

MINUTES OF THE REGULAR MEETING
of the
ADMINISTRATIVE RULES REVIEW COMMITTEE

Time of Meeting: Tuesday, April 10, 1979, at 7:05 a.m.

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

Members Present: Senator Berl E. Priebe, Chairman, Senators Edgar H. Holden, Dale L. Tieden, Representatives Donald V. Doyle, Betty J. Clark and Laverne Schroeder.
Also present: Joseph Royce, Committee Staff
Brice Oakley, Administrative Rules Co-ordinator.

Minutes: Tieden moved to dispense with reading of minutes of the March 13 meeting and that they stand approved. Carried.

IPERS

Before commencing review of rules on their agenda, the Committee listened to remarks of a citizen, Marian Campbell, who was seeking clarification of what she considered to be a conflict between rules and statutes regarding retirement dates for IPERS benefits. After brief discussion, Priebe requested Tieden and Oakley to work with Campbell on the matter.

CONSERVATION
COMMISSION

The following rules of the Conservation Commission were considered:

Wildlife habitat stamp revenue, cost sharing, ch 23	N	3/7/79
Swan slough, 30.22	N	3/21/79
Rabbit and squirrel hunting, ch 102	N	3/7/79
Pheasant, quail and partridge hunting, ch 103	N	3/7/79
Hunting season, fur-bearing animals, ch 104	N	3/7/79
Migratory game birds, ch 105	N	3/7/79
Deer hunting, ch 106	N	3/7/79
Waterfowl and coot hunting, ch 107	N	3/7/79
Snipe, woodcock and grouse hunting, ch 109	N	3/7/79

Kenneth Kakac, Law Enforcement, and Robert Barratt, Wildlife Superintendent, represented the Conservation Commission.

Re habitat stamps, Schroeder called attention to a purchasing problem at the local level--habitat stamps must be purchased at the recorder's office but hunting and fishing licenses may be purchased elsewhere. It had been reported to him that the recorders are charging the dealers for the stamps, thus, tying up funds. Barratt had not heard of such a problem, since purchasers should be under bond.

Discussion of availability of funds--23.2. Tieden asked for clarification as to distribution of funds.

Review of 30.22 was deferred temporarily.

Kakac said dates for rabbit and squirrel hunting would

CONSERVATION
Cont'd

established later after the biological balance is determined. Committee members noticed that the jackrabbit season had been curtailed and were concerned as to possible extinction of this animal. Barratt pointed out that the season has run concurrently with the pheasant season for the last two years.

Discussion of pheasant season. Dates will be established in late August. Tieden and Priebe were strongly opposed to lengthy season. Tieden wanted to cut off "needless slaughter" of these birds by ending the season on December 15. It was his contention that roadside hunting should be prohibited since much of the natural habitat has been removed leaving the birds vulnerable.

Ch 104

Hunting and trapping rules have been combined into one Chapter.

Tieden maintained that with the tremendous increase in price of pelts, legislation should be adopted to permit a bag or possession limit. He thought a true sportsman would accept a realistic restriction. Kakac thought a tagging system would be needed and he doubted the Department had this authority. Priebe recommended that the issue be brought to the attention of Senator E. Miller, Chairman of Natural Resources Committee, for further study.

Ch 105

Chapter 105 was merely an adoption of federal regulations. Tieden referred to 105.3(3), the provision concerning the type of shotshells. He recalled that rules to require "steel shot only" were rescinded in the middle of the season leaving many disgruntled dealers with large inventories in NW Iowa. Barratt explained that this matter is regulated by the Upper Mississippi Wildlife and Fish Refuge and he thought that steel shot would again be reinstated by federal authorities.

Tieden raised question in 105.4(1), the words "at or between the place where taken..." Barratt clarified.

Ch 106

Re deer hunting, it was pointed out that the drawing is held only to determine who will get an "any sex license or a buck license."

Schroeder took the position that 106.3(1) was unclear. Discussion followed concerning the words "muzzle-loaded muskets or rifles..." No action taken.

Tieden noted that some states have mandatory check points to determine deer kill. He wondered how Iowa made this determination. Department officials felt they were well-informed in this area. They concluded that "illegal kills" would not be revealed at check station.

Ch 107

Kakac said that waterfowl and coot hunting is governed by federal regulation and the framework will be available late in August, thus, necessitating the need for emergency filing of the final rules.

Ch 109

Chapter 109 was acceptable as published.

