

MINUTES OF THE SPECIAL MEETING
of the
ADMINISTRATIVE RULES REVIEW COMMITTEE

Time of Meeting: Thursday and Friday, January 4 and 5, 1979, 9:00 a.m.
Said meeting was held in lieu of the statutory one of 1/9/79.

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

Members Present: Representative W. R. Monroe, Jr., Vice Chairman, Representatives Donald V. Doyle and Laverne W. Schroeder; Senators E. Kevin Kelly and Minnette Doderer.
Not present: Senator Berl E. Priebe, having been excused for vacation.

Minutes: Also present: Joseph Royce, Administrative Co-ordinator.
Schroeder asked and received unanimous consent to dispense with reading of minutes of the December meeting and that they stand approved. So ordered.

New Members
Welcomed Chairman Monroe welcomed Senators William Holden and Dale Tieden, the newly appointed members to this Committee.
to replace Kelly & Doderer.

CONSERVATION
COMMISSION Kenneth Kakac and Dr. William Farris represented the Commission for review of Chapter 111--Wild Turkey Hunting--IAB 12/27/78.

Wild Turkeys Kakac stated that said rules were identical to those published under Notice in IAB 10/18/78. Two major changes were in the zones and number of licenses to be issued. Also present for the review were Representative Philip Davitt, District 58, and Representative Arlo Hullinger, District 94.
Davitt questioned the advisability of changing the zoning to permit hunting as far north as Highway 92 since he had resided in the area 47 years without ever sighting turkeys. He suggested moving the line 10 to 15 miles south of 92, contending it was unfair to sell licenses to hunt in areas where no game exists.

Farris responded the boundaries were intended to be a convenience to the hunters and added there would always be unsuitable areas in all zones.

Hullinger quoted from the statute on biological balance and requested the Committee to delay the rules for 70 days. He indicated he had attended the hearing but had not received detailed materials re the rules which he had requested. Farris reported that information had been mailed to both Davitt and Hullinger. Davitt had received his.

Farris said that 188 turkey observations had been made in 4 different counties. Hullinger was doubtful of the accuracy of such reporting.

CONSERVATION
Cont'd

Farris continued that there was a specific licensing procedure for determining who would receive the 3,195 licenses this year. A 70-day delay would create difficulty in processing the applications.

Kelly pointed out that decreasing the hunting area could remove the challenge which many hunters prefer.

Schroeder took the position that a delay at this time would create more problems and suggested a detailed study for next year. He recommended adjusting the number of licenses issued and that a detailed analysis be completed in Zone 4. No formal action by the Committee.

REVENUE

Elliott Hibbs, Deputy Director of Revenue, and Carl Castelda, Excise Tax Division, were present for review of the following:

REVENUE, DEPARTMENT OF [730]

Sales and use tax, containers, labels, 18.7 N.....	12/13/78
Railroad companies, ch 76 ... N.....	12/27/78
Utility companies, ch 77 N.....	12/27/78

Castelda led the discussion on proposed 18.7 relating to sale of containers, labels, pallets, wrapping materials and other similar articles and receptacles as to sales and use tax on same.

In reply to Schroeder's question, Castelda indicated the new proposal is changed substantially from the existing rule. He continued that areas of protest before the Tax Review Committee prompted the Department to a closer scrutiny of the rule, resulting in "narrowing it to comply with the statute." Castelda added that the statute requires tax exemption for containers only when they are used in the processing operation, unless they are purchased for resale. Sacking would not be considered processing.

General discussion as to what constitutes processing. Castelda cited a Supreme Court case involving Zoller Brewing Company and he noted there are approximately six supreme court cases wherein "processing" is defined. Castelda called attention to the fact that §422.42(3) of the Code, relating to sales tax, does not mention containers. The use tax statute--423.1(1) redefines "processing." The Department was faced with the decision whether intent was to exempt containers from use tax and not from sales tax. After studying all information, the Department chose not to make a distinction between the use of containers in processing for sales tax purposes and use tax purposes. It was apparent to the Department that the legislature intended to exempt containers used in a processing-type operation or in situations where a container has a status of any other tangible personal property and was actually re. Other states were contacted during the Department's research and 29 of those exempted containers from tax.

