they plan to file these rules emergency after notice to be effective October 1.

41.8(2)

Proposed amendment to 41.8(2), which gives ADC recipients the 6 percent increase authorized by the legislature, was acceptable.

SOCIAL SERVICES cont'd

Amendments to 41.8(3) and 41.8(5)c were acceptable as published.

Welp noted amendments to chapters 51 and 52 pass along the SSI increase to recipients and, also, raise the rates for residential care.

In explanation, Welp said 54.1 and 54.3(15) specify the effective date of the contract for facilities participating and, also, how the per diem rate is calculated.

In the matter of patients in supplementary assistance programs being transferred, Welp advised new rules would be forthcoming.

It had been brought to Patchett's attention that even with transfer rules the penalty was so meaningless the rules would be ineffective, and he asked if the penalty would also be changed.

Welp replied the subject matter had been placed under notice with some other areas to be considered. She explained the federal regulations specify three reasons for transferring a person: Nonpayment of bills, danger to themselves or others or if they require a level of care that that facility can't provide.

Committee made no recommendations with regard to these rules: 56.5, 75.1, 75.5 and 78.2.

Amendments to 78.18 would provide for more frequent health screenings for children. Patchett wanted to avoid duplication of screening under this program and the one by an Area Education Agency. A child in need of a particular special education service should be referred to the AEA, in his opinion.

Clark was skeptical of the thoroughness of the screening process and wanted a spot review of the effectiveness of the program.

On a matter not before the Committee, Priebe asked Welp to look into whether there had been a curtailment of services in the well elderly clinics.

No opposition voiced to 79.1, 81.2 and 84.4.

Inpatient psychiatric services

Prior to this meeting copies of draft rules on the subject of psychiatric services for individuals over age sixty-five and under age twenty-one were distributed to committee

SOCIAL SERVICES cont'd

members. A summary of intended action on this subject was published under notice. Welp stated their goal is to file these rules under emergency provisions before the end of this quarter to qualify for federal match retroactive to July 1.

Helen Henderson expressed some concern relative to the definition of "inpatient psychiatric facility" and prefers the definition given in the draft rules over that published in IAB 7/11/79. Another concern dealt with the procedures for preadmission evaluation in a community mental health center. Committee made no recommendations.

137.6, 141.5, 146.2(6), chapter 157, 41.2(6)b, 78.1(16)j, were acceptable as published.

In re chapter 109, rules on child care centers, Welp explained many of the changes are of a technical nature. Subrule 109.5(2) was amended at the committee's suggestion to specify that "cooking stoves shall not be placed in the program area." Proper use of heating stoves would be covered under rules of the fire marshal.

Schroeder maintained 109.6(2), which requires a staff member to sit with the children at meal time was too restrictive. Clark interpreted it to mean that a staff member shall have a relationship similar to that of a parent participating in the meal. No action taken.

In re 109.5(2), Jill June expressed concern for the requirement of thirty-five square feet per child of usable indoor floor space, particularly in the case of infants one year of age or younger when they are in their cribs the majority of the time. She pointed out this would require them to have a separate room which would be empty ninety percent of the time because the room with the cribs could not be counted. Clark suggested possibly the rule could be divided with separate provisions made for the non-ambulatory child. Schroeder requested the Department consider changing the rule strictly to twenty-five square feet plus bed space in the case of infants.

June called attention to 109.1(10) which requires a child care center to post requirements and procedures for mandatory reporting of suspected child abuse and neglect. She felt parents might be intimidated by this, and wondered if similar posting was required in other facilities dealing with children, e.g. physicians' offices. Poore feels it is important to give assurance that the staff in every day care center is aware of this law.

SOCIAL SERVICES cont'd

Oakley suggested requiring the poster to be placed in the employee area. Department was agreeable to this modification.

In response to June's concern for maintaining information in their personnel records the status of any current treatment of alcoholism, drug abuse, or child abuse, 109.2(1)c, Poore assured her they are only saying there there should be an awareness of that for the safety of the children.

