MINUTES OF THE SPECIAL MEETING
of the
ADMINISTRATIVE RULES REVIEW COMMITTEE

Time of Meeting: Tuesday and Wednesday, June 5 and 6, 1979, in lieu of statutory date of June 12.

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

Members Present: Representative Laverne Schroeder, Chairman; Senator Berl Priebe, Vice Chairman; Senator Edgar Holden; Representatives Betty J. Clark and John Patchett. Senator Dale L. Tieden had asked to be excused for this meeting.

Also present: Joseph Royce, Committee Staff
Brice Oakley, Administrative Co-ordinator and his Assistant, Jane Warren.

PUBLIC INSTRUCTION
Ch 22 ARC 275
Ch 23 ARC 276

The following persons represented the Department of Public Instruction for review of filed amendments to Chapter 22, School Transportation and Chapter 23 relating to standards for School Buses, published in IAB 5/30/79:
Dwight Carlson, Transportation Division, Terry Voy, and three members from the Advisory Committee--Lyle Bloom, Newton Community School District, Wayne Drexler, Superintendent of Western Dubuque and Tom Horn, Transportation Supervisor from Winterset.

Carlson reviewed the changes which had been made since the rules were published under Notice. Item 16, amending 22.15, no longer contained the statement: "For a certified physician's assistant when approved by the board of medical examiners and one so delegated by the supervising physician." This change had been recommended by the Board of Medical Examiners.
Item 44 was clarified as to when written reports should be filed re pretrip inspections.

Schroeder questioned Carlson concerning Item 12, amending 22.10(5), and was told the change implements statutory change in Chapter 285 of the Code which permits the parents to be transported by school buses in certain instances.

Schroeder also questioned Item 13, amending 22.10(5) "a" which provided: "The school bus signs shall be covered and the flashing warning lamps and stop arm made inoperable when the bus is being used in a nonschool sponsored activity." Carlson responded that Federal Transportation Rule 17 provides this. He pointed out use of the 4-way flashers would be permitted.

Holden recommended that Item 16 be further clarified by inserting in line 6, after "surgeon", the words "or physician". The department was amenable.

PUBLIC INSTRUCTION Cont'd

There was review of the changes which had been in Chapter 23 following the Notice.
Schroeder thought it advisable to include a date certain in 23.3(14)b to avoid a "possible loophole." With respect to federal specificiations, Department officials were willing to include a date at the beginning of the rules to cover all federal references.

Priebe took the position that specifications for the drive shaft in 23.2(11)b --"all carrier bearings shall have an inner race so that failure of the bearings shall not damage the drive shaft."-- was too restrictive and would eliminate a number of manufacturers from bidding. Bloom pointed out that by having an inner race there is less likelihood of damage to the shaft. Department officials added that no complaints were voiced by industry.
Priebe also had doubts as to the provision for "a sliding battery tray" in 23.2(4). Bloom said it was necessary when servicing is done.
Schroeder wondered about the type of turning signals required for "special vehicles" such as station wagon and Carlson indicated that manufacturers standard signals would be used.

Holden observed that the rules seemed "excessive" but he thanked the Department for the comprehensive guide which they prepared for Committee use.

Schroeder was informed that the protector boot for the seat belt in 23.3(29) was of a flexible standup type.

Re the stop signal arm specifications, Schroeder asked if 23.3(35)e would "cater to a special product." Carlson responded that this, too, is a federal specification.
Carlson continued by saying that paragraph d of the subrule was amended to add a date certain. Further, 23.3(43)c, pertaining to wheel housings, was changed to allow a height of 11 inches instead of 10 inches, thus, preventing some manufacturers from being excluded.

Clark called attention to a grammatical problem in 23.3(44), the first exception. After some discussion, Holden suggested the following: "A window forward of the service door, if any, and in direct view opposite the driver's seat, shall be of vacuum-sealed double glass type. On these vehicles the window to the rear of the service door need not be of vacuum-sealed double glass type."
Clark also suggested that the second paragraph of 23.3(47)b(1) be amended by inserting a period after "headlights" and capitalizing "this" in line 3.

PUBLIC INSTRUCTION Cont'd

Committee members concurred with the Holden and Clark proposals and authorized the Code Editor to make the changes in the IAC.

Schroeder was concerned that the exclusion in 23.4(2)e(2) with respect to wheelchair securement might be too restrictive. He also noted use of meaningless expression "and/or". Carlson pointed out that "makeshift tiedowns" for wheelchairs have created problems in the past.
No futher action.

CONSERVATION COMMISSION

Roy Downing, Lands and Waters Superintendent, was present for review of the following rules of Conservation:
Boats on Black Hawk County waters, 30.30, published under Notice IAB 5/30/79 and Filed emergency 30.22, Restricted speed zone, Swan Slough, IAB 5/30/79.
Downing said provision in 30.30 would allow the Commission to set up traffic regulations in a congested area on the Cedar River at the request of the City of Cedar Falls.

Clark noted the improper use of "said" in 30.30(1) and 30.30(2). In view of the fact the legislature is attempting to eliminate this type of usage in the statutes, it was her suggestion that this apply to rules as well.

In response to question by Holden, Downing said there was authority to require the additional accident report in 30.30(4).

Oakley recalled that effort had been made to file 30.30 under emergency provisions of Chapter 17A and he wanted assurance that Cedar Falls was not attempting to enforce the rules prior to their effective date. Downing responded that the Department was at a disadvantage in that they lacked manpower to assist Cedar Falls.

Downing explained that 30.22 was promulgated after the City of Camanche petitioned the Commission for restricted speed zone in Swan Slough. Oakley indicated he had approved filing of the amendment on emergency basis after Notice since the Procedure had been somewhat delayed when the rule was misplaced by his office for a time. Clark recommended substituting "the" for "said" in line 3 of 30.22(4).

In a matter not officially before the Committee, question was raised by Patchett as to procedure followed by the Commission in adopting rules. Downing thought "Roberts Rules of Order" was the guide unless some other procedure was set out by statute.

CONSERVATION Cont'd

Patchett recalled at least one instance where the Commission Chairman had cast "aye" votes for nonvoting members. He wondered about the legality of this practice and whether rules adopted under these circumstances would be invalid. Downing was unaware of the matter.
Oakley indicated that thorough perusal of Conservation rules has begun and he was confident this subject would surely be reviewed also.
Chairman Schroeder urged that the issue be addressed. He also urged the Commission to consider arguments of opponents to the fox hunting and trapping seasons in an attempt to work out a compromise prior to opening of the seasons this fall. Downing agreed to convey this request to the Fish and Game Division.