REVENUE
Cont'd

Castelda pointed out the Department wants the rule brought to the attention of the public and the legislature so it can be determined if a statutory change is needed.

ECONOMIC
IMPACT
18.7

Kelly and Schroeder requested that, pursuant to §17A.4(1)c of the Code, The Department of Revenue prepare an economic impact statement re 18.7(1).

Castelda urged interested persons to attend the public hearing scheduled for this afternoon concerning the proposed rule.

General discussion of tax on containers.

Mary I. Fitzgerald, Executive Director, Iowa Retailers Food Association, read a prepared statement wherein the Association expressed opposition to the proposed rule. Major questions included: What is involved with respect to processing; What constitutes an "integral" part of other tangible personal property intended to be ultimately sold at retail; Are items in question purchased for resale; and, Should the assessment of additional tax be by rule or by the General Assembly?

Fitzgerald commented on problems confronted by bakeries, meat markets, produce departments, delicatessens, etc. The Association took the position the rule would increase consumer cost and questioned whether the legislature intended this in view of the fact that sales tax on food had been removed a few years ago to relieve costs to the consumer.

10:30 a.m.

Doderer arrived.

Pete Hinter, Iowa Retail Federation, and William Post, Attorney, expressed opposition to the proposed rule. No further action by the Committee.

Chs 76, 77

Gene Eich, Deputy Director of Property Tax Division, stated that Chapters 76 and 77 were similar and covered utilities which were basically public service companies assessed by the Department. He said the proposed rules are intended to provide the Department an opportunity to utilize all techniques in establishing market value of the particular companies.

Wayne Alcott, representing Northwestern Bell, indicated they would need more time to study the rules as to their impact.

Gus Scovgaard, appearing in behalf of Iowa Utilities Association questioned the short time allowed for comments from the public. Hibbs responded that the Department was complying with the statute and there would be time for input after the rules were published in their adopted form, prior to their effective date.

REVENUE
Cont'd

Schroeder brought up a matter which was not officially before the Committee regarding the revised (yellow) form delivered to county recorders on December 28, 1978, to be used effective January 1, 1979 for recording real estate transactions and other matters required to be recorded. Schroeder took the position the form should have been published under Chapter 17A of the Code.

Department officials said the simplified yellow form replaced blue forms which were described in the agency's rules. They cited printing problems which resulted in late delivery of the forms and conceded the Department was remiss in failing to submit the form under rulemaking procedures.
No further action.

Recess: The meeting was recessed at 11:15 and reconvened at 11:25 a.m.

CITY FINANCE Kent Smith, City Finance Committee member, and Darol Schweer were present for review of proposed Rule 4.4(384) pertaining to budgeting for employee benefits.
Doderer recommended that said rule, which was published in IAB 12/13/78, be rewritten for clarification.

ARTS COUNCIL Dwight Keller represented the Arts Council for filed amendments
Ch 2 to Chapter 2 of their rules--IAB 12/27/78. Keller pointed out the rules had been modified to provide that mail deadline dates be governed by §622.105 of the Code.

Doderer recommended that the agency's rules of procedure be amended to include quorum information.

FAIR BOARD James Taylor, Executive Secretary of the Fair Board, accompanied by Jerry Coughlan and Cecil Harris, were present for review of proposed rules governing interim events at the fairgrounds--Chapter 24, published IAB 12/27/78.

Schroeder preferred that the restriction to Polk county only be removed in 24.1(1).

In re insurance requirements, Schroeder suggested a "master liability policy. Taylor noted that a Kansas City company offers high risk coverage. Many nonprofit organizations have been turned away because they cannot afford the 150 to 200 dollar per day liability policy.

Doyle thought 24.1(4) needed clarification as to the use of "each". He further questioned the meaning of "at cost" in 24.3(5)e.