Mortgage Disclosure
and Share Drafts

AUDITOR OF STATE
BANKING DEPARTMENT
CREDIT UNION DEPT.
INSURANCE DEPARTMENT

Rules to comply with section 535A.4 of the Code were considered as follows:

AUDITOR OF STATE[130]

Mortgage loan disclosure, industrial division, 1.27, also filed emergencyN.....3/7/79
Mortgage loan disclosure, savings division, ch 5, renumber existing ch 5 to ch 10N.....3/7/79
Mortgage loan disclosure, industrial division, 1.27(3)"e", filed emergency3/7/79

BANKING DEPARTMENT[140]

Home mortgage disclosure, ch 10N.....3/7/79

CREDIT UNION DEPARTMENT[295]

Share drafts, termination date, 7.4(1), 7.4(2), filed emergency3/21/79
Home mortgage disclosure, ch 8N.....3/7/79

INSURANCE DEPARTMENT[510]

Mortgage loan disclosure, 5.50 to 5.54, also filed emergencyN.....3/7/79

It was noted that identical rules concerning mortgage disclosure were also filed under emergency provisions of Chapter 17A.

Department representatives were: Kenneth Wilson, Deputy Auditor, Industrial Loan Division; Howard Hall, Deputy, Banking; Herbert Anderson, Insurance Commissioner; Marlin Reed, Acting Administrator, Credit Union Department.

Hall spoke briefly that the proposed rules were essentially the same as those reviewed at the March meeting of this Committee.

Dennis Montgomery, Savings and Loan League, expressed concern that the rules exceeded the law. He referred to the Act--Chapter 535A of the Code--which specifically set up disclosure requirements. Section 535A.4 provides that a financial institution would be able to file the federal disclosure report and complete the reporting requirement, in doing so. He added that the regulators, "in their wisdom, have adopted rules which would substantially expand that reporting requirement." It was his opinion that of the 5-page rules, the first 2 comply with the federal form but the remaining 3 pages require additional information which is not required under the federal disclosure Act and will entail a great deal of time and expense. He concluded that time requirements should coincide with the federal Act to avoid reporting problems.

Bob Bray, Legal Services Corporation of Iowa commended the four agencies, savings and loan institutions, banks, insurance industry, as well as other organizations who devoted many hours to developing the rules. He disagreed with the factions who considered the rules to be beyond the statutory authority. The key section of the Act [1(5)] defines varying terms of mortgage instruments as "redlining," he said.

Priebe called on Oakley for his opinion of the rules. Oakley thought it was entirely possible to challenge the rulemaking beyond the federal report required based upon "what the statute says--not upon the legislature thought it was doing." It was his personal opinion that the matter should be clarified legislatively.

Mortgage Disclos-
ure Cont'd

Schroeder, in referring to the schedule of percentages of the appraised value with respect to loans, analyzed that, theoretically, every loan could be different so to be safe, you would list every loan in separate brackets on the form but this would do nothing meaningful.

Oakley noted that the Act required the Iowa Housing Finance Authority to assist in developing the rules but to his knowledge, they had not.

Bray defended the IHFA, contending they had devoted many hours to agencies involved in the rulemaking.

Robert Parks, Iowa Savings and Loan League, reiterated his position taken at the March meeting re the disclosure rules. It was his contention that the rules definitely exceed the statute. He quoted from §4 of the Act which he argued did not require as many reports as the state agencies would require.

Parks continued that nationally, the requests for the Mortgage Loan Disclosure Statement required by the Federal Act has been less than one per savings and loan association. In Iowa, 61 requests were made in a 4-year period. This represented a "very unfair waste of resources which could be better utilized in serving the customers."

He urged clarification of the rules.

Discussion of emergency filings.

Oakley emphasized that emergency rules were filed to allow institutions to preserve data base for availability late in May or June when rules adopted under the normal rulemaking procedures would become effective.

Motion to
Object

Schroeder moved to object to proposed rule 1.27 and Chapter 5 of Auditor of State; Chapter 10, Banking Department; Chapter 8, Credit Union Department; rules 5.50 to 5.54, Insurance Department. The rules go beyond scope of authority since the Act seems to provide that filing of federal disclosure forms would be sufficient.

Discussion followed:

Holden was inclined to agree with Schroeder but admitted the Act could probably be interpreted both ways.

Oakley recalled that at the public hearing on the rules, question was raised concerning reporting with respect to census tract as opposed to zip code.

Hall thought intent was to have the report by census tract and use zip code only when there was no census tract.

Montgomery pointed out an area in Warren County which does not have census tract available.

Mortgage Dis-
closure Cont'd

Oakley indicated that another key point brought out at the hearing was problem of how to deal with "oral applications." Hall said the Committee "struggled with this" but it was his understanding that most institutions will not accept an application which is not written.

Parks added that oral applications are not accepted by most savings and loans institutions and banks. That area has been covered by federal regulations. Prospective borrowers appear in person at the financial institutions and are presented with the HUD information pamphlet on loans--"Settlement Costs and You."

Responding to question by Oakley, Parks was of the opinion the rules as proposed would not require reporting of oral applications.

Michael Kief, representing Iowa Bankers' Association, stated that they were perhaps a bit more concerned re oral applications than S and L Associations, primarily, because of the type of loan they give--usually smaller loans and more "informal" than mortgage loans. In these instances, they do have the ability to respond by telephone.