COMMERCE
Gas & Elec. Utilities

The following rules of Commerce Commission were before the Committee for review: Amendments to 19.4 and 20.4 pertaining to gas and electric utilites--customer deposits, budget billing and discontinuance of service; Chapter 26--certification of gas appliances, appearing in IAB 4/4/79 under Notice; filed amendments to 19.4 and 20.4 re late payment of gas and electric utilities, filed amendments to 11.1(1), 20.5(2)a, 22.5(1), 24.11(2)a and Chapter 25 regarding the electrical safety code, published in IAB 5/2/79 and carried over from the April 24 and May 21 Committee meetings.
Those present for the review included Maurice VanNostrand, Commerce Commission Chairman, Diane McIntire, Counsel, Utilities Division and Bob Bray, Legal Services of Iowa.

McIntire briefed the group on the background of the rules. She indicated amendment was made to overcome Committee objection with respect to limitation on new or additional deposits and the budget year was clarified to be a twelve-month period.

Patchett questioned 19.4(2) as to whether or not a deposit requirement would be solely at the discretion of the Commission. McIntire said they could not require more than the maximum bill for two consecutive periods. Previously, the Department had two separate rules--one for deposits for new customers and the other covered new deposits from existing customers. These were combined to allow space for an additional rule.

Patchett wondered if the rules required utility companies to pay interest on deposits and learned that it varies according to the type of utility, e.g., municipal, REC, etc. As to whether deposits are placed in a special account, officials said that most refunds are made within a year or so if the customer has a good credit rating.

Re 19.4(10), Holden, speaking from experience, could forsee difficulties and was sympathetic with utility companies in that most customers who elected to take advantage of budget billing would probably do so in January when bills are

COMMERCE Cont'd

highest and by April, there would be a significant increase in arrears.

Van Nostrand recognized that a slight burden would be created as a result of this discretion. Also, a slight increase would be imposed on all customers.

Responding to Oakley, officials said when bills are "normalized" over the 12-month period" it is calculated on the net amount. Late payment penalty is not imposed on budget billing. Holden wondered if utilities using a "7-month period" would have to change to 12 months under these rules. Van Nostrand replied that the budget billing program must be offered to the customers, if they desire it. He added that they will consider each circumstance individually. Holden asked what were problems under the old method. Van Nostrand pointed out that persons who encounter difficulty with payment routinely are not the best planners and therefore, would not be receptive to a budget billing plan in the summer when their payments are low. Under the new method, it would be advantageous to get them on the plan, even in early fall. Holden wondered if the Commission anticipated budget billing to be promoted by utilities in December. Van Nostrand thought the months of June and July would still be emphasized but he maintained that a new customer must be given the option to start the budget plan at any time. Holden suggested the rule should probably address the issue of "new resident".

Brief review of Chapter 26. Clark raised question as to whether dampness problems in a basement would be compounded when furnaces were required to be equipped with intermittent type ignition devices to conserve fuel. Holden explained that the flame would not resolve dampness problems--that it was actually preferable to turn out pilotlights which can cause condensation resulting in rusting of the appliance.

Discussion of filed amendments to 19.4(9) and 20.4(10) pertaining to late payment penalties. McIntire commented that prior to enactment of the APA, the Commission looked at late payment penalties and requested utility companies to submit information as to costs which were imposed on them due to late payments and the Commission set up the same limits as they now have in the rules--5% maximum late payment penalty, one forgiveness per year, a minimum of 15 days' grace period. She emphasized the rules do not require a utility to impose the penalty and a late payment penalty must always be cost-justified. She continued that the cost data they have seen supports the 5% but if the cost were less, nothing in the rule would prevent the Commission from forcing a utility to charge a lesser amount.

Clark reasoned that most credit accounts were set up on a 30-day basis and wondered why only 15 days was provided by the rules. VanNostrand explained the important difference between the two types of accounts. When a utility is regulated, a rate base is determined which includes plant and service, inventory, vehicles and working capital. A precise working capital need is developed by a "lead and lag study."

COMMERCE Cont'd

They have determined that 15 days is reasonable and Van Nostrand pointed out that any number of days could be used but extension would only cause all customers to pay more. They try to assess the cost of late payment to the "late payers" and not to the "great bulk of Iowans who pay on time." It is not the intent of the Commission for a utility to extend credit.

Responding to question by Clark, Van Nostrand said any customer is allowed one late payment per year without penalty. The billing date can be adjusted to better fit the individual's budgeting and with budget billing you have choice of any day of the month. Van Nostrand recognized that it is just good business to wait the full time before paying and all who realize the value of the dollar will do this.

Oakley asked how the Commission arrived at the 5% figure and explanation as to the exemption from usury.
VanNostrand said when they began their study they learned that municipals were imposing the greatest penalty. They considered expenses incurred because of late payments and determined costs should be charged back to the late payers. He reiterated the company is not compelled to charge 5%.

Bob Bray, representing Legal Services of Iowa, stated that he had been involved in this area since 1973. He voiced objection to the filed rules and distributed the following document:

We object to Item 2,ICC Rule 19.4(9) and Item 4.ICC Rule 20.4(10).

One rule is for gas and the other electric utilities. The rule is the same for both and provides that a utility may charge a penalty of five per cent (5%) of the bill if it is not paid within fifteen (15) days of deposit in the mail.

As background, let me tell you what the states surrounding Iowa do in the same instance.

MINNESOTA -- Minnesota has now proposed a rule providing:

Late Payment Charge	Days for Billing
1%	1-30 Days, slight collection costs
3%	31-60 Days, Few more costs, e.g. - stuffer
5%	61 Days, Collection Efforts

Currently, the utility can only charge actual collection costs after twenty (20) days from billing. The Minnesota Public Service Commission recently rejected five percent (5%) as too high.

WISCONSIN -- Wisconsin has a rule in effect since April, 1976, which allows three percent (3%) penalty after twenty (20) days.

ILLINOIS -- Illinois has recently revised their procedure. The Illinois Public Service Commission requires utilities to prove their actual collection

COMMERCE
Cont'd

Bray Report

costs in each rate case. The due date is twenty-one (21) days plus two days if the utility uses mail. The staff proposed a penalty rate of one and one-half percent (1½%). The staff said a billing period of three weeks is needed to be sure and catch a pay period.

MISSOURI -- In Missouri, the utility must show actual collection costs in a rate case and get a commission order the highest of which has been two percent (2%). The due date is twenty-one (21) days from billing.

NEBRASKA -- Nebraska has public power.

SOUTH DAKOTA --South Dakota has permitted one percent (1%) on the unpaid balance after fifteen (15) days and currently has no rule. Not all South Dakota utilities charge a late payment penalty.