Doyle noted that 24.2(1)c would seem to indicate a monopoly by limiting the address system to that from Carter Sound. Taylor responded that the Board contracts with Carter on an annual

FAIR BOARD basis in an attempt to avoid the possibility of inexperienced persons "tampering with the existing sound system."

Discussion of 24.2 pertaining to miscellaneous charges, including service and labor by plumbers, electricians, etc.
 Doderer took the position the charges should be enough to include fringe benefits to avoid placing the State in the position of subsidizing.
 No formal action by the Committee.

PUBLIC INSTRUCTION 3.5 John Martin, Director of Curriculum, DPI, explained proposed Rule 3.5(257) concerning the multicultural, nonsexist educational program--IAB 12/27/78.

Schroeder questioned the meaning of "lifestyles" in 3.5(5)h. Martin indicated the Department was attempting to avoid stereotyping.

Tieden expressed concern that the last sentence of 3.5(5)b would allow women in wrestling competition. After some discussion, the Committee concurred that a period should be placed after "society" in line 5 of b.

SHORTHAND REPORTERS Floyd Pinder told the Committee that Chapter 1 of filed emergency rules of the Shorthand Reporter Examiners set out past practices for conducting examinations.

In response to Monroe, Pinder pointed out that during the process of Code revision, annual renewal provisions for them had been eliminated, thus, sanctions imposed would be meaningless until the matter is resolved.

Doyle requested that quorum provisions be set out in the rules even though it appears in the statute. He also asked that dates certain be included in 1.4(8). Doyle questioned use of "general education" in 1.4(6) since the Code is silent on this.

Re 1.1(3), Schroeder expressed the opinion that "or such variants as the board may select" seemed to leave the matter "wide open." Pinder said that the context of the material being used is taken into consideration.

Discussion as to the various styles and methods of shorthand--Pinder pointing out that it is difficult to certify notes of another individual.
 No formal action by Committee.

Noon Recess: Chairman Monroe recessed the meeting at 12:20 p.m.
 Reconvened: Reconvened at 1:55 with Monroe in the Chair.

ENVIRONMENTAL David Bach, Hearing Officer, and B. Z. Karachiwale, represented
QUALITY the Department of Environmental Quality for review of filed
rules intended to implement 67GA, Ch 1162 re mandatory deposit
on certain beverage containers--IAB 12/27/78.

Objection Discuss of refund labeling in 34.3.
34.3(2) Schroeder moved objection to 34.3(2) on the grounds that it
was unreasonable and the objection could be overcome by amend-
ing the subrule as follows:

34.3(2) The minimum size of the words "Iowa Refund 5¢" shall be 9 point type (approximately .125 inch or 3 millimeters) if the words are embossed and 18 point type (approximately .25 inch or 6 millimeters) if the words are otherwise affixed to the container. A stamp or label may have the words "Iowa Refund 5¢" in less than 18 point type if the label is submitted to the executive director and the executive director determines that the contrasting color, or the characteristics of the stamp or label make the stamp or label as easy to discern as a stamp or label with 18 point type.

Bach pointed out that competing interest groups are involved in this controversy. It was a Commission decision that bigger type would be easier to read. However, many states with similar law do not have minimum requirements.

Motion The Schroeder motion carried with 4 ayes.

Carried

Schroeder also requested that a letter be sent to the Speaker and President of the Senate advising them to apprise the appropriate standing committee of this situation, in the event legislation is needed. No objection voiced. So ordered.

Holden was concerned as to restriction in 34.8(2) that "a non-refillable metal container may be dented or partially crushed, but may not be crushed flat". He maintained this would defeat the purpose of the Act. It was his contention that if the stamp could be identified, the can should be returnable. Doderer offered a possible solution by striking the words "but may not be crushed flat".

Bach explained that flattening of the cans would be the final process to indicate cans which had been redeemed for the deposit fee.

Motion Doderer moved objection to 34.8(2), the portion of the fifth sentence which provides "but may not be crushed flat" on the grounds it is unreasonable. The objection could be overcome by eliminating the objectionable words and placing a period after the first word "crushed".