Henderson was disturbed with 109.7(2)e pertaining to discipline and asked if "professionally prescribed treatment" would infer the use of spanking, slapping, etc. Brown concurred with Henderson that there is no definition of "professionally prescribed treatment" and might allow abuse.

Oakley was uncertain who would be included in the term "professionally". Poore cited examples - a psychologist, an AEA specialist or someone who is specializing in occupational therapy. Oakley was not compelled to believe that we know these abuses are going to occur and, therefore, that we have to circumscribe this language more carefully at this time. Committee was of the opinion the rules should be amended so that if there was a necessity for this kind of treatment that this information be placed in the individual's file.

Discussion of chapter 132. Brown referred to his letter of August 10, 1979 which stated his concern that 132.4(3)a would cut off Title XX day care funding to graduate students and, indirectly, cut off funding to foreign students. He requested the committee to delay the implementation of this rule for 70 days in order to give the Department of Health, Education and Welfare time to respond to a formal complaint ICLU had filed arguing that this rule violates the statutory prohibition in Title XX against discrimination on the basis of national origin.

Patchett inquired what is the rationale and statutory basis for the distinction between graduate and undergraduate students, and he favored a delay until HEW has had an opportunity to make its ruling.

Responding to Patchett, Poore said the original rule contained a prohibition against the foreign student which was removed from the rule because of an HEW ruling prohibiting discrimination on the basis of residency or national origin. The revised rule will be more consistent

SOCIAL SERVICES cont'd

with existing assistance programs. Poore maintained the graduate student is enhancing his professionalism and his ability to earn more money while a person working for a baccalaureate may have no more earning capacity than a high school graduate. HEW has indicated to Poore they have no problem with the rule and they view day care as a service not as a way of maintaining a family. Poore wanted to implement the rule as published.

June elaborated on the Title XX economic guidelines for participation which she considers severe.

Oakley personally fails to see a valid distinction between graduate and baccalaureate students.

Motion

Patchett moved to delay the effectiveness of 132.4(3)a forty-five days into the next General Assembly.

Priebe opposed the motion saying that Title XX funds are very, very limited and it is possible all day care may be eliminated; also, he added they should wait for HEW's ruling.

Holden concurs with Priebe that we ought not to be helping graduate students in this manner and, particularly, when funds are limited.

Noon recess

Chairman Schroeder recessed the meeting at 12:45 p.m. to be reconvened at 2:00 p.m.

Reconvened

The meeting was reconvened at 2:00 p.m. by the Chairman. Five members present.

Responding to query by Patchett as to specific authority for making the distinction between graduate students and undergraduate students, Welp cited section 234.6 of the Code.

Royce concluded section 234.6 is a very general statute and considers it to be a simple delegation of lawmaking authority to the agency, an admission on the part of the legislature that it is a complex program and gives authority to make a decision which the legislature will review later.

Motion withdrawn

Patchett withdrew his motion to delay the implementation of 132.4(3)a forty-five days into the next General Assembly.

Priebe reiterated his concern that funds will be depleted and all assistance for day care will be discontinued.

Schroeder favored letting the rule stand as it is and, if serious problems arise with the HEW ruling, it can be called back for selective review.

SOCIAL SERVICES cont'd
Motion failed

Patchett moved to delay the rule for 70 days. Motion failed. Schroeder, Priebe and Clark voted "no"; Holden and Patchett voted "aye"; Tieden absent.

Holden stressed every effort should be made to get a decision from HEW promptly.

June pointed out a variation from county to county in providing day care services for parents while seeking employment. She asked if 132.4(3)a would preclude day care services for all those persons. Poore admitted this was an oversight and an amendment to clarify it is in process. Committee suggested this clarification be filed emergency.

In re 132.6 which allows "services may be terminated by the provider when the parent or parents fail to co-operate in the written plan of day care ...", June suggested "day care plan" be defined. Schroeder said this did not seem to be a problem and no action was taken.

ENGINEERING EXAMINERS

The Board of Engineering Examiners was represented by Tom Hanson, General Counsel, Gary Gill, Discipline Counsel and Shirley Houvenagle, Executive Secretary.