The reason for our concern is that a five percent (5%) penalty is an extremely high interest rate frequently over 1,000% and therefore usurious. Also, fifteen (15) days is too short given pay periods either for private employers or government transfer payments such as social security.

The Iowa Supreme Court in the State of Iowa v. City of Altoona, June 24, 1979, reaffirmed that the Iowa Commerce Commission and the legislature set the penalty rate so that even though it is usurious, Chapter 535, the usury law does not apply.

So far, the Iowa Commerce commission has not held hearings on most of its customer tariffs even though most of the states around us have.

There are studies which show, not surprisingly, that there is a direct correlation between when people receive their income check and when they pay their utility bill. In other words, people pay their utility bill when they get paid.

The studies show that most late payees pay within thirty (30) days of the due date and the greatest majority pay within two weeks. Therefore, there are no true collection costs.

Since heat and light are necessities people pay when they can and utilities bad debt ratios are normally one percent (1%) or less.

Also, only one-half the utilities in the country use late payment penalties.

In 1972, the National Association of Regulatory Utility Commissioners, (NARUC), issued its report and recommendations on Utility Billing Practices. NARUC recommended:

1. Utilities be required to stop using the terms 'net-gross' or 'late payment' penalty. All charges to the customer should use the terms 'price' and 'credit charge'.

COMMERCE
Cont'd

2. Utilities should be required to state on the bill the annual effective rate of interest.

3. The commissions should reduce the current credit charges which are too high.

4. The due date should be a 25 day period.

Other writers, such as Warren J. Samuels, Professor of Economics, Michigan State, Ph.D., writing in the Wayne Law Review, recommended a one month due date and a late and a late payment charge of one percent (1%) the first month and one and one-half percent (1½%) each month after for an effective annual rate of 17.5%.

In view of the foregoing, we ask that you reject these two rules because they are unreasonable.

Bray urged that objection be placed on the rules or that they be postponed until the next legislative session when a joint resolution could be adopted to set a proper usury rate on the late payment penalty.

Van Nostrand reiterated the issue is not whether the utility will be making extra money but whether 80% of the Iowa customers who pay on time should be penalized for late payers.
McIntire noted that they received the Bray comments last week but that he did not appear at the hearing held on the rules. All comments which were filed had supported the position of the Commission. They have not had an opportunity to review cost studies of other states to which Bray made reference.
With respect to Bray's contention that the penalty is usurious, McIntire was not aware of any case holding this would be interest. Cases in other states have held, however, that it is not interest and she referred to an Arkansas Supreme Court case.

Holden observed that the Bray report did not include the state of Nebraska which has public power and no state rule. He reasoned this should have been included with indication of the possible ranges as 5 to 25%.

An Attorney General Assistant expressed interest in the rules and offered a packet of material in the area of late payment penalties. He offered the services of the Attorney General and recommended that the effective date of the rules be delayed to allow time for further study of the matter.

McIntire pointed out that the 5% is already included in the tariffs so a delay would be meaningless. Cost justification could be handled in a case before the Commission.

Priebe could see no harm in delaying the rules to allow time for further study and consideration of the material submitted by the Attorney General and he so moved.

Motion

Discussion of the motion.
Patchett asked if all gas and electric utilities in Iowa impose

COMMERCE Cont'd

late penalty. Van Nostrand noted there are 230, including municipals which are not regulated, but he did not have a definite answer. McIntire, in reliance on the study made, concluded that rates for all are increased in the absence of a late payment penalty. Even without rules, the utilities must abide by the tariff filed with the CC. Patchett asked if the company would have to borrow to make up the difference if a penalty was not collected. Van Nostrand reviewed the "lead and lag" concept again. Patchett was curious as to the number of persons who believe they are getting a reduced bill if they pay on time and also how Minnesota, for example, arrived at their figures.

Schroeder favored allowing the rules to go into effect and then consider them at a later date, if necessary.

Oakley spoke as to the position taken by the Governor concerning the rules. He noted that the subject had been under Notice since last fall and little interest was expressed. Further, the rules are consistent with what has been generated over several years by the Commission and the Governor has no intention of objecting to them. He added that the 70-day delay would allow for objection to be filed which would only create legal problems for the Commission. He concluded the option to delay 45 days into the next legislative session would seem unnecessary since legislature can review the subject at any time.

Patchett was inclined to favor a delay.

Question

Priebe called for the question on his motion to delay the rules for 70 days.

Holden opposed the delay since "this is a policy decision that should be addressed by the legislature. He added, "The Commission has made their determination on the basis of factual analyses of the rates and that late payers should bear the burden. Until such time as the legislature wants to subsidize the late payers for good reason, he will support the position taken by the Commission.

Patchett felt a study by this Committee would be more intense than one by the entire GA.

Priebe believed the Commission had done a good job but was hopeful futher information and study would confirm this.

Holden advised that it would be advantageous if the Commission could address this Committee, at a future time, as to the procedure they follow in the rate making process.

Motion Failed

Roll call on the Priebe motion to delay the rules for 70 days failed. Schroeder, Holden and Clark voted "no"; Priebe and Patchett voted "aye"; Tieden absent and not voting.

COMMERCE
Demand Meters

Priebe raised question as to whether the Commission has any rules governing demand meters.

Art Zahller responded that the Commission has no rule requiring installation of these meters. However, they are being utilized to develop data on cost of service.

Priebe described the use and function of demand meters which have been installed in his area. He reported on the expense involved.

VanNostrand expressed a willingness to meet with this Committee during the summer and discuss matters of this nature.

Recess

Chairman Schroeder called a five-minute recess and reconvened the meeting at 11:30 a.m.

AGRICULTURE
Bees

Rule 10.31 of the Agriculture Department entitled "Bee caution" was before the Committee, having been carried over from the May 21 meeting. The rule was published under Notice in IAB 5/2/79. Bette Duncan, Counsel, represented the Agriculture Department. Other interested persons present included: Representative Phil Davitt; Jerry DeWitt, Extension Entomologist, Iowa State University; Winton Etchen, Iowa Fertilizer and Chemical Association.

Duncan reviewed the Department's effort to implement a rule which would restrict certain chemicals that are harmful to bees. She recalled that Representative Davitt petitioned the Department to adopt a rule to restrict use of Penncap-M and the proposal was published in IAB 4/1/79. The rule also restricted useof Sevin. The rule before the Committee today is a substitute for the earlier submission.
Public hearing was held on the latest version on May 29 and the Department plans to file the rule in basically the same form as the Notice except the last sentence will be changed to provide notification of intent to spray be made at least 24 hours prior to the application but no longer than 48 hours before the time.

