

MINUTES OF THE SPECIAL MEETING
OF THE
ADMINISTRATIVE RULES REVIEW COMMITTEE

TIME OF MEETING: Tuesday, October 18, 1977, 10:00 a.m.
Wednesday, October 19, 1977, 9:00 a.m.

PLACE OF MEETING: Senate Committee Room 24, Statehouse, Des Moines, Iowa.

MEMBERS PRESENT: Senator Berl E. Priebe, Chairman, Senator Minnette Doderer, Senator E. Kevin Kelly, Representative Donald Doyle. Not present for roll call, W. R. Monroe, Jr. Vice Chairman, Representative Laverne Schroeder, absent. Also present: Joe Royce, Administrative Co-ordinator

MINUTES Senator Kevin Kelly moved the adoption of the minutes of the September 13 meeting and the motion was adopted unanimously.

REVENUE REVENUE[730]
Adoption expense, child care credit, 41.4, 42.2 notice
Tax liens, ch 9

9/21/77
10/5/77

Mr. Elliott Hibbs appeared before the committee to discuss changes in the individual income tax rules relative to adoption expenses and child care credits. Language is added to 41.4 noting that expenses incurred in adoption by independent placement agencies are allowable as income tax deduction. Regarding the child care credit, 42.2, the rule is being updated to comply with federal regulations. Senator Doderer asked about the definition of head of household and Mr. Hibbs advised the definition is that used by the Internal Revenue Code.

The rules pertaining to tax liens, chapter 9, came about as a result of legislation passed during the last session and this provided the revenue department the opportunity to charge off certain accounts which were deemed to be uncollectible. It also allows to lapse those accounts which have been on the books for more than 10 years.

Mr. Hibbs informed the committee that the rules had been given to a number of different organizations for perusal and comments and it appears that everybody is in favor of them.

Senator Priebe inquired as to whether or not the Iowa Land Title Association had made some recommendations and Mr. Hibbs stated they have the recommendations and will be putting them in the rules at the time of adoption. Rule 9.6 sub 2, line 3, the Association added the words "index of the" which will make the rule more administratively feasible for county recorders.

Mr. Carl Castelda advised the committee that they had submitted rules several months ago, had public hearings, wherein some objections were voiced and the department received suggestions to improve the rules. The sug-

REVENUE[130]

filed

Sales and use tax, Chs 12, 15-19, 26, 30, 33 and 34

9/21/77

Sales and use tax Economic Impact Statement

8-10-77

gestions have been reviewed and some have been incorporated into the rules.

In reply to Senator Priebe's question as to which suggestions were made and not accepted, the committee was informed that the Iowa Trucking Association had one relative to a 50% or percentage type determination to be used as a guideline to see if the interstate commerce exemption would be applicable and the department felt this could not be done without statutory authority. There were also objections voiced to the department's rule on processing, stating that it was too narrow. This was researched and shown to be a definition used by the Iowa Supreme Court verbatim.

Mr. Castelda stated there were also concerns about leasing and the department decided to hold this in abeyance pending litigation.

Mr. Royce had a question concerning conditional sales contracts, 16.47(3), in that the sales tax on the contracts is due and payable in advance, what happens when a contract is paid in advance, including purchase price plus tax?

Mr. Castelda replied that if it was paid off in time, the department would probably handle that in the same manner as they currently do discounts.

Senator Doderer asked if the word "charitable" in chapter 17 doesn't appear to be a loophole and Mr. Castelda replied that the department had a difficult time defining the word. He advised there is a basic rule of law because they are talking about exemption statute that should be strictly construed where taxing statutes usually have a broader interpretation. In the department's definition of "charitable, a number of definitions were combined to mean almost anything that promotes well-being can be considered charitable.

The discussion centered around taxing of chemicals used in photography and newsprinting and the committee was advised the rules pertaining to this area have been in existence for quite some time.