James West, appearing on behalf of grocers, expressed the importance of finding a method to cancel containers in order to avoid duplicate refunding.

DEQ Cont'd

The Doderer motion to object to 34.8(2) was carried unanimously

Schroeder voiced opposition to the labeling and deposit exemption for interstate carriers.

Motion

Bach responded that the matter in question was included in an interpretative rule since the legislature did not spell it out. Schroeder moved to object to 34.8(1) on the grounds that the Department exceeded its statutory authority in interpreting the Act to grant exemption to interstate carrier.

Discussion of the motion.

Roll call on the motion showed Kelly and Monroe voting "no", Doyle and Schroeder "aye" and Doderer out of the room and not voting. Motion lost.

Motion

Schroeder moved to delay 34.8(1) and 34.4(4) under 67GA, SF244, for consideration by the General Assembly.

34.4(4) provided: "An order of the executive director approving a redemption center shall not authorize a redemption center to accept and pay the refund value of beverage containers purchased from Iowa state liquor stores."

Bach referred to a federal communication as the basis for the subrule.

Motion

Schroeder withdrew his motion. He then moved to delay for 45 days (SF 244) subrule 34.4(4). Roll call showed Doyle and Monroe voting "no"; Kelly and Schroeder "aye"; Doderer out of the room and not voting. Motion failed.

Motion to Delay

Schroeder moved to delay 34.8(1) until expiration of 45 days into the 68th GA to allow legislative review. Motion carried viva voce.

Motion

Schroeder moved to refer 34.8(3) and 34.8(4) to the General Assembly under 67GA, SF244. The motion failed. Doyle, Kelly and Monroe voting "no", Schroeder "aye" and Doderer "pass".

Schroeder posed the question as to whether the form referred to in 34.3(7) should be published. It was the consensus of a majority of the Committee that adequate description was set out in the subrule. No further action.

HEALTH

✓ Dana Petrowsky, Division of Health Care Facilities, represented the Health Department for review of filed emergency amendments to Chapters 57 to 59 and 63, published IAB 12/13/78. According to Petrowsky, the corrective amendments would basically restate the language which had been followed during the last two years.

There was discussion regarding the status of emergency rules filed under revised Chapter 17A of the Code. It was noted

HEALTH Cont'd that an emergency rule would cease to be effective 180 days after an objection was filed by the Administrative Rules Review Committee.

Feb. Agenda Schroeder requested and received unanimous consent that the Health Department emergency amendments be placed on the February 13 agenda of this Committee.

PSYCHOLOGY Peter Fox, Hearing Officer, Department of Health, was present
EXAMINERS for review of filed amendments to Rule 140.6, subrules 1, 3, 5, 9 and 10, published 12/27/78, and filed emergency after notice Rules 140.200 to 140.214, published 12/13/78 IAB, both sets governing psychologists.

Doyle recommended that a definite number of hours be stipulated in 140.6(9)b.

In re grounds for suspension or revocation of a psychologist's license, Doyle found 140.212(3)b to be somewhat coercive. Said paragraph listed "Involuntary commitment for treatment of mental illness, drug addiction or alcoholism" as a personal disqualification.

No formal action by the Committee.

NURSING HOME The amendment to 2.6(4)a, Nursing Home Administrators rules,
ADMINISTRATOR relating to denial of license and disciplinary actions, was
2.6(4) acceptable as published in IAB 12/27/78.

ENGINEERING Filed rules of the Engineering Examiners were acceptable as
EXAMINERS published, IAB 12/27/78, being Chapter 3 and 4.4 and 4.5.

SUBSTANCE Randy Ratliff, appearing for the Department of Substance Abuse,
ABUSE explained that the following amendments were filed to overcome prior objections of this Committee:

Licensure standards for treatment programs, 3.1(9, 12, 15, 17, 25, 26), 3.3-3.5, 3.7, 3.9, 3.12, 3.15(6), 3.16,
3.22(G, 9-11, 15), 3.25..... 12/27/78

No further recommendation by the Committee.