Herbert Anderson, Insurance Commissioner, in a general statement pointed out that §5 of the Act provides that §§2 and 4 of the Act, with respect to insurance companies, be administered by the Insurance Commissioner. He reviewed the language in those sections and stated that his agency had worked with the Housing Finance Authority in a series of meetings and had conducted a hearing prior to drafting rules which they believe will implement the law. He concluded that if the rules are delayed, his ability to regulate as an insurance regulator would not be affected, but it would surely hinder him in doing the job the General Assembly directed.

In response to question by Royce, Anderson said that under the federal forms, terms of the loan are not reported.

Hall indicated that Representative Chiodo had requested an opinion of the Attorney General as to whether the federal form is acceptable or whether the agencies involved should be asking for additional information.

Richard Bergland commented that under the varied terms of the provisions with respect to redlining the "question is not whether it is covered by the law but whether it is covered by the disclosure requirements.

Mortgage Disclosure
Cont'd

Priebe questioned Oakley as to his input in developing the rules in question. Oakley answered that he had worked with all the agencies involved and they had been very co-operative. However, no additional work had been done since the public hearing. Oakley reiterated his reservations as to the legality of the department's moving as far as they have in the reporting requirements. Priebe questioned Oakley concerning the Governor's position re the rules and Oakley indicated the Governor would wait until the rules were adopted following Notice of Intended Action. Oakley again pointed out that emergency rules were permitted only to allow institutions to accumulate information which might be required at a later date.

Royce quoted from §4 of the Act which, in his opinion, contained conflicting provisions.

Priebe contended the Act should be clarified. Schroeder wondered if benefit would be derived from the two-page forms regarding redlining. Anderson said it was his judgment that it would allow detection of one of two elements of redlining--designating certain areas as unsuitable. It would not, in any way, determine whether the second element of the definition of redlining--varying the term of the loan--was practiced.

Bray commented that a number of states have adopted redlining regulations in varying terms and in two states they are being challenged--banks do not like the rules.

Kief alluded to Anderson's remarks and said that there are hundreds of statutes enforced by rules without reporting requirements.

Oakley referred to a point brought out at the hearing and asked, "Are the sanctions that are applied to financial institutions, including placing in jeopardy their license, the club if there is noncompliance or are there other sanctions?" Anderson was of the opinion there were none other than those in §§7 and 8 of the Act.

It was the consensus of many present that the law should be clarified.

Motion to Object
Carried

The following motion by Schroeder to object was approved by the Committee viva voce.

Mortgage Dis-
Closure Objec-
tion

The committee objects to those portions of the following rules which impose upon lending institutions disclosure requirements exceeding those required by the federal home mortgage act of 1975, 12 U.S.C. 2801 to 2809; the rules objected to are: auditor subrules 130-1.27(1) and (2), auditor rules 130-5.2 and 5.3, banking rule 140-10.2, credit union department rule 295-8.2, and insurance department rule 510-5.53. All of the rules are under notice and appear in 1 IAB 20 (3-7-79).

The committee objects to these rules on the grounds they exceed the authority delegated to the agencies under Chapter 535A, 1979 Code. Subsection 535A.4(4) specifically provides that "[r]ules established pursuant to this chapter shall permit a financial institution which is required to file a disclosure report pursuant to the federal Home Mortgage Disclosure Act of 1975, 12 U.S.C. 2801 to 2809, and the regulations promulgated under that Act, to file a copy of that report with the Iowa housing finance authority." It is the opinion of the committee this language manifests a legislative intent that the disclosure reporting requirements imposed by §535A.4 may be met by filing a copy of the federal report.

While all of the above cited rules or subrules do allow a financial institution to file a copy of the federal report, all impose additional reporting requirements. For the reasons mentioned in paragraph two of this objection it is the opinion of the committee that any reporting requirements which exceed those of the federal report are beyond the authority of the various enforcing agencies.

Schroeder pointed out that redlining rules are still in effect--the objection would not change that.

Share Drafts

Amendments to 7.4(1) and (2) re share drafts by the Credit Union Department were acceptable as published.

REVENUE

Elliott Hibbs, Deputy Director of Revenue, and Michael Cox, represented the Department for review of the following:

Address changes throughout rules, FE 3/21/79 IAB

Forms and instructions, Ch 8, N 3/21/79

Reassessment expense fund, Ch 120, N 3/21/79

Real estate transfer form, 8.1(8) F 3/21/79

Sales and use tax, fuel for grain drying, 17.3"c" F 3/7/79

Property tax and rent reimbursements to elderly

and disabled, 73.3, 73.9 to 73.11, 73.14, 73.20 to 73.27, F 3/21/79

Department officials told the Committee that there was only minor revision in the forms. Clark pointed out an incorrect word in 8.1(2), Form 95-023, line 1, should read, "Affidavit for Issuance of Duplicate Warrant." Clark also took exception to the definition of common law marriage in 73.25(c), particularly (c).