Senator Priebe commented he was receiving complaints from newspaper people relative to tax on the ink used by their companies and asked Mr. Castelda about this. Mr. Castelda stated there is now an exemption in the law which says that newspapers, shopper guides and free papers are not subject to sales tax. There is also another provision in the law which states that ink and newsprint used in the manufacturing and printing of shoppers guides is a retail sale and the person who is printing the newspaper has to pay the sales tax.

REVENUE

Senator Priebe inquired as to whether or not that was the reason shoppers guides were now printing some news items. He feels this area should be straightened out and made equal. Mr. Castelda stated that he understood this tax on the products that went into the paper was there to avoid having to charge a sales tax to the person who buys the newspaper. He advised the committee that an association contacted their office last year for some assistance in this area and a proposal for change had been submitted to the General Assembly, but he was not aware as to the disposition of the submitted proposal.

AGRICULTURE

AGRICULTURE[30]

Anjeszky's disease, 16.151, 16.152 filed emergency

9/21/77

AGRICULTURE[30]

filed

Anjeszky's disease, 16.147, 16.151

9/21/77

Importation of equine, 17.2(4), 17.8

9/21/77

Hopper scales, 55.47

9/21/77

Ms. Betty Duncan presented a copy of the emergency rule which has been filed and she pointed out changes which had been made, i. e. a change was made on page 3 in the caption, adding the words "feeder pigs" and the title was expanded to include interstate. The next change appeared in sub-rule 1 16.150, and the provision relating to veterinarian and the producer needing to sign the affidavit has been changed so that only the producer is required to sign. The next change occurs in 16.151 in the last sentence pertaining to the reactor being held separate and apart from the herd of origin--now it does not have to be held separate, although it is under quarantine.

Mrs. Barry advised the committee that the above was published in the October 19 supplement and that all rules will be before the committee again before they are filed.

Ms. Duncan informed the committee that the objection had been to the effective date, but now the date is January 1, 1978, so that people who are dealing with crops will not be affected by the date when using hopper scales. Senator Priebe expressed his opinion that he does not believe in hopper scales because they are too easy to manipulate. Ms. Duncan commented that this rule is implementing a Code section.

Ms. Duncan discussed the equine rule 17 and advised that a restriction regarding the time limit for testing of animals for importation had been changed from six months to twelve months. The old rule stated that every animal had to be tested, but the new rule requires only those animals over six months of age to be tested.

COMMERCE
COMMISSIONCOMMERCE COMMISSION[250;
Telephone utilities, 22.1(3)"2", filed emergency

10/5/77

COMMERCE COMMISSION[250] filed
Telephone customer service, 22.4(1)
Standards for construction, operation and maintenance, 10.11, emergency
after notice

9/21/77

10/5/77

COMMERCE
COMMISSION

Mr. Mike May, Commerce Commission, discussed multi-party lines and stated that, for some reason, multi-party was defined in terms of more than 4 party service and the definition has been changed to a more literal and common sense meaning, which is multi-party service means more than one party.

He advised that telephone customer service rule making was adopted after a lengthy and fairly well publicized rule making procedure. They relied on some of the complaints in their presentation and he presented a list of the people who participated in the rule making.

Senator Kelly voiced complaint to the limited liability of the telephone company for incorrect directory listings. Mr. May stated that if he were given specific facts, he would be happy to investigate.

Senator Doderer expressed an objection to the policy of the telephone company in charging an additional \$10 for a second listing in the book when she has already been paying 50¢ a month for five years and Mr. May advised that she could file a complaint with the Commerce Commission.

Representative Doyle commented that the telephone company is encouraging plug-in phones for rental property and he sees this as a problem for the elderly and handicapped in that they would have to go down and pick up their phones and return them should they have the service disconnected. He feels people should be informed of the changes which occur such as this one. Mr. May stated the commerce commission is not defending the charges and the nature of the rule being presented is to inform people of the charges which will be incurred. He also commented that the specific rates re plug-ins are currently being challenged in court.

Representative Doyle inquired if there was a rule relative to attaching devices to telephone lines and Mr. May stated they have tariffs allowing the connection of ancillary devices.