TRANSPORTA- Robb Forrest and Jim Fisher explained proposed amendment to
TION DEPT. DOT rule (07,C)13.5(6)"d" pertaining to operator's license for disabled individuals, published IAB 12/27/78.

Doderer recommended that use of "medical information" be clarified.

Tom Jackson, DOT, Advanced Planning Division, presented filed Rule (08,C)3.15, published IAB 12/13/78, which was acceptable to the Committee.

Recess: Committee recessed at 3:20 p.m. and was reconvened at 3:45 with Monroe in the Chair.

MENTAL HEALTH Carolyn Brewer, Consultant for Mental Health Authority, appeared
AUTHORITY for review of the following rules:

MENTAL HEALTH AUTHORITY[567]

Organization, ch 1, filed emergency after notice.....	12/27/78
Guidelines for grants-in-aid, amendments to ch 2, filed emergency after notice	12/27/78
Standards, ch 3, filed emergency after notice	12/27/78
Review and evaluation, ch 4, filed emergency after notice	12/27/78
Administrative procedures, ch 5, filed emergency after notice	12/27/78

In response to question by Monroe concerning medication management and control, Brewer said that 3.16(2)b would be applicable only to medications issued and distributed at the center.

At the suggestion of Doyle, Brewer was willing to amend 1.3(2) to provide that 10 votes would be required for committee action. It was noted that the statute sets July 1 of each year for the organizational meeting of the Committee on Mental Hygiene.

SOCIAL
SERVICES

The following rules of Social Services were before the Committee:

Oral presentations, 3.2	F.....	12/27/78
Security medical facility, visitation, 20.2(1), 20.2(3)"a", 20.2(8)	F.....	12/27/78
Community based corrections, ch 25	F.....	12/27/78
Aid in dependent children, resources, 41.6(1, 6, 7)	F.....	12/27/78
Medical assistance, dentists, 78.4	F.....	12/27/78
Medical assistance, chiropractors, 78.8	F.....	12/27/78
Medical assistance, transportation, 78.1(1)"f", 78.11(1), 78.13	F.....	12/13/78
Gross income determined for eligibility, 130.3(3)	F.....	12/13/78
Homemaker-home health aide services, 144.2(4), 144.5	F.....	12/13/78
Rural rehabilitation student loans and grants, 146.3(1), 146.5(1-3)	F.....	12/13/78
Aid to dependent children, social security number, 41.2(6)	N.....	12/27/78
Medical services, eligibility, 75.5	N.....	12/27/78
Eligibility, 130.2(5)	N.....	12/27/78
Child day care services, ch 132	N.....	12/27/78
Child care center financial assistance, ch 133	N.....	12/27/78

Ch 25

Chapter 25 was taken up out of order.

Judy Welp, ACT Division, summarized the rules. She said they had been condensed with broader application making them more acceptable to the facility affected.

Doyle requested that 67GA citations throughout the rules be converted to appropriate Code sections when possible. He also raised question as to information contained in case records--specifically 25.4(6)"1" to the words "any other information judged pertinent by department staff". John Walton, Department official, said that determination would be made on an individual basis. After some discussion, the Department was willing to delete paragraph "1".

In re confidentiality of client records, Doyle requested that 25.4(10) be expanded to include procedure to be followed for a client to have access to his or her file. Doyle continued by questioning the definition of "evidence" as used in 25.8(16). He recommended expansion of the subrule to define "nonillegal contraband" thus, providing uniform application throughout all institutions. Walton thought "contraband" should be included in the definition portion of the rules.

SOCIAL
SERVICES
Cont'd

Charles Richard, Deputy Ombudsman, maintained the rules were deficient in that they do not address discipline policy or any sort of appellate review and there were no procedures for handling of clients money. Further, no provision had been made to allow a client to notify his or her attorney or ombudsman at any time. Finally, the rules lacked guidelines for volunteer programs.

Harry Woods, Director, Division of Adult Corrections, was concerned that appeal process be clearly stated. The following language was proposed to be added as a subrule to 25.4 or a paragraph added to 25.4(9): "The director shall ensure that each agency has a written client discipline policy including procedure for appeal process."