Schroeder asked if estimates had been made as to the amount of refunds re 17.3. Hibbs indicated it would be very difficult to calculate since tax had not been paid by all users.

Schroeder wondered if income tax information referred to in 73.10 would be available to anyone other than assessors

REVENUE Cont'd

Cox responded that an annual statistical report is published but Department officials emphasized there would be strict compliance with the confidentiality statutes.

Re 73.11 Schroeder wondered about the mobile home owner who has a long lease on the lot. It was his opinion the rule would favor those who owned the land. Hibbs referred to 73.20 relating to leased land.

No formal action was taken on Revenue rules.

CAMPAIGN FINANCE
DISCLOSURE

4.16

Notice, IAB
3/21/79

Robert Fulton, Commission member, and Cynthia Eisenhower, Executive Director, Campaign Finance Disclosure Commission, were present for review of 4.16:

4.16(56) Out-of-state contributions. Before an Iowa committee accepts a contribution from a committee outside of Iowa the Iowa committee must contact the commission to determine if the out-of-state committee has submitted a statement of organization and appropriate disclosure reports with the commission. Iowa committees may not accept contributions from out-of-state committees who have not filed a statement of organization and appropriate disclosure reports with the commission.

Fulton said that, in the past, they had encountered problems with out-of-state committees over whom they had no jurisdiction and their only recourse was to bring criminal action against someone who was in noncompliance with the law. He referred to §56.13 of the Code which provides that actions of a committee can be imputed to the candidate. If the committee fails to comply with Chapter 56, the candidate cannot accept money from them.

Responding to question by Oakley, Eisenhower said that 730 in-state committees are registered, not including those on local level. None at local level receive out-of-state funds. Further, Oakley asked if the rule contemplates that a committee would have to call CFD every time they received a contribution to determine if the current quarterly report was on file and he wondered what volume they anticipated. Fulton indicated two calls would be sufficient--once after July and once after October 20 reporting periods.

Fulton alluded to the problem of border counties where contributions could come from across the river or borders.

Oakley noted a public hearing was scheduled for today and asked if there had been comments on the proposed rule. Fulton stated there had been some opposition from the Democrats.

CAMPAIGN FINANCE
DISCLOSURE Cont'd

Tieden wondered how many states have similar disclosure laws and was told there are 35.

Fulton was more concerned for the volunteer workers than for the candidate. Eisenhower said that after reviewing many forms of various states, she concluded that Iowa's were the least complicated.

Schroeder expressed the opinion that the department had exceeded its authority in attempting to regulate outside of Iowa. He requested that Royce, on behalf of the Committee, request an Attorney General Opinion on the matter. There were no objections. So ordered.

Fulton pointed out that the rule as presented had cleared the Attorney General's office.

Holden thought it would be difficult to determine what is an out-of-state committee.
No further action taken.

COLLEGE AID
COMMISSION

Willis Wolff, Director, represented the College Aid Commission for review of the following:

Student loan program, Ch 10	Notice	3/7/79
Basic grant program, 2.1(7)"d"	Filed	3/7/79
National guard educ. benefits, Ch 9	F	3/7/79

Discussion centered on Chapter 10 which was intended to implement the Iowa Guaranteed Student Loan Program, effective May 1, 1979. Wolff explained that the rules are voluminous and only the Table of Contents was published but copies of the complete manual were available through the Commission.

The new program will provide loans for Iowa college students as well as out-of-state students attending school in Iowa. The money source is the lending institutions in Iowa. In order to participate, lenders will be required to sign an "agreement to guarantee loans." Copies of an agreement form were distributed to the Committee. Wolff continued that the Commission insures their lenders and the federal government in turn reinsures the Commission.

Holden expressed an opinion that federal administration of such programs had not been good. Wolff said that it is their intent to simplify the procedure, so the Commission is conducting seminars throughout the state with good attendance.

COLLEGE AID
Cont'd

Holden was somewhat dubious and questioned Wolff as to the kind of scrutiny given to the individual loans. Wolff replied that these go through their screening center and the lender scrutinizes them also, even though loans are 100 per cent guaranteed.

In response to Tieden, Wolff said that 40 other states have this type of program and default rates have been 50 per cent under federal.

Holden cautioned the Commission to be mindful of legislative concern over default of loans since they are, in effect, guaranteeing loans that have not been approved.

Chapter 9 and 2.1(7) "d" were acceptable as published.

PUBLIC INSTRUCTION

The following rules of Public Instruction were before the Committee. Dwight Carlson and Terry Voy were in attendance.

Medical examinations for employment, 3.4(14)	3/7/79
Medical examinations for athletic competition, 9.15(3)	3/7/79
School transportation, amendments to ch 22	3/21/79
School bus, ch 23	3/21/79
Gifted and talented projects, ch 56, filed emergency	3/7/79

Amendments to Chapter 22 were intended to implement Code changes and to generally "house clean."