Mr. May commented that they have safety standards for liquid pipelines and there were no comments.

LABOR

LABOR[530]
Recordkeeping, 4.16(1) notice

10/5/77

Mr. Walt Johnson appeared for the Bureau of Labor with a minor amendment to its rules on record-keeping requirements for small employers and advised the committee that, for the past two years, because of congressional appropriations, there has not been enforcement of the record-keeping. The rule has been changed so that employers with fewer than eleven employees are not required to keep records. However, employers are still required to file reports.

BANKING

BANKING[140] filed
Offices, 2.4
Supplemental application, 2.12
Integral facility, 2.13

9/21/77

9/21/77

9/21/77

Mr. Howard Hall of Banking informed the committee he was returning with three rules which had been discussed with the committee previously and since that time, the Banking Department held hearings and there had been no complaints.

Senator Doderer requested the department's rules concerning procedural operations including quorums, number of affirmative votes required to pass a measure and public notification of meetings.

Mr. Hall stated that banking board rules have not been filed relative to this area because of a disagreement with credit unions. They are awaiting an opinion from the attorney general's office. Senator Doderer opined that rules of procedure apply whether or not credit unions are included.

PUBLIC EMPLOYEES
RELATIONS BOARD

PERB[660]
Amendments to Chs 2, 4, 5 and 7 notice

9/21/77

Mr. John Ayers, Hearings Officer, distributed copies of the rules which had been proposed, as amended, following a public hearing held on August 12, 1977. The principal change is the first rule set out in the notice of intended action. Item No. 1 under chapter 2 amends rule 2.15, the proposed change has been deleted and the rule will remain as it is. He commented that the only new thing in the rules was the impasse procedure for the employees of the State of Iowa. This change was directed as a result of action taken during the special session of the General Assembly. The rule is 7.6 and its subsections.

Senator Doderer questioned if she would appeal a rule to the commission, how many votes would it take to win an appeal. She noted they have a deficiency in their rules in that they do not state the number necessary to constitute a quorum. Mr. Ayers replied they will take this under consideration and see that the information is included in the rules. Senator Doderer

PUBLIC EMPLOYEES
RELATIONS BOARD
(continued)

stated that this information should be available for the person who comes before the board.

IOWA DEVELOPMENT
COMMISSION

Senator Doderer assumed the chair.

Mr. David Schuetts of the commission advised the committee they had updated the information which relates to the difference between the operation division and the support sections in order to properly define them. The functions of the international trade division were better defined.

Senator Doderer then asked about their rules of operation as to when they meet, notice of meeting time, how many people constitute a quorum.

Mr. Schuetts advised that the chairman calls the meetings. He stated the Code states the commission shall meet once a month.

Senator Doderer asked him to suggest to the Iowa Development Commission that the information be written into the rules, so that anyone reading the Administrative Code doesn't have to refer back to the statute.

Mr. Schuetts agreed to make the request.

CAMPAIGN FINANCE
DISCLOSURE

CAMPAIGN FINANCE DISCLOSURE[190]

General information, 2.2, 2.3, 5.4 notice

10/5/77

Mr. Steve Johnson appeared before the committee and Senator Doderer requested him to place in the rules the information concerning procedural operations.

NOON RECESS
RECONVENED

The Rules Review Committee recessed for lunch to reconvene at 1:20 p.m. All members were present with the exception of Representative Laverne Schroeder.

Senator Priebe resumed the chair.

PHARMACY

PHARMACY EXAMINERS[620]

Practical experience, 3.3, 3.5, 3.6 notice

10/5/77

Continuing education, 6.8

10/5/77

Nuclear pharmacy, 6.9

10/5/77

Mr. Paul Crews appeared before the committee to discuss internship, continuing education and the nuclear pharmacy. Rule 3.3(2) requires an extensive internship program. In addition, interns will be required to take a pre-test before beginning internship training and a post-test will be required upon completion of the internship and prior to the candidate being allowed to sit for licensing examination.