Department officials were willing to expand 25.8(7) to include a fiscal policy re clients money.

Referring to Richard's recommendation for a Handbook for volunteer programs, Woods explained that as this service grows, the matter will be addressed.

Re 25.8(4) "b", Doyle suggested the word "container" be substituted for "bottle". Further, he questioned the necessity for the legal publications mandated in 25.4(3). Woods defended the requirement contending that many district directors need access to many areas of the laws and administrative rules. Schroeder concluded that purchase of the entire set of Code and rules would be preferable and probably less costly over a period of time.

Monroe pointed out that that the words "controlled substance" have been substituted for "narcotic" in recent legislation and 25.8(4) should reflect this.

Linda Murken, representing Second Judicial District, distributed written recommendations for amendments as follows:

ACCREDITATION (Section 25.2)

Proposed Rule 25.2(I)

We are opposed to the current wording of this proposed rule because of the fact that Chapter 154 of the Code of Iowa details procedures for the sanction of a district department not in compliance with the rules (Section 9.). Therefore, we would request that the proposed rule be amended by the addition of the phrase "... except as provided in Chapter 17A and Chapter 154 of the Code of Iowa," at the end of the current wording.

Proposed Rule 25.2 (8)

We are opposed to the current wording of this proposed rule because no explanation is given for the reasons of issuance of accreditation for less than one year, and feel that arbitrary decisions could result from this. We would recommend that this rule be amended to read as follows:

"The Chief may issue accreditation of programs for a year. When a component of the district department's program is found not to be in compliance, accreditation shall be issued to those components in compliance and, at the Chief's discretion, provisional accreditation may be issued for ninety or one-hundred eighty days pending compliance by that component."

DISTRICT DIRECTOR (Section 25.4)

Proposed Rule 25.4(8)

We recommend that this proposed rule be amended to require a case plan for "each probation client under supervision. . ." rather than all clients under supervision. Pre-trial release clients are under supervision for relatively short, unpredictable periods, as their court cases may be disposed of at any time. A case plan is impossible to effectively implement for such clients, as there is not normally sufficient time to accomplish goals set.

Aside from this practical difficulty, there are a growing number of persons, including Chief Judge Leo Oxberger, Iowa Court of Appeals, who believe the status of pre-trial clients (convicted of no offense and presumed innocent) prohibits case planning unless voluntarily agreed to by the client or court ordered as a condition of release. We, therefore, feel that case planning should be optional for pre-trial clients.

PRE-CONVICTION SERVICES (Section 25.5)

Proposed Rules 25.5(1)

The phrase "release on own recognizance" has been interpreted differently throughout the State, dependent upon the needs of various judiciary for supportive services. Because of these varying interpretations, we feel that the substitution of the phrase "pre-trial interviews" for "release on own recognizance" in the last line of this proposed rule would eliminate confusion in the accreditation process.

Proposed Rule 25.5(2)

We feel that the requirement for conducting pre-trial interviews every 24 hours in every county in the State is unrealistic and will be very costly.

Discussion followed.

In re 25.4(8), Woods urged against a "state of regression on pretrial matters."

Motion

Kelly moved the following objection:

The Committee objects to subrule 770-25.4(8) on the grounds that the subrule is arbitrary, capricious and unreasonable. The subrule provides that each community based correction center develop case 'plans' for each client. Since a number of these clients are in the centers as part of a pre-trial release program it is completely improper of the department to mandate a plan for a client who has not yet been adjudged guilty of any criminal offense.

Motion carried.

Woods indicated he would oppose anything less than the 24-hour requirement because of discrimination of rural defendant. Committee members concurred.

Doyle noted 25.5(2) should probably be expanded to indicate exceptions, an example being federal lockup.

Recess:

Meeting was recessed at 5:20 p.m. Remainder of Social Service rules pending for tomorrow.

Reconvened: Meeting was reconvened at 9:20 a.m. Doderer in the Chair.
Monroe excused to attend a National Guard hearing.