Discussion of Chapter 23 which had been revised substantively. Oakley thought the Committee would be interested in the fiscal note he had requested from Dr. Benton concerning the proposed rules. The cost of the changes dealing with new school buses not mandated by federal regulations would amount to less than \$100 per vehicle for those of 66 passenger capacity or smaller. Those vehicles with greater capacity would have an estimated cost increase of \$325 to \$350 per vehicle.

Oakley noted that federal requirements had not been included in the estimates. He stressed the importance of careful consideration and possible delay of the rules until it was known what impact there would be on school districts. He also offered to provide Royce with a copy of changes which, in his judgment, should be made in Chapter 22 of the DPI proposed rules.

Oakley also pointed out that the proposal also deals with age qualifications for bus drivers. It was noted that there are 91 drivers under age 18.

In response to Tieden as to the reason for exceeding federal standards, department officials said that every safety aspect is not covered in federal regulations.

PUBLIC
INSTRUCTION
Cont'd

Clark noted that the work "equivalent" should be substituted for "equal" in 23.3(21)"f"(4).

A date certain was needed in 23.3(35)"d", and an incomplete sentence appeared in 23.3(44)"e".

Clark found the parenthetical insertions in 23.3(47)"b" (1) to be somewhat confusing. Rule 23.4 should be corrected by striking the "s" from "prohibits". The word "as" should be inserted in two places in 23.4(2)"a"--the fifth paragraph of (3) and the last paragraph of (4).

Schroeder wondered why the stop signal arm must be constructed of aluminum alloy--23.3(35)"b". Further, he doubted it was necessary for the vacuum tank which is connected to the stop arm to have a capacity of 1,000 cubic inches--23.3(35)"k". Department officials said these provisions were contained in the former rules.

Schroeder was opposed to prohibiting the use of certain lights by providing that they be disconnected. Carlson said the rule was intended to avoid confusion when the bus is being used for purposes other than transporting school children.

Holden observed the rules contained excessive information not really pertinent to the safety of the vehicle, e.g. specifications for undercoating the vehicles.

Holden and Schroeder requested that the department provide the Committee a comparison of the former rules and the new rules.

Carlson stated that the Committee which drafted the rules was comprised of school personnel who were cognizant of economic impact.

Discussion as to whether to request an economic impact on the changes from the previous rules. Royce reminded the Committee that the old Chapter 23 was rescinded and an entirely new set of rules was before them, thus, providing them an opportunity to scrutinize everything--not just the changes.

Doyle questioned the restriction to a "manually operated foot switch for selection of high or low beam distribution of the headlamps--23.2(19). He wondered why 23.2(21)"b" would specify a voltmeter rather than an ampmeter.

Carlson took the position that voltage was a better indicator for electrical system.

Committee members urged the Department to review the rules and make revision prior to filing them.

Chapter 56 was deferred temporarily.

ENVIRONMENTAL
QUALITY

The following rules of the Department of Environmental Quality were acceptable as published:

ENVIRONMENTAL QUALITY[400]

Air quality, emission standards, coal-fired steam units, 7.1(12).....N.....3/7/79
Air quality, ambient air quality standards for photochemical oxidants, ch 10...N.....3/7/79

PLANNING AND
PROGRAMMING

The following rules of Planning and Programming were before the Committee:

State building code, 5.200, 5.705(6)"b", 5.706(1), filed emergency.....3/7/79
Developmental disabilities program, 10.1, 10.2N.....3/21/79
Emergency energy assistance program, ch 17, filed emergency3/21/79

Don Appel, Building Code Director, explained clarifying amendments to conform with legislative changes concerning handicapped persons.

Doyle asked if recreational vehicles would be covered in 5.200[90.2 (3)b(1)] and Appel answered in the negative. Doyle also wondered if state communications systems would be covered under 5.200. Appel explained that the buildings only would be covered and modular unit structures would be included.

Appel pointed out the function of the Building Code Commissioner is to make sure that a building plan has been completed in compliance with the Code.

Holden questioned Appel concerning restrooms for handicapped in reconstructed restaurants. Appel responded that if there are restrooms for both sexes, both would have to be accessible to the handicapped. However, the building code only requires one to be accessible. Appel noted that the Agriculture Department requires separate facilities for men and women, if liquor is sold. Any exemptions would probably need to be worked out with the Ag Department.

Clell Hemphill, Director of Disabilities Programs for OPP, and Dolores Abels, Administrative Assistant, explained amendments to chapter 10.

Schroeder recommended that references to Public Laws in the Chapter include dates certain.

It was noted that "publicly" was misspelled in 10.2(3).

Walter Pickett, Energy Co-ordinator, explained Chapter 17. One point made was that anyone who received assistance last year would not qualify this year.