Mr. Crews discussed requirements for continuing education as a condition for license renewal. The proposed rule 6.8 adopts the nationally accepted measurement of continuing education, CEU (Continuing Education Unit) and the pharmacy board will require 15 actual hours of continuing education per year.

PHARMACY
(continued)

Mr. Crews discussed the concept of nuclear pharmacy and the handling and distribution of radioactive materials. The regulations for the handling of such materials are in addition to regulations approved by the environmental quality department. The food and drug administration will accept standards under these circumstances.

In response to a question by Doderer, Mr. Crews stated that the internship stringent requirements give the board a better idea of the interns' qualifications.

Monroe questioned the requirement of social security numbers on the continuing education program certificate, but voiced no objection to this provision.

Monroe discussed in detail rule 6.9(3) and felt that this section in effect set up a new licensure. Senator Priebe stated that the pharmacy board cannot accomplish this by rule, backing Monroe's position that Chapter 155 of the Code doesn't accredit advanced degrees and that to accomplish goal, a new law must be implemented. Monroe took the position that the nuclear pharmacist is beyond the scope the Code intended, however he was not certain about the nuclear pharmacy. This sort of regulation could come within the scope of the nuclear regulatory council or the pharmacy board could have an interagency agreement with the environmental quality department.

Doyle questioned the usage of "no person" in the first part of rule 6.9, as there were circumstances when persons other than pharmacists could be distributing radioactive drugs, such as dentists, etc. He suggested that the board was trying to regulate those over-whom they had no control and should limit language to pharmacists.

The committee agreed that the pharmacy board was premature in referring to other agencies and their dealings with nuclear or radioactive materials as no other agencies have dealt with the question - as these rules are on notice Monroe suggested that he and Doyle look into the scope of these rules and try to determine status in relationship to the Code and they will get back to Mr. Crews and the pharmacy board with their decision.

HEALTH DEPT.

HEALTH DEPARTMENT[470]
Podiatry, 139.1 notice
Immunization, Ch 7

9/21/77
10/5/77

HEALTH DEPARTMENT[470] filed
Cosmetology examiners sanitary rules, Ch 150
Barber examiners sanitary rules, Ch 153
Physical therapy examiners, Ch 137

9/21/77
9/21/77
10/5/77

SPECIAL REVIEW
Licensing fees for beauty salons

HEALTH DEPT.
(continued)

Mr. Peter Fox advised the committee that the department had made the requested change and eliminated the requirement for space in barber shops and the requirement for a partition when a facility is licensed for both barber shop and beauty shop was eliminated also. Rules on sanitary and germicidal solutions were advocated by the State Hygienic Lab. Mr. Fox introduced Mr. Keith Rankin, Director, Barber Division, who in turn introduced Mr. Richard Cisco of Cedar Rapids and Mr. Del Rice of Sioux City, two members of the board who are in the process of giving exams.

Senator Kelly questioned the definition of communicable diseases and asked the department to make the reference to the Code clear. Senator Kelly feels the language is vague and Mr. Fox agreed to make the recommended clarification.

Mr. Gary Hogelin appeared to discuss the rules in chapter 7 pertaining to immunization. He stated that these rules restate the law. The law applies to all children in grades K through 12 and persons can be excluded from the law for medical or religious reasons. He advised that medical exemptions can be allowed only by a doctor and the religious exemption would be granted by the receipt of a signed statement by the parent. He noted that there are only two religions eligible for exemption at this time and they are Christian Science and the Netherlands Reformed Church. The signed statement must be notarized. Representative Doyle questioned the advisability for having the statement notarized. He felt there should be a better way than asking people to search out a notary.

Mr. Fox commented that this was required by the law and Senator Kelly noted that if the law requires an affidavit, the paper must be notarized.

Mr. Hogelin stated that proof of immunization is gained by parents submitting a Certificate of Immunization to the schools, where the health nurse, or doctor, or nurse will sign the certificate.

The schools are asked to complete the records and the records will be transferred from school with the child.