Priebe thought the rule was acceptable.
Oakley expressed opposition to the duplication of effort in routing information through the state apiarist and then to the County Extension Offices. He could see no need to maintain records in the state department.

Questions were raised as to what constitutes legal notification.

Davitt thought the rule was reasonable. He admitted that chemicals are needed for agricultural production.

Etchen was aware of the problem of misuse of chemicals but he opposed the rule as being unworkable. He pointed out problem areas: The bee warning is only defined on 4 insecticides and he wondered about granules and dust applications. The two-mile radius was excessive--one mile would be better.

AGRICULTURE

Etchen continued that the rule is deficient in that it allows no alternate notification procedure. Unscrupulous bee operators could move dead bees to an area. He thought it imperative that an indemnification process be implemented. He was convinced the problems could be resolved without "layers of beauracy which will hinder the beekeepers as well as the agricultural industry."

Dewitt viewed the rule as mandatory for applicators but optional for beekeepers. He interpreted the rule as placing the extension office in a regulatory position which should be restricted to the Agriculture Department. He indicated they would be glad to allow registration in their office.

Oakley restated his position and cautioned that he forsees a real problem with weekend spraying.

Schroeder thought the rule should be delayed possibly to allow full legislative study.

It was the consensus of most that a voluntary program would be preferable.

Motion

Holden moved to notify the Department of Agriculture that, in the event the rule is filed, the Committee will delay its effectiveness for review by the next General Assembly. Discussion followed.

Clark agreed there is a week-end application problem which is a matter of concern.

Etchen pointed out the 48-hour restriction is a handicap to applicators because of changing weather conditions.

Patchett was hesitant to vote on the motion. It seemed more appropriate to him to await the final rule.

Schroeder opined the rule would become effective at the peak of the season and further compound the problem.

Etchen said voluntary information is being compiled by beekeepers and when it is ready copies will be distributed to all custom applicators who are members of his Association--about 75% of all commercial applicators.

Holden doubted that an acceptable rule could be formulated in time to help this year.

Duncan was open for suggestion re the number of hours for notification. She asked how the week-end problem would be resolved under the voluntary plan. Etchen would provide a "reasonable time" which defined as 24 hours.
Duncan pointed out the rule would provide this and the limitation of no longer than 48 hours would be added to avoid notification to spray at a future time which could be weeks away.

AGRICULTURE Cont'd

It was the consensus of most members that if the rule were revised to provide "at least 24 hours and not more than one week, more flexibility would be possible.

Clark was concerned as to the 25% who were not members of the Association. She asked Etchen what would be done if a bee-keeper could not be located on a week-end. He said they plan to implement educational programs for both factions and will possibly provide an alternate notification plan to remove some of the burden from applicators. He admitted there would be bee kills with a voluntary program but by the same token the mandatory plan would not be without problems.

Defer

Chairman Schroeder deferred the matter until afternoon.

LABOR BUREAU

Walter Johnson, Deputy, represented the Labor Bureau for review of filed emergency rule 8.21 re walkaround pay disputes and filed Chapter 8 entitled "Discrimination Against Employees" The rules were published in IAB 5/30/79 and 5/16/79, respectively. Brief disussion of 8.21 which was merely correcting an error in the rule which had originally been adopted after Notice.

Clark voiced opoosition to 8.16 which provided: "Section 88.9(3) provides that the commissioner is to notify a complainant within ninety days of the complaint of his/her determination whether prohibited discrimination has occurred. This ninety-day provision is considered directory in nature. While every effor will be made to notify complainants of the commissioner's determination within ninety days, there may be instances when it is not possible to meet the directory period set forth in section 88.9(3)."
She considered it to be somewhat confusing--directory in nature and yet unclear as to when the complainant might be notified. She pointed out the Code is very specific as to the 90-day requirement.

Johnson said if a person has filed a similar type of discrimination with another agency, it might not be possible for the Labor Bureau to have sufficient facts within the 90 days to make a decision so the complainant would be notified of this.

Holden questioned what was the "appropriate district court" in the last paragraph of 8.3. Johnson said it would be where the discrimination occurred, where the employer has his primary business location and Polk County is considered appropriate.
Committee members were of the consensus the rule should be clarified.

Patchett and Royce quoted from §17A.19(2) which states: "Proceedings for judicial review shall be instituted by filing a petition either in Polk County district court or in the district court for the county in which the petitioner resides or has its principal place of business."

Johnson said that language deals with review of a decision which the Bureau has made--the rule is saying the Bureau will

LABOR Cont'd

institute a cause of action in a court against an employer or some person because they have violated the Act.

Holden asked for definition of "economic realities" in 8.5(1). Johnson stated that the Department would look at matters such as who was in charge of the employee; if it concerns applicants, they will look at the employment agency. He added that 8.5 deals with employee and includes prospective employees.

Discussion continued as to whether there was conflict between the statute and portions of the rules.
The matter was deferred until after lunch.
Discussion of alternatives in disposing of remaining items on the agenda. It was agreed the meeting should be carried over to Wednesday to allow time for complete review.

It was noted that Robert Fulton, Chairman of Campaign Finance Disclosure Commission, was preparing amendments to their filed rule 4.16 pertaining to out-of-state contributions which was published in IAB 5/30/79 and was scheduled on the agenda.

CAMPAIGN FINANCE DISCLOSURE DELAY

Clark moved to delay for 70 days the effectiveness of 4.16 of Campaign Finance Disclosure Commission rules to allow time for further study. Motion carried with 4 ayes. Priebe out of the room and not voting.

Noon Recess Reconvened

Chairman Schroeder recessed the meeting for lunch at 12:40 p.m. The meeting was reconvened by the Chairman at 2:00 p.m. Five members present.

LABOR Ch 8

Review of Chapter 8 of Labor rules was resumed.
Holden took the position that 8.5 exceeded the law which provides: "no person shall discriminate against an employee..." and the Bureau seemed to interpret this to mean than "no employer shall discriminate against any person". Johnson disagreed. He said the employee relationship is based on the economic realities as to what is "really going on with that person--who has control over him and is that person working for money or not." Johnson admitted the rules were probably broader with respect to the "prospective employee".
Committee members were inclined to concur with Holden.

Motion to Object 8.5

Holden moved to object to 8.5, as going beyond the statutory authority, by striking all of subrule 8.5(1) following the word 'employer'." in line 5 and all of subrule 8.5(2). Motion carried. Patchett asked to be recorded as "passing."

Patchett brought up the question raised earlier by Clark concerning the Bureau's interpretation of §88.9(3) in Rule 8.16 re the 90-day provision.
Clark moved to object to 8.16 on the grounds it is beyond the statutory authority delegated to the Department. The objection could be overcome by amending the rule by striking all after the word "determination" in line 4.
Discussion on the motion.