PUBLIC
INSTRUCTION

John Martin, Director of Curriculum, appeared for review of Chapter 56 of DPI rules relating to gifted and talented projects. IAB 3/7/79

Tieden thought this type of program would be more appropriately located in the Area Education Agency rather than in local school districts. Martin said that schools are encouraged to work with AEA's but the law did not allow for this option. The funding is directly through additional allowable growth on local school district budgets.

PUBLIC
INSTRUCTION
Cont'd

10-4-79 4-10-79

In response to question by Oakley as to the reason for the emergency filing of the rules, Martin stated that they began with an advisory committee last summer but time was lost in getting legal opinions. Martin agreed to furnish Oakley with a copy of the AG opinion on the matter. Holden concurred with Tieden but thought legislation would be needed. A pending House bill would substitute "program" for "districts".

Re 56.5, Schroeder questioned authority for requiring that "each application shall be signed by the AEA Director of Special Education..."

Martin said the law states that the AEA shall participate in the identification of students and they wanted to be sure that AEA was informed.

Doyle asked if notices had been sent to school districts to apprise them of the rules and Martin said this was done the same day the rules were filed.

Further discussion of 56.5. Members read §38 of the Act [67GA,Ch 1099]. No formal action taken.

Doyle took chair when the Senate members were excused briefly to return to the Senate Chamber.

VETERAN AFFAIRS
Chs 1 to 5

John Brokens, Administrator, Veterans Affairs Department, presented proposed rules, being Chapters 1 to 5, published in IAB 3/7/79. The rules will establish method of processing additional bonus and disability claims, as well as the War Orphans Educational Program. They will give guidelines for reporting deaths and burials of veterans and provide for a perpetual file of grave records within the state. Other rules describe their functions generally.

Doyle noted that although the Department was located at Camp Dodge, they list the Capitol as their address. This seemed confusing to him. Brokens said the Capitol address is used to expedite mail delivery (local). Three days additional time would be needed if they were to change to rural carrier service through the Grimes, Iowa post office.

Doyle recommended that the rules contain office hours. Royce pointed out that 1.2(4) lacked voting procedure to be followed by the Department. Also, they should set out the number required for a quorum of the Commission.

Oakley observed that the general description of the agency should be expanded and he was willing to assist them.

Doyle noted that 5.3 should be changed to reflect the statute by substituting "funeral director" for "undertaker".

FAIR BOARD
Ch 24

Rules dealing with events during the interim were presented by Fair Board Secretary, James Taylor, being Chapter 24 published in IAB 3/21/79 as adopted rules.

Chairman Priebe challenged 24.1(1) "a" which allowed for preference in scheduling to promoters who had previously sponsored the same interim events. Taylor explained the intent of the obligation was to those shows and activities which are held annually, e.g. the horse show.

Re question by Priebe concerning 24.1(3), Taylor said the 15 per cent charge would be applicable to those using fair-owned buildings, etc.

Clark noted that 24.5(5)"i" would be less confusing if the word "each" were deleted. Also, 24.21(1)"n", line 3, should be corrected by substituting "are" for "is".

Committee members were of the consensus that the Board should expand existing rules which would govern during the fair. Taylor was amenable.

BEER & LIQUOR
Chs 1 to 12

The Beer and Liquor Department was represented by their newly appointed Hearing Officer, Bill Armstrong. Armstrong explained that he succeeded Bill Whitten who was the author of the filed rules before the Committee--Chapters 1 to 12 which were published in IAB 3/7/79.

Doyle called attention to an incorrect citation in 4.7(3). Section 738.5 was repealed during Criminal Code revision. He also questioned the inclusion of reference to §728.3.

Clark pointed out several grammatical errors throughout the rules:

- 1.7(3), line 3, delete "departments".
- 2.6(5), line 1, add a comma after "may".
- 3.4(1), line 3, substitute "in" for the second "of".
- 3.6, line 1, add a comma after "may".
- 4.20(1), paragraph d should be rewritten to fit with the introductory clause.
- 5.1(4) and 5.1(7), substitute "the" for "such" in five places.
- 5.1(5) needed a verb to complete the sentence.
- 5.2(2), line 6, substitute "the" for "said"; delete comma after "department". Line 7, strike "such" and the comma after "liquor".
- 5.3(1), strike "thereof". 5.3(2) and (3), substitute "the" for "such" in three instances.

In re forms prescribed by the Department, Priebe took exception to the last sentence of 12.1 which provided: "The department may prescribe additional forms to be utilized in a specific case as necessary."

Discussion followed. The Committee recommended that the words "prescribe additional or" be deleted and "allow" be substituted.

BEER & LIQUOR
Cont'd

Priebe also questioned the use of "Whenever practical" in 12.1(2). It was his opinion the nebulous words should be deleted.