There is a provisional enrollment time period of 120 days in which a child may receive at least one dose of vaccine, i. e., DPT, polio, measles and rubella. After that time, if the student does not receive the additional two doses, the child will be excluded from school. The local Boards of Health will audit the records at least once a year.

Mr. Al Ahern, Polk County Health Department, expressed fear of a breakdown between local health units and local physicians if doctors are dictated to as to how they run their practices. He feels the interpreta-

HEALTH DEPT.
(continued)

tion of the law could cause this breakdown.

Mr. Hogelin responded that when the law was being written, consultation was held with several doctors, the Iowa Medical Society, the Pediatrics American Academy and the Iowa Chapter of Family Practitioners. They were all of the consensus of opinion that doctors cannot diagnose rubella with any reliability. He commented that they are not trying to dictate in the area of provisional enrollment. Mr. Hogelin stated that the department did not recommend mass immunizations of children and they do recommend spacing of the vaccine. The health department is saying this is an effective method should a person encounter it. Mr. Hogelin stated they are not mandating the vaccine being given all at one time.

Senator Kelly expressed a concern that the child will be the one who suffers if forced to miss school because parents do not obtain the vaccine for the child. Senator Doderer made the point that people now have 4 months to see that children are vaccinated and reminded that the law said it should be done by August 15, 1977, which date has already passed.

The discussion centered around public health money and Mr. Ahern advised that Polk County was having problems obtaining vaccine and Mr. Hogelin informed that the vaccine had just come in. The delay was caused waiting for congress to pass an appropriations bill.

Senator Doderer stated she has been trying to obtain money for public health reasons for 14 years.

In response to a question by Senator Kelly, Mr. Hogelin stated the delay until January 1, 1978 was needed to implement the plan by educating people who will be working with immunization.

Representative Monroe inquired if all religious denominations are recognized by the Internal Revenue Service and Mr. Hogelin said they were not. Mr. Fox commented that the IRS has a long list of churches recognized for exemption purposes. Representative Monroe made the point that H.F. 163 said the Health Department would make the rules re recognized religions and since the department is doing the administering, they must do the recognizing, not the IRS.

Mr. Hogelin commented the Internal Revenue Service was included to preclude the department from being inundated with small groups setting up their own churches.

Senator Doderer reminded the committee that these rules are on notice and there will be a public hearing. Senator Priebe stated that there could be objections

HEALTH DEPT.
(continued)

filed by the committee if some changes aren't made.

Mrs. Gayle Vertrees, citizen, asked who came to the conclusion that only people from the two specific religions have moral and religious convictions. She advised the committee that she was a mother of four children, was a member of the Baptist Church and had convictions against immunization, but would be required to provide vaccination to her children under the law.

Mr. Hogelin stated that the law says a child must be an adherent of the church or member in which the tenets and practices of that church to which they belong oppose immunization. He commented that the two churches, Christian Science and Netherland Reformed, are the only two the state is aware of who have objections to immunization in their church doctrine.

Mrs. Vertrees stated she objected to the law being based upon religious objections only and not including religious conviction. She would favor the conscience clause approach. Senator Kelly advised her that the law does not have the conscience clause and that the Department of Health cannot change the law--only the legislature. He stated that the conscience clause issue was discussed in the last session of the legislature and defeated.

Dr. Gene Cretsinger, Cedar Rapids, spoke of some of the problems he has with the immunization law and stated that Senator Kelly addressed the problem he has with it, in that the bill did not have a conscience clause. Dr. Cretsinger also had concerns of the tenets and practices of the rules and regulations, in particular the fact that the Internal Revenue Service list of tax exempt churches is used. He commented the the primary reason for this bill was emotional in that there were measles in the state at the time. He stated that he has a suit against the state.

Senator Priebe reminded the committee that the public hearing on immunization would be October 26, 1977.

Mr. Fox advised the committee that the requested changes had been made in the rules pertaining to podiatry, 139.1.

Senator Doderer asked if the Board of Podiatry had rules as to what constitutes a quorum, number of affirmative votes required to pass a measure and public notification of meetings. Mr. Fox stated they did not but they had rules for conducting examinations and reciprocity. Senator Doderer suggested that Mr. Fox request that not only the Podiatry Board, but all other boards under the ~~perme~~ of the Health Department, write rules of procedure.