LABOR Cont'd

Priebe favored leaving the last sentence of 8.16 which read: "While every effort will be made to notify complainants of the commissioner's determination within 90 days, there may be instances when it is not possible to meet the directory period set forth in §88.9(3)." Patchett disagreed on this approach.
Royce offered a possible solution--"Within 90 days of the filing of the complaint or the last amendment to the complaint." In answer to question by Patchett, Johnson indicated they have no rules on amending complaints. When a complaint is received they begin their investigation immediately. Royce then recommended using "last submission of evidence" in lieu of "last amendment to the complaint".

Johnson stated that the entire rule would probably be stricken if the Clark objection was adopted.

Substitute Motion

Clark offered a substitute for her motion to object to part of 8.16 by moving that they object to 8.16(88) in its entirety and the objection could be overcome by deleting the rule. Motion carried unanimously.

It was agreed that an emergency filing to overcome the objections would be acceptable and it would be unnecessary to place the matter on the agenda again.

AGRICULTURE
Bees
10.31

Robert Lounsberry, Secretary of Agriculture, and interested persons who were present at the morning session appeared for further consideration of Rule 10.31.

Lounsberry, in opening remarks, referred to §159.2(1) of the Code in citing objectives of the Department and to §159.3 which stipulates that the Department and Iowa State University "... shall co-operate in all ways that may be beneficial to the agricultural interests of the state ..." He provided background on the rule and explained that it had long been a concern of his to control pests which endanger Iowa crops. He recalled his effort to obtain "24C" a provision in federal law which permits a state to request a special, local-need permit for use of chemicals which are not otherwise registered. He continued that Penncap-M and Sevin were not registered for use on field corn or soy beans for grasshoppers or corn borer control. However, Penncap-M is registered for use on sweet corn to prevent ear worms and corn borers.

Lounsberry continued that when the Department proposed a rule prohibiting use of Penncap-M and Sevin in any field during the period a crop was shedding pollen, it was opposed by many chemical producing companies. On the basis of a study conducted by his Department of bee kills last fall by indiscriminate use of the toxic Penncap-M, he exercised his prerogative to withdraw the special need permit. It was his opinion a "local need did not exist." Their investigation further revealed that honey was adulterated with methyl parathion derived from the Penncap-M and bees were killed because they mistook the

AGRICULTURE CONT'd

insecticide for pollen and carried it to the hives. Schroeder then enumerated the questions raised at the morning review.

Lounsberry responded that a "central clearing house for information was set up since the Extension Office did not want to become involved with regulatory work, they provide, basically, an educational function. After learning of comments made by Dewitt at the morning session, Lounsberry contacted Dean Donahue about the apparent misunderstanding. Both Dean Donahue and Assistant Dean Oschwald were very willing to co-operate with the Department of Agriculture in implementing the rule. After their May 29 hearing, the Department allowed an additional ten days for public input. He agreed the 48-hour notice should be shortened to 24 with no longer than 48 hours prior to application. Further, "applicator" should be defined in the rule to include both commercial and private. He added that the bee warning statement in the rule had received some criticism and would also be clarified.

Although testimony heard had centered on only one pesticide, Lounsberry mentioned several others which are harmful to bees. He defended the central location for records of all bee hive locations.

Lounsberry reiterated the need for a rule to protect beekeepers as well as the applicators and at the same time do nothing to hinder the progress of the agricultural industry.

Oakely reviewed the time frame for the effective date of rule and it was determined to be midAugust. He posed a hypothetical case and there was discussion of the applicability of the rule.

Holden could not dispute the advantages of the proposal but from a practical viewpoint, it was unworkable in his opinion.

Schroeder thought a better approach might be to limit the rule to apply only to use of Penncap-M.

Motion

Priebe moved that any formal action by the Committee be delayed until after the rule is filed.
No action taken.

Motion

Holden moved that a statement be placed on file with the Department indicating that the Committee would take action if the rule is not revised.
Roll call on the motion showed Schroeder, Clark and Holden voting "aye". Priebe and Patchett voted "present". The motion failed.

No formal action taken by the Committee.

REGENTS BOARD

The following persons appeared for review of proposed amendments to Chapter 4 of rules of the Board of Regents, published in IAB 5/16/79, governing parking at Iowa State University: Janet Bacon, Hearing Officer, John Herrod, Group Manager of Campus Operations, and Bob Ferguson, Head of Building and Campus Services.

Bacon explained that the rules have been in process since September 1978 and fees are being increased. She noted that the City had also increased their fees.

Schroeder took the position the rules lacked uniformity and there was apparent disregard for the 7% per cent guidelines recommended by the President.
Herrod pointed out that many of the fees had not been increased for several years.
Schroeder asked if the number of permits sold would exceed available space and Ferguson said there are 550 meters and they normally sell about 40 permits per day.

Patchett expressed opposition to imposing a $25 fine for failing to display the ID sticker--4.50(2)k.

It was pointed out that the basic thrust of the rules is to treat bikes the same as cars. Herrod advised it would be the "abuser" not the "user" who would pay.
No formal action taken by the Committee.

CREDIT UNION DEPARTMENT
Chs. 1 to 5

Betty Minor, Administrator of the Credit Union Department, and James Brody, Deputy, were present for discussion of their proposed rules, being Chapter 1, Description of Organization; Chapter 2, Organization of a State-chartered Credit Union; Chapter 3, Examination and Supervision Fees; Chapter 4, Procedure for Adoption of Rules; Chapter 5, Small Employee groups. The proposal was published in IAB 5/30/79.
Representing the Iowa Credit Union League were A.W. Jordan and Gary Plank.

Clark referred to 1.3(2) re the credit union review board composition and meetings. She pointed out a typographical error in line 8--"unit" should be "union". Further, she recommended that the subrule be amended to provide that a majority of the entire board is required to conduct business. It was noted that the last sentence would probably need to be rewritten.
Oakley observed this is a "policy of the Rules Committee" and not law. He declared that a four-vote requirement can create problems for smaller boards, particularly, when vacancies exist. He favored, "A majority of those eligible to vote" or similar language.
Committee members indicated they would insist upon the 4-member requirement and Clark pointed out that "a majority of the membership would be the number of members on the board at any given time."
It was decided the Committee would maintain their present policy and address the issue if a problem arises.
Minor was amenable to the change.

Brief discussion of Chapter 3. Committee members learned that examination fees are set up on annual basis and the annual supervision fee in 3.1(2) would be additional.
It is expected that fees generated will be in excess of $300 thousand annually. Plank commented that it is anticipated the Department will be self-supporting after the first year.