Holden brought up the question--Can one of two restrooms serve both sexes for handicapped persons. Armstrong thought this would be a matter for the Agriculture Department to decide.

Holden recommended that 4.2(3) be amended to spell out the temperatures of the hot water to conform with restaurant requirements.

Re 4.20, 4., Holden thought travelers checks should be accepted. Further, why is the buyer rather than the seller responsible for tax decal in 4.22. Oakley commented that this protects the department.

Holden referred to 4.23(4) which defined "a private place". Armstrong said a public place can become private if no publicity is given.

Holden took issue with the fact that the Department is doing very little to enforce their rules. He added that policing the sale of beer and liquor in Iowa is very poor. He cited instances of ads in the Des Moines Register which were in obvious violation of the Code.

Armstrong quoted from §123.14(1) which states that the Public Safety Department shall be the primary beer and liquor enforcement authority for the state.

Priebe requested the Department to advise him as to the disposition of bottles of liquor which contained the seal of Iowa. These bottles appeared approximately three years ago.

Schroeder expressed opposition to 4.22(1) "d" which read: "The liquor must be served to the delegates or guests without cost." He pointed out this would be a violation of the bribery law for legislators.

No formal action was taken regarding the rules since the Department was willing to make changes recommended.

PAROLE BOARD

Chs 1 to 9

Don Olson, Executive Secretary, and Bernadine Feller, Liaison Officer, Parole Board, were present to answer questions concerning their filed rules Chapters 1 to 9. The rules are new.

In response to question by Doyle, Olson said that 6.2 is identical to the Social Services rule on conditions of parole agreement.

Committee Meeting Dates It was pointed out that a special meeting of this Committee would be held April 24 for the purpose of reviewing rules published in the April 4 Bulletin.

It was agreed that a special meeting should be held on May 15 in lieu of the statutory May 8 date.

Chiropractic Examiners Oakley questioned the Committee as to when they might be reviewing rules of the Chiropractic Board of Examiners which were published under Notice in 2/21/79 IAB. To date, the Committee is awaiting an opinion of the Attorney General concerning the rules and does not plan a review until the opinion has been rendered.

TRANSPORTATION Rob Forrest, Office of Driver License, and Candy Bakke, Director of Office of Operating Authority, appeared for review of the following rules of the Transportation Department:
 Driver's license, birthdate, (07,C)13.11(8)"f" , Notice.
 Vehicle registration and certificate of title, special mobile equipment, (07,D)11.48,11.49(4), 11.49(5), Notice.
 Permits, compacted rubbish vehicles, (07,F) Ch 6, Notice.
 Driver's license, age restrictions, (07,C)13.5(6)"d" Filed.
 All amendments were published in IAB 3/7/79.

Red Bar on License Discussion of proposed paragraph f to be added to 13.11(8) which would require that a distinguishing mark identifying persons who are under the age of nineteen be indicated on their driver's license.

Forrest explained that the drivers' licenses are "red marked" as an indicator for a person wanting to see a proof of age.

Schroeder was vehemently opposed to such a practice and moved to object to 13.11(8) f on the grounds that it was beyond the statutory authority and that it was discriminatory.

Tieden was somewhat sympathetic with the Department but thought photographs on licenses had helped..

The red bar on licenses of minors has been in use since 1976 as a result of requests from restaurants and taverns.

Objection The Schroeder motion was approved with 4 ayes. Clark and Holden out of the room and not voting.

Following is the complete text of the objection which was filed with the Code Editor:

TRANSPORTATION

Cpnt 'd

The committee objects to proposed amendments to paragraph 820-[07,C] 13.11(8)"f" on the grounds they are arbitrary and beyond the authority of the department. The amendments are under notice and appear in I IAB 20 (3-7-79).

The provisions would require that drivers licenses issued to persons under the age of nineteen would be red marked, to insure that these persons are easily identifiable as being under age to purchase beer or alcoholic beverages. It is conceded that no provision is made for the removal of the red mark when the licensee attains the age of nineteen.

It is the opinion of the committee that "red marking" is beyond the authority granted to the department under §321.189(1), 1979 Code. While that subsection does provide that "[t]he license may contain such other information as the department may by rule require.", it is the position of the committee that red marking does not constitute information as contemplated in that subsection. Rather, it establishes a mechanism to automatically and arbitrarily identify the licensee as a member of a group of persons who are not entitled to purchase beer or alcoholic beverages. §321.189, 1979 Code, establishes a form for identifying persons who are legally entitled to operate motor vehicles, and for identifying persons who are donors under the Uniform Anatomical Gift Act; that subsection does not relate to the identification of persons legally entitled to purchase beer and liquor.