CIVIL RIGHTS Barbara Snethen, Hearing Officer, and Debra Gunnerson, Developmental Disability Protection and Advocacy Division Head, represented Civil Rights Commission for review of the following:

Terms and conditions of employment, discrimination by sex and disability,
public accommodations, 1.1(7-9), 1.3(1), 1.8(2), 1.16, 1.17, 3.9, 6.1, 6.2(8), ch 7 N 12/13/78
Rules of practice, referral and deferral agencies, 1.3(3), 1.4(1), 1.5(1, 2, 4), 1.9(1), 1.15(1-5), rescinds ch 7,
ch 8 renumbered ch 9, ch 10, filed emergency 12/13/78

Schroeder questioned the intent of 1.1(8) defining "retirement plan and benefit system." Snethen said the Department thought the definition was needed because of the final decision of the Supreme Court concerning pregnancy leave. Copies of said decision were distributed.

Motion Schroeder moved that the Speaker and President of the Senate be forwarded copies of the amendments with the recommendation that they be sent to the Labor and Industrial Relations and Human Resources Committees of the Legislature for their perusal. Motion carried with 4 ayes.

Motion After some discussion Schroeder asked and received unanimous consent to amend his motion to include 1.1(7), 3.9, 6.1 and 6.2(6).

Motion Schroeder moved that proposed Chapter 7 be referred to the legislature for review to determine whether or not it falls within the legislative intent. Snethen pointed out that the rules did not pertain to disabilities.

Doderer defended Chapter 7 as being long overdue.

Schroeder motion failed, there being 3 ayes and 1 no.

Share Drafts Schroeder brought up the matter of share drafts and moved that
Banking the Banking Department be petitioned to amend their subrule
Dept. 27.4(1) as follows:
The practice of writing share drafts by members for the payment of funds to nonmembers shall terminate ~~February 2, 1979~~ March 2, 1979. The delay in the termination date would give the General Assembly additional time to consider proposed legislation on share drafts.
Motion was deferred temporarily.

LABOR BUREAU Walter Johnson, Deputy Commissioner of Labor, explained proposed
6.6 rule 6.6 governing consultation with employees, published IAB 12/27/78.

Monroe returned to the meeting briefly.

BANKING The Schroeder motion on the Banking petition was taken up.
Motion Motion carried with 4 ayes, Kelly voted "no".

LABOR Resumed Schroeder expressed concern as to possible abuse of the proposed consultation program. No formal action taken, however.

BEER & LIQUOR Rolland Gallagher, Director, Beer and Liquor Control Department, and Bill Whitten, Hearing Officer, presented proposed revision of Chapters 1 to 5 and 10 and 12 of their rules. Gallagher said the rules, published in IAB 12/27/78, had been revised to conform with Chapter 17A of the Code.

Doyle noted that 2.4(4) and 2.5(1) were nebulous with reference "author" and "petitioner". Whitten indicated that, in most cases, "author" would be the department and the "petitioner" would be requesting rulemaking.

Doyle questioned the five-day limitation for written appearance in 2.7(1) and recommended a reduction to two days. Further, he pointed out that the notice of oral presentation portion of 2.6(3) should be corrected to provide twenty days rather than ten.

Discussion of 4.7 generally. Doyle recommended that "vagrants" be eliminated from 4.7(5) since the term no longer appears in the law.

Gifts from
"Supplier"

In re 4.7(6)--"Prohibited interest in business of licensee. No licensee, permittee or any agent or employee thereof shall accept any aid or assistance by gifts, loan of money, free merchandise, treats, premiums or rebates or property of any description or other valuable things from any supplier"--question was raised as to the propriety of gift signs from the "supplier" defined in 4.1(3). An example of such sign would indicate "Joe's Bar" with a pepsi logo. Also, Doyle wondered if a beer company could legally give clocks and lighted pictures. Gallagher pointed out that it is unlawful practice to have outside beer signs on licensed premise. The above examples would not be considered of utilitarian value.