In reviewing Chapter 5, attention was centered on the definition of "small employee group" as group of not less than 10 nor more than 750 persons. Plank commented that "turn over" would have to be considered when determining what size group could support a credit union.
Department officials cited §533.4(13) as authority for 5.1.
Holden expressed the opinion that the Department was premature in trying to serve small groups until they are better established.
Oakley thought the matter was a policy question. He recalled the current rule (Banking 26.3) limits the number to 250. This was adopted at the time "common bond" was deleted from the statute.

CREDIT UNION Cont'd

Holden thought that enactment of the share draft law had made credit union membership more attractive and would bring in more small groups so perhaps the legislature should consider the matter.
Schroeder wondered if they should stay with the 250 figure provided in the Banking rule.
Oakley pointed out that the public hearing would undoubtedly generate helpful statistics.

In response to question by Patchett, Minor said the credit union would not be opposed to groups smaller than 750 and the law permits smaller unions to merge into bigger units.

4:00 p.m. Senator Holden excused.

Discussion continued as to appropriate number for a "small employee group." Members seemed to prefer a compromise of a figure between 250 and 750, possibly 500.
Clark made a point that efficiency should be considered.
Plank said an example of a small union is one with 100 members and $5,000 in assets.
Jordan added that it is becoming difficult to resume the responsibility of leadership in the smaller organization because of red tape involved.
Plank could forsee problems with contiguous counties.
No formal action by Committee.

ENVIRONMENTAL QUALITY

The following rules of the Environmental Quality Department were before the Committee:

Wastewater construction and operation permits, 19.2(9)"b"	F	C	5/30/79
Public water supply systems, 22.12(2)"b"	F		5/30/79
Beverage container deposits, 34.3(1), filed emergency after notice			5/16/79
Solid waste disposal, dumping sites, 26.6(2)"a", "b"	N		5/30/79
Solid waste disposal, permit applications, 27.2(1)"a", 27.2(2), 27.3	N		5/30/79
Solid waste disposal, sanitary landfills, amendments to 28.2(2)	N		5/30/79

David Bach and Odell McGhee, Hearing Officers, represented the Department.
Filed rules were acceptable as published.
While reviewing the proposed rules governing sanitary landfills, Schroeder questioned department officials as to whether the problem of disposing of diseased elm trees had been addressed by the Department. He had requested several months ago that provision be made to permit burning without a formal request. Bach asked that a letter, making the request, be forwarded to the Department. He added that plans would need to be revised if this were to be permitted at each site.

Re 28.2(2)--Item 5--all-weather fill area, Schroeder was concerned this could result in financial burden if the rule were construed to require a hard surface road. Bach replied that the rule was intended to require a "road passable in all weather to provide access for emergencies." He was willing to rewrite the language to ensure the site was for limited usage only.

DEQ Cont'd

Priebe called attention to the problem of county-owned landfills and the energy which is wasted in hauling garbage 50 to 60 miles. Bach was aware of the situation and indicated the Department is looking for a solution.

Amendment to 28.2(2)s provided that if sand pockets are encountered at a sanitary landfill, such fact shall be reported to the Department. Schroeder wondered if many pockets were found. Bach thought it was quite possible since extensive drilling is not usually required.
No formal action by the Committee.

HEALTH DEPARTMENT

The Health Department was represented by the following: Mike Gueley, Ronald Saff and Ronald Eckoff for the Medical Examiners, and Peter Fox, Hearing Officer. The rules before the Committee were:

HEALTH DEPARTMENT[470]
Physical therapy examiners, public notice, 137.2(6)....N..... 5/30/79
Physical therapy examiners, open meetings, cameras and recording devices, 138.300 ...N..... 5/30/79
Psychology examiners, open meetings, cameras and recording devices, 140.300 .....N..... 5/30/79
Optometry examiners, open meetings, cameras and recording devices, 144.300 ....N..... 5/30/79
Medical examiners, advanced emergency medical technicians, ch 132 ....F..... 5/30/79
Cosmetologists, salons in residences, ...(150.4(1).....F..... 5/16/79
Barbers, continuing education, 152.101(5), 152.102(3) .....F..... 5/16/79
Barbers, barbershops in residences, 153.4.....F..... 5/16/79

Gueley said changes proposed by this Committee to rules pertaining to emergency medical technicians had been incorporated in the filed rules.

Fox reported that rules 150.101, 152.102 and 153.4 were changed as recommended by this Committee.
The remaining rules were acceptable as published.

MINUTES

Priebe moved to dispense with reading of the minutes of the May meeting and that they stand approved. Carried.

NCSL meeting Oakley

Priebe moved that Brice Oakley, Administrative Rules Coordinator, be authorized to attend the NCSL meeting in San Francisco July 23 to July 27, 1979 and that his expenses be paid from §17A.8(3) of the Code. Motion carried unanimously

Recess

Chairman Schroeder recessed the meeting at 4:50 p.m. to be reconvened at 8:00 a.m. on June 6, 1979.

RECONVENED — Chairman Schroeder reconvened the meeting at 8:25 a.m., 6/6/79. Five members present, Senator Tieden absent. Also present were Brice Oakley and Joseph Royce.

COMMERCE

Demand Meters — Priebe moved that the following letter be sent to the Chairman of the Commerce Commission:

"At its June 6 meeting, the Administrative Rules Review Committee voted to selectively review Commerce Commission policies relating to the use of 'demand meters'. It is the understanding of the Committee that no formal rules exist in this area. Therefore, review will center around the need or advisability for rulemaking to establish uniform procedures and standards for the installation and use of demand meters. The Committee would be very appreciative if your staff could provide any information currently available on the use of demand meters in both regulated and nonregulated utilities. Review is tentatively scheduled for Tuesday, July 10, 1979." Motion carried with 4 ayes.

EGG COUNCIL
COMPTROLLER
LIBRARY DEPT.
MERIT EMPLOY.

The following rules were acceptable to the Committee as published:

Egg Council, Excise tax, 4.1	Notice	IAB 5/16/79
Comptroller, Personnel management information system, 5.2	Filed	IAB 5/30/79
Library Department, Depository library, 1.12 to 1.15	Filed	IAB 5/16/79
Merit Employment, Appeals, proposed decision, 12.11, 15.3(Step4)	Notice	IAB 5/30/79

REVENUE — Elliott Hibbs, Deputy Director, was present for review of the following: Forms, hotel/motel tax, 8.1(6), published under Notice; Forms, Chapter 8, Filed, published IAB 5/16/79; Hotel and Motel Tax, Chapters 103 to 105, Filed, published IAB 5/30/79; Reassessment expense fund, Chapter 120, Filed, published IAB 5/16/79.