It is also the opinion of the committee that red marking licenses is arbitrary, since it does not adequately identify the licensee as being under the age of nineteen. Under the provisions of §321.196, 1979 Code, an eighteen year old applicant would receive a four year license, which, under the provisions of paragraph 820-[07,C] 13.11(8)"f", would be red marked for the entire period of the license. Unless the licensee chooses to undergo the trouble and expense of having the license reissued, the licensee will be classified as being underage for three years past his or her nineteenth birthday. This places an arbitrary burden upon the licensee considering that a cursory examination of the license will easily reveal the licensees birth date.

Bakke explained amendments re special mobile equipment which were acceptable as published.

She said that Chapter 6 sets up procedures for dealing with compacted rubbish vehicle permits.

Schroeder wondered why the limitation to hydraulic or electrically operated ram in 6.1(1).

He suggested that 6.2(5) be eliminated from the rules. It provided: "Maximum axle weight allowed on the interstate system shall be 20,000 pounds on a single axle and 34,000 pounds on a tandem axle." This was needed because in some cities, including Des Moines, you may have the interstate system as well as another highway on the same roadway. It was his opinion, it would be better to remain silent on the issue because of the few garbage trucks going through the city.

Bakke preferred to review the matter with the Attorney General since there was a law on the subject. She was concerned as to the problem of permit information.

It was noted that §321.473 allows 22,000 pounds until June 1983--federal regulation establishes the lower weight. Bakke indicated there is random enforcement by federal authorities and the federal law does take precedence.

4-10-79

TRANSPORTATION Royce was concerned for the citizen who would rely on
Cont'd the permit.

Schroeder's point was well taken but it was the consensus
of the Committee that no formal action could be taken.

There was no review of the following rules:

BANKING DEPARTMENT[140] F 3/7/79
Time deposits, 8.2(2)"a"
CITY DEVELOPMENT BOARD[220] 3/21/79
Monthly meetings, 1.3, 2.11, filed emergency
EDUCATIONAL RADIO AND TELEVISION FACILITY BOARD[340]
Pay increase, anniversary date, 3.5(2)"c", filed emergency 3/7/79
HEALTH DEPARTMENT[470]
Physical therapists, disciplinary procedures, 138.100 to 138.113 F 3/7/79
HEALTH DEPARTMENT[470]
Barber examiners, continuing education, 152.101(5), 152.102(3) N 3/7/79
INSURANCE DEPARTMENT[510]
Petitions for adoption of rules, 2.2(2), 2.3 to 2.6 F 3/21/79
MERIT EMPLOYMENT DEPARTMENT[570] F 3/7/79
Pay plan, amendments to ch 4
MERIT EMPLOYMENT DEPARTMENT[570]
Recruitment and examination, 5.2(1), 5.4(2), 5.5, 5.8(2)"b", "f", 5.9(4), 5.9(6) N 3/7/79
MENTAL HEALTH AUTHORITY[567]
Committee members, 1.3, filed emergency 3/7/79
REAL ESTATE COMMISSION[700]
Brokers and salespersons, examinations, licenses, 1.3, 1.13, 2.2 N 3/21/79
VOTER REGISTRATION[845]
File update, 7.1(4)"e" N 3/7/79

ADJOURNMENT Chairman Priebe adjourned the meeting at 12:45 p.m.
Special meeting to be held Tuesday, April 24, 1979, 7:00 a.m.

Respectfully submitted,

Phyllis Barry

(Mrs.) Phyllis Barry, Secretary

Approved

Chairman

Date _____



TERRY E. BRANSTAD
LIEUTENANT GOVERNOR

OFFICE OF

THE LIEUTENANT GOVERNOR

STATE CAPITOL
DES MOINES, IOWA 50319

515 281-3421

May 14, 1979

Phyllis Barry
Deputy Code Editor
L O C A L

Dear Phyllis:

This is to inform you that last week I did
reappoint Senators Priebe, Holden and Tieden
to the Administrative Rules Review Committee.

If you have any questions please feel free to
contact me at this office.

Best wishes.

Very truly yours,

Terry E. Branstad

TEB/gc

ANNOUNCEMENT BY THE PRESIDENT OF THE SENATE

President Neu, in accordance with Section 17A.8(1), 1977 Code of Iowa, announced the appointment of Senators Dale Tieden and Edgar Holden to the Administrative Rules Review Committee to fill the unexpired terms of Senators E. Kevin Kelly and Minnette Doderer.

S. J. 21, 1979

The Speaker announced the appointment of Representative Betty Jean Clark of Cerro Gordo County to the Administrative Rules Review Committee to fill an unexpired term ending April 30, 1979.

H. J. 94, 1979

APPOINTMENTS TO THE ADMINISTRATIVE RULES REVIEW COMMITTEE

Speaker Millen announced the reappointment of Representatives Betty Jean Clark of Cerro Gordo County and Laverne W. Schroeder of Pottawattamie County and the appointment of Representative John E. Patchett of Johnson County to the Administrative Rules Review Committee to terms expiring April 30, 1983, pursuant to Section 17A.8 of the Code.

*H. J. 2017
5/2/79*