COSMETOLOGY

Mrs. Grayce West, Director, was introduced and Mr. Fox reported that, at the previous meeting, the Rules Committee had recommended that the requirement for space in the beauty salon be eliminated and the Board of Examiners

COSMETOLOGY
(continued)

removed the requirement. Mr. Fox advised the committee that the requirement for separate entrances was still in the rules. There was general discussion as to whether the previously filed objection still stands and it was decided that due to the renumbering of the rules, the previous objection was probably no longer valid.

OBJECTION

Senator Kelly moved the following objection:

The Committee objects to Cosmetology rule 150.4 requiring a separate outside entrance for a cosmetology establishment maintained within a home and requiring a partition between joint barber/cosmetology establishment, on the grounds that such restrictions are arbitrary, capricious and unreasonable.

The motion was adopted unanimously.

In response to a question from Representative Monroe with respect to use of students in the cosmetology schools and admission to the schools, Mrs. West replied that all of the schools are going to have uniform rules and soon as the rules are agreed to, they will be published. Senator Doderer commented that she had had a report of a nursing student in one of the area schools having been dropped because of illness and the area school kept the student's tuition.

Ms. Janet Dunn appeared for the Physical Therapy Board, and Senator Doderer inquired as to whether the board has rules concerning procedural operations. Ms. Dunn stated they did not and Senator Doderer requested the board to draft these.

Ms. Dunn advised the committee they had made the requested changes in the rules.

Senator Kelly stated he had been approached by a group of cosmetologists who were complaining about the cost of the licensing fees, and in order to answer their questions, he stated he had asked for Mrs. West to appear before the Rules Committee to present information pertaining to the licensing fees. Mrs. West advised that the original, or beginning, licensing fee was \$25, and the renewal fee is \$10. Senator Kelly stated he thought the high cost of the original fee was a little bit incongruous. He asked if the money raised from the fees accurately reflects the cost of running cosmetology.

Mr. Ted Davidson stated that the fee income generated by all of the fees together exceeds the appropriation by a fairly substantial amount and Senator Kelly asked why this was so. Mr. Davidson responded because the money has not been appropriated at a level which was asked.

Senator Kelly noted that he thought what they were doing was raising fees in order to generate more income to increase the board's budget. Mr. Davidson stated that was not the intent.

COSMETOLOGY
(continued)

Mrs. West stated they were \$3000 in the red last year and Senator Kelly suggested they overspent their budget by that amount. He reminded the board that requests must come before the legislative appropriations committee. He stated that it is the responsibility of the asking agency to convince the legislature of the need for the additional money.

Representative Monroe assumed the chair.

Senator Kelly commented that the board has exceeded their scope of authority and suggested the procedures be modified. Mrs. West agreed to report this suggestion to the board. In reply to a question by Senator Kelly regarding how much more of a problem it is to license an out-of-state applicant, Mrs. West stated it does require much more time and there is a lot of procedure involved in the reciprocal agreement.

Representative Monroe requested the department to provide to the Rules Committee the amount of money generated in fees for out-of-state applicants and the other categories and bring the information before the next legislative session.

DEPARTMENT OF
ENVIRONMENTAL
QUALITY

ENVIRONMENTAL QUALITY[400]

Hazardous conditions, Ch 41

notice

10/5/77

Mr. Dave Bach advised the committee that the rules of chapter 41 regarding hazardous conditions were implemented because of H.F. 490, and stated that Representative Doyle had informed him they had ignored legislation which was passed in 1976, chapter 1173, ~~of the house file~~, which required notification for spills on highways. The legislation, H.F. 490, which passed in the 1977 General Assembly dealt with any spills and Mr. Bach stated the two pieces of legislation will have to be melded together. There is a public hearing on November 9 and the rules will be redrafted before they are filed. (67 GA)

Representative Doyle questioned how the general public would know if the department came out with something new that was hazardous and Mr. Bach stated the public would not know immediately. Mr. Bach asked if the committee would prefer some reference to the items that were actually adopted and update references. Representative Doyle stated the rules are required under chapter 17A and feels businesses should have the information so they would have something to work with immediately.