Subrule 8.1(6) was acceptable as published.

Attention was called to the fact that the Reporting Form 57-006 used by County Auditors was inadvertently omitted from Chapter 8. Hibbs agreed to amend the rules to include it.

In response to question by Holden, Hibbs said that all forms are provided to those affected prior to the effective dates.

Hibbs answered question by Schroeder concerning tax on hotel or motel rooms. If the same person rents 30 days or longer, tax is not charged. He explained to Holden that rules on hotels and motels would be amended to reflect recent legislation.

REVENUE — Discussion of 105.1--local option. Hibbs said the rule is a repeat of the statute. Iowa law differs from other states in that area.

Royce suggested, when other changes are being initiated in Chapter 120, Rule 120.1 be amended by substituting "two-thirds" for "majority" with respect to quorum.

Recess — Chairman Schroeder recessed the meeting at 8:55 a.m. and called it to order at 9:10 a.m.

PHARMACY — The following rules of the Pharmacy Examiners were before the Committee:

Internship training, amends 3.6(5), rescinds 3.6(6) ..... N 5/30/79
Mechanical devices, continuing education, rescinds 6.2 and 6.8(7) ..... N 5/30/79
Controlled substances, rescinds 8.14 ..... N 5/30/79
Discipline, ch 10 ..... F 5/30/79

Martha Gelhaus, Administrative Assistant, appeared in behalf of the Board. She told the Committee the rules basically are "clean-up" in nature.
There was brief discussion and the rules were accepted as published.

VETERAN AFFAIRS — John Brokens was present for review of filed Chapters 1 to 5 of the Veterans Affairs Department. The rules were published in IAB 5/30/79.

Changes suggested by the Co-ordinator and this Committee were incorporated by the Department, according to Brokens.
In answer to question posed by Priebe, Broken said the rules would have no application to Spanish American Veterans.

Clark felt it was unfortunate that the Commission of Iowa Department of Veterans Affairs must be comprised of veterans. It was her opinion a private citizen would be an asset.

Patchett questioned inclusion of 4.2(6). Brokens explained this fund was created in 1923 and will run out June 30, 1979. It was an additional bonus paid to World War I veterans.

Patchett suggested clarification of 1.2(2) with respect to quorum and number present to conduct business.
Oakley thought 1.2(4) should probably be amended to provide for publication of a tentative agenda.

No formal action taken by the Committee.

ENERGY POLICY COUNCIL

Douglas True represented the Energy Policy Council for proposed rules relating to Definitions and rules of practice--Chapters 1 and 2 and State petroleum set-aside program--Chapter 3, published in IAB 5/30/79.
True pointed out that a public hearing will be conducted on the rules June 19. He indicated they are aware that changes are necessary in many areas of the proposals, e.g. quorum provisions for conduct of meetings.
The Attorney General has staff reviewing the rules and advising the Council.
Schroeder pointed out that Oakley and Royce were also available to work with the Council.
Oakley noted there is a line beyond which he can't legally advise an agency and he would not want to infringe on the purview of the Attorney General.
True recognized that the Council is ultimately responsible for the rules.

There was lengthy discussion of 2.5(1) re council meetings and it was the consensus that clarification was definitely needed.
Oakley reminded the Committee that a problem is created because of the legislative members finding it difficult to attend meetings during the legislative session and is further complicated by the fact that there are some members who should not vote because of conflict of interest.
Holden wondered if the legislature should consider restructure of the Council membership.
True explained that legislative members vote on policy issues only and public members vote on all matters.

Committee voiced opposition to 2.5(2)c re contracts, in particular to the provision allowing the director to execute contracts of less than $5,000 without Council approval. Further, they questioned the propriety of excepting state universities. They failed to see the reason for the difference when working with another public body.

Oakley wondered if legislative members were involved in the rule drafting. True was not sure and would want to refer to minutes before answering the question.

True said the $5,000 figure was plagairized from federal regulations.

Re denial of an appeal through inaction, Patchett doubted that 3.2(14) would be proper under Chapter 17A.
True said the procedure was expedient for the agency.
Patchett wondered if an agency can legally bypass Chapter 17A re contested cases.
Oakley agreed to work with the Council on the questions raised.

ENERGY POLICY Cont'd

Holden wondered why the "incentive program" in 2.2(10) was limited to solar energy. True replied that it was in keeping with §93.21 of the Code. Committee members urged expansion to include other projects, if possible.

Holden raised question as to what type of program they referred to, 2.3(3) b and c. True explained that their agency is comprised of two divisions--one being energy conservation where they attempt to decrease demand and the other being energy resources where they strive to increase supply. There are eleven employees in the agency. Members concurred that it would be more appropriate to substitute the word "division" for "program".

Holden saw a need for the agency plan for handling emergencies to be spelled out in the rules.
There was discussion of the disadvantage to the public when government offices, in general, are inaccessible on week-ends. True stated they had implemented a plan through the telephone company whereby four employees of the agency could be reached at their homes at any hour.
Clark suggested implementation of flex time, in some instances.
No formal action taken by the Committee.

TRANSPORTATION DEPT.

Candy Bakke, Dwight Stevens and George Calvert appeared on behalf of the Department of Transportation for consideration of the following:

TRANSPORTATION, DEPARTMENT OF[820]
Special mobile equipment registration, [07,D] 11.48, 11.49 ... F ... 5/16/79
Compacted rubbish vehicle permits, [07,F] ch 6 ... F ... 5/16/79
Traffic control devices manual, [06,K] 2.1 ... IV ... 5/30/79

Schroeder brought up the question of the 30 mph limitation on fertilizer trucks. It was his opinion it should be 40. Bakke said the 30 mph provision was used to keep within the definition of vehicles of animal husbandry. She agreed to take the Schroeder recommendation under advisement.

Discussion of 07,F 6.1. Bakke said 6.1(1) had been amended to include "air operated". She referred Schroeder's request concerning axle weights on the interstate to the Commission. He would prefer that the Department "overlook" the rubbish trucks when they travel the interstate occasionally. According to Bakke, the Department would jeopardize 9.3 million dollars in federal funding if they do not enforce the law. If they were to remain silent, they would be negligent in enforcement since they must certify to the federal government. No action taken today.

Stevens described the new signing manual which has been developed to replace the 1972 edition. Changes by the National Advisory Committee over the past six years have been incorporated.