At the request of Mr. Norm Van Sickle, the committee heard testimony in which he explained minimum property surveying standards and his reasons for requesting a revision of the rules dealing with these minimum standards. He contended the rules are old-fashioned and do not recognize his method of surveying.

Priebe in chair.

Hanson pointed out that they have no authority to specify a particular method and they are only concerned with the accuracy of the end result, and the complaints lodged against Van Sickle were against his competency as a surveyor.

Chairman Schroeder returned.

In response to Oakley, Hanson said there would be no problem in issuing a declaratory ruling that the particular method of surveying that Van Sickle uses is theoretically capable of conforming with standards if used by a competent surveyor.

As a member of this committee and as a legislator, Holden was concerned about any licensing board which used their authority to limit use of new technology or a particular procedure and ignored the accuracy of the result.

ENGINEERING EX. cont'd
Motion carried

Priebe moved to refer this matter to the standing State Government Committees of the House and Senate for their selective review with respect to whether or not other forms of surveying should be listed as approved types. Motion carried on voice vote.

MERIT EMPLOYMENT

The following rules were discussed by Wallace Keating, Director, Merit Employment Department:

Overtime and pay increase eligibility. 4.5(2)"b", "c", 4.6 ARC 0390, also filed emergency ARC 0366, ARC 0365 7/11/79 8,3,32

Clark raised question as to the difference in the time frames for progression in salary schedule III. Keating explained this schedule was implemented because of the contract for peace officers having eight steps that had to be retained.

Schroeder inquired as to the step program Keating would recommend. Keating would prefer no more than five steps and one salary schedule; also, decrease the pay grades from 40 to about 20 with an overlap. It would be much easier to administer and for everyone to understand.

COLLEGE AID COMMISSION

Willis Wolff, Executive Director and John Wild represented College Aid Commission for review of the following: Podiatric training, 8.1, 8.1(2), 8.1(3)b ARC 0396, Notice 7/25/79 IAB and Guaranteed student loan program, ch 10, filed emergency after notice, ARC 0364, 7/11/79 IAB.

On Tieden's behalf, Schroeder inquired whether we guarantee loans for Iowa students to attend out-of-state schools and is it on a one for one basis.

Wolff explained it is not on a one-for-one basis and most state guarantee agencies guarantee loans made to their own resident students by their own lenders to go to approved schools in other states as does Iowa. Wild mentioned reciprocity is a new concept and would be in effect even if not specifically set out in an agreement.

Priebe requested the Commission to furnish comparative figures on the cost of tuition for Iowa students who attend schools in the surrounding states as compared to out-of-state students coming to Iowa. Wolff was agreeable.

BEER & LIQUOR CONTROL

Bill Armstrong, Hearing Officer, Beer and Liquor Control Department, appeared for review of amendments to chapters 1 to 5, 10, 11, 21, filed without notice, IAB 7/25/79, most of which are nonsubstantive amendments.

Priebe objected to requiring a licensee to obtain special permission in order to store alcoholic beverages on premises other than those licensed and recommended the Department consider a revision in this rule. Also,

BEER & LIQUOR CONTROL cont'd

Priebe requested the Department to resubmit these emergency rules as permanent rules. After considerable discussion, it was the Committee's decision to make an in-depth selective review of the entire rules of the Department at a later time.

It was the consensus of the Committee that the Department should solicit comments from licensees concerning constructive amendments to the law or rules. This request could be included with a regular mailing to the licensees.

Clark pointed out an omission in Item 11, second line, should read "Any violation of the Act".

Minutes

Moved by Priebe to dispense with reading of minutes of July meeting and that they stand approved. Carried viva voce.

ADJOURNED

Chairman Schroeder adjourned the meeting at 3:55 p.m. Next regular meeting scheduled for September 11 and 12, 1979.

Respectfully submitted,

Phyllis Barry

Phyllis Barry, Secretary
Assistance of Joyann Benoit

APPROVED

Laverne Schroeder, Rep.
Chairman

DATE 9-12-79