Motion

Schroeder moved that 4.7(6) with respect to the sign question be submitted to the Lt. Governor and Speaker for referral to the appropriate Committee for review and study. Motion carried viva voce.

Clark noted that 4.2(1) and 4.2(3) could be rewritten and condensed for clarity.

Doyle called attention to error in 4.11 in use of "not" in line 6. The correct word would be "nor". After additional perusal of the rule, he doubted there was statutory authority for it. The Committee concluded that §123.44 was incorrect as implementation section.

BEER & LIQUOR
Cont'd

Doyle referred to 67GA, Chapter 71, and stated it was his interpretation that 4.20 should provide for bank drafts to be acceptable at liquor stores. Whitten responded that the provision was based on an AG opinion which defined "cash" as being just that. After enactment of Chapter 71, the rules was amended to include checks which were signed by the licensee.

Doyle referred to use of "for whatever reason" in 4.20(1)a as being stricter than "for good cause". Gallagher was amenable to making the substitution.

Re 10.9, Doyle recommended striking the words ",prior to the hearing,". Further, 11.10(2)e regarding the oath format, "or" should be substituted for "and" in line 3.

Clark wondered if 1.3 pertaining to waivers should include a reason for waiver in unique situations. Doderer asked Clark to pursue the issue and perhaps the Committee could adopt a uniform policy applicable to all agencies.

The Department was asked to consider adding their telephone number in 1.6.

Schroeder was interested in determining the total cost of dram shop insurance and asked Gallagher to request all licensees to provide the information. Most members were reluctant to concur. Doderer advised Schroeder to consult the Insurance Commissioner for a proper approach.

NURSING BOARD
Ch 5

Lynne Illes, Executive Director, Board of Nursing, told the Committee that filed Chapter 5 of their rules for continuing education had been revised as suggested by this Committee and some comments from the public hearing had also been incorporated.

No formal action taken.

Recess

After a ten minute recess, the meeting was reconvened at 11:15 with Doderer in the Chair.

SOCIAL SERVICES
Resumed

Judy Welp, ACT Unit, and Harold Poore, appeared to resume review of Social Services rules carried over from yesterday. See listing on page 747 herein.

Welp said that essentially the filed rules had been modified as recommended by this Committee.

133.2(2)d

Re child care center financial assistance, Schroeder wondered if the \$6 limitation per hundred weight for freight charges would create problems [133.2(2)d]. No action taken.

SOCIAL SERVICES Discussion centered on filed amendment to 41.6 relating to
Cont'd ADC resources, particularly 41.6(7)--damage judgments and insurance settlements which read as follows:

41.6(7) Damage judgments and insurance settlements.

a. Payment resulting from damage to or destruction of an exempt resource shall be considered a resource to the applicant/recipient the month following the month the payment was received. When the applicant/recipient signs a legal binding commitment no later than the month after the month the payment was received, the funds shall be considered exempt for the duration of the commitment providing the terms of the commitment are met within eight months from the date of commitment.

b. Payment resulting from damage to or destruction of a nonexempt resource shall be considered a resource in the month following the month in which payment was received.

This rule is intended to implement section 239.5 of the Code.

Committee interpretation varied from that of the agency.

Doyle took the position that payment should be considered a resource the month it was used for a purpose other than repairing or improving on the property.

Department officials contended the payment was an exempt resource no matter how it was spent, as long as it had been spent.

Some members were concerned that the money would be used unwisely by recipients and they would continue to receive benefits.

Welp conceded there might be a few isolated cases but there was no serious problem.

Schroeder suggested a possible escrow fund to be used within twelve months for the committed expenditure.

Motion

Schroeder moved that subrule 41.6(7) be referred to the General Assembly for further study by the Social Services Budget and Human Resources Committees.
Carried viva voce.

ADJOURNMENT

The meeting was adjourned by Chairman Doderer at 12:25 p.m.
Next regular meeting to be held Tuesday, February 13, 1979, 7:00 a.m., Room 24.

Respectfully submitted,

Phyllis Barry
(Mrs.) Phyllis Barry Secretary

APPROVED

Chairman