TRANSPORTATION Cont'd

Schroeder was critical of use of 4 x 4's on signs on bridges, excessive culverts and the overall design of many of the signs.
Calvert said the changes are being made as safety factors and that federal funds are utilized.
He conceded there will be some additional costs for cities and counties but the law requires adoption of the American Association of State Highway Officials specifications.
Schroeder asked what increase in costs would be in changing from the old to the new manual.
Calvert replied that signs must be replaced every five years and when this is done, they are updated. Whether or not the new manual is effective, the signs must be replaced.
Holden wondered what would result if the symbol signs, which he considers very confusing, were not adopted.
Calvert thought the new concept would be acceptable when people become accustomed to it.

Schroeder was concerned for older citizens who will have difficulty understanding the symbols, e.g., the "no turn"
Other members concurred. The Department was urged to review the procedure being used to erect all signs.
Stevens agreed to report this request to the Department.
Holden also cited a problem with the placement of reflector on posts.

Economic Impact

Moved by Priebe to request an economic impact statement on Rule 820--(06,K)2.1(321) as to the fiscal impact the modifications will have on local governments with respect to cities and counties. Carried.

Lighting at Intersections

On the question raised by Tieden concerning lighting at intersections where primary roads intersect with secondary roads, Don East, Office of Road Design, was present to discuss the issue.
East said that currently they are reviewing the lighting at rural intersections throughout the state which would be primary highways. They are reducing the amount of lighting by installing 150 high pressure cylinders which are about twice as efficient energywise as the present 400 watt mercury.
In answer to Patchett question, East estimated conversion costs at $100 per light for approximately 3,000 on the primary highways. The cost would be doubled for Interstates.
Exact figures as to savings realized were not available.
Schroeder estimated about 30 cents per light.
Rather than replace as the lights burn out, it is more expeditious to replace all in a given area, according to Calvert.
Approximately 2.8 million kilowatt hours will be saved

TRANSPORTATION Cont'd: annually with reduced lighting on urban interstate systems. Patchett wondered what criteria was used to determine which lights to turn off on the freeway. Officials said more lighting was left in areas where a decision must be made by the driver. Patchett declared the system is "bordering on being dangerous."
East said no adjustment has been made in light intensity. Responding to question by Priebe, East continued that unused lights are left in place but the fuse is removed. After a study is completed and it is determined they made the right decision, left over equipment will be utilized.

Calvert agreed that initially they probably "overinstalled" but energy was not a matter of concern at that time. They believe they have cut back only in areas where there will be no adverse affect.

Patchett doubted any dollar saving would be realized since rates will be increased accordingly.

Holden asked for a time frame for installation of lighting at radii on Interstate 80 and Department officials promised to notify him when they are ready.

SOCIAL SERVICE The Department of Social Services was represented by Judith Welp, ACT Unit; Jerry Kopke, Association of Juvenile Homes; and Gary Gesaman, Long-term Care. The following rules were considered:

SOCIAL SERVICES DEPARTMENT[770]

Aid to dependent children, eligibility factors to payee, 41.2(4) to (13)	N	5/30/79
Aid to dependent children, income computed, property repair, 41.7(4)"i", 41.8(3)"a"	N	5/30/79
Medical assistance, former aid to dependent children recipients, 75.1(8)	N	5/30/79
Medical assistance, skilled nursing homes, 78.12	N	5/30/79
Medical assistance, authorization process, 80.5(1), (3)	N	5/30/79
Intermediate care facilities, amendments to ch 81	N	5/30/79
Intermediate care facilities for mentally retarded, amendments to ch 82	N	5/30/79
Juvenile detention homes and shelter care homes, ch 105	N	5/30/79
Child care center financial assistance, 133.3(1), filed emergency	N	5/30/79

Welp responded to questions by Clark re 41.2(6) f, 41.2(7), 41.7(4) i. Welp agreed to research the matter of insurance benefits for more specific information in 75.1(8).

Clark also indicated that the corporal punishment prohibition in 105.17(2) was a matter of concern to her. She wondered if the term "corporal punishment" was carefully defined any place. Kopke indicated that "hitting" a child would be an example. Restraint would not be a form of corporal punishment.
Clark reasoned that despite department officials' training, they were not more capable of determining how best to discipline a child. Kopke emphasized that they must account for all

SOCIAL SERVICES Cont'd

disciplinary action taken. He gave examples of methods to use in coping with a child "out of control." Teenagers present more of a concern than younger children. Attempt to calm the child so he can relax; follow "time-out procedure--separate from the others" and denial of privileges is often effective. These are basically the same kinds of discipline used in the home setting.

Schroeder suggested omitting the corporal punishment provision from the rules. He took the position that adequate safeguards were available. However, the Department preferred to have the rule if there is a problem.

12:10 p.m. Senator Priebe excused.

Kopke said that during short-term detention, it is not in the best interest of anyone to allow corporal punishment. Many of the children are from difficult situations the home must try to approach this in a positive manner. Clark readily agreed that corporal punishment is not the best way in most cases but she reiterated her concern as to lack of a definition. She favored an internal policy on the matter which could be set out in the Departmental Manual.

Kopke continued that most of their children are teenagers who would really not benefit from a spanking, for example. Royce offered a suggestion that each facility be allowed to set their own policy.
Oakley preferred the rule to help eliminate the few who might abuse an option.

12:15 p.m. Representative Clark excused.

Patchett asked the purpose of 81.10(3). Gesaman responded that the Department made a comprehensive study of the reserve bed allowance policy and the rule was intended to cover a small group of persons who could abuse the policy.

Patchett also asked if, under 41.2(10)c there would also be opportunity for right to appeal and Welp answered that this is provided in the law and in the Department's rules on appeals.
Re 41.2(10)c(2), Patchett wondered if the "sanctions" were set out elsewhere and Welp referred to 41.2(6).
Finally, he wondered 41.2(10)c "fit" into the scheme and Welp said that if an appeal is made within ten days of being notified, their grant remains the same as it was.

Oakley requested the Department to give additional study to 41.2(8)b(2). He thought legal proceedings for the adoption of a child should be termination proceedings.

Further, Oakley thought 105.3(3) should be deleted from

SOCIAL SERVICES — the rules since "ethical standards" are not defined. Policy determinations should be made by the legislature, in his judgment.
He concluded that 105.3(5) to (8) lacked legal authority and it was his understanding the Department planned to delete the subrules. He took great exception to "this type of bureaucracy."
No further action by the Committee.

JULY MEETING — Schroeder asked members to be prepared for a possible two-day meeting of this Committee in July.

It was decided that Civil Rights rules which were under delay should be placed on the July agenda.

ADJOURNED — Chairman Schroeder adjourned the meeting at 12:40 p.m. Next regular meeting scheduled for July 10, 1979, at 9:00 a.m.

Respectfully submitted,

Phyllis Barry

(Mrs.) Phyllis Barry, Secretary

APPROVED

_____
Chairman

DATE _____