Mr. Bach stated they would present the suggestions at the Public Hearing on November 9.

CONSERVATION COMMISSION

CONSERVATION COMMISSION[290]

| | |
|---|---------|
| Wildlife refuges, Ch 3, filed emergency | 9/21/77 |
| Waterfowl hunting, 14.1(2) filed emergency | 9/21/77 |
| CORESC program, 70.3, 70.4, 70.8, filed emergency | 9/21/77 |
| Raccoon, opossum, fox and coyote, Ch 100, filed emergency | 9/21/77 |
| Rabbit and squirrel, Ch 102, filed emergency | 9/21/77 |
| Pheasant, quail and gray partridge, Ch 103, filed emergency | 9/21/77 |
| Furbearing animals, Ch 104, filed emergency | 9/21/77 |
| Migratory waterfowl, Ch 105, filed emergency | 9/21/77 |
| Deer, 106.5, filed emergency | 9/21/77 |
| Waterfowl and coots, Ch 107, filed emergency | 9/21/77 |
| Snipe, woodcock and grouse, Ch 109, filed emergency | 9/21/77 |

(CONSERVATION COMMISSION[290] filed

Endangered species, Ch 19

9/21/77

Mr. Kakac appeared on behalf of the conservation commission and stated that, for the most part, they have rules on which the subject matter has been approved.

Senator Kelly stated he didn't see that the split hunting season on ducks was doing anything and feels the first part of the season should be opened earlier. Mr. Kakac stated the earliest date the season can be opened is October 1.

He advised the committee that they will be taking a proposal before their next meeting for public hearings to be held on all species in January and February and, at that time, he expects to have rather broad frameworks established.

Under emergency rule procedures, Representative Monroe asked Mr. Kakac to have the drafter look at 17A.5"b" and follow through on this chapter. If the drafter has any questions, Mr. Royce should be called.

EMPLOYMENT SECURITY

EMPLOYMENT SECURITY[370] filed

Employers contribution, 3.6(1)"h", 3.41(1),(3), 3.42, 3.49, 3.82
IPERS, Ch 8

10/5/77
9/21/77

Senator Priebe resumed the chair.

Mr. Harold Keenan noted some words that had been changed in the rules.

Under chapter 8, Senator Doderer asked information about rules of procedure, so that the public would have the information as to time of meeting, quorums, how many votes needed for affirmative action, etc. She requested him to bring this before the rules committee.

The discussion of chapter 8 was deferred until Wednesday in order to allow Mr. Ed Longnecker, drafter, to appear before the committee.

PLANNING AND PROGRAMMING

PLANNING AND PROGRAMMING

Energy conservation, Ch 18
(see also filed emergency)
Weatherization assistance, Ch 19
(see also filed emergency)

9/21/77

9/21/77

PLANNING AND
PROGRAMMING
(continued)

The rules filed under chapters 18 and 19 are under emergency and they deal with energy conservation and weatherization assistance. No comments were made on these rules.

GENERAL
SERVICES

GENERAL SERVICES[450] filed
Data processing equipment, Ch 4

10/5/77

Senator Doderer inquired of Mr. McCausland as to whether or not they have rules for getting rid of extra property and he replied that the Code says the Director of General Services shall dispose of state property. He commented there were federal guidelines for surplus properties and the state is now going to put price tags on the surplus properties and make them available to local sub-divisions such as schools, counties, etc. The reason for this is that when auctions have been held, such as a year's supply of desks, the state is tending to glut the market and consequently does not get top value for the property. There will probably still be an annual auction to get rid of property which has not been sold during the year.

There was a general discussion of disposition of antique state property and Mr. McCausland informed the committee that such property would be used in offices and not offered for sale.

Representative Monroe called to Mr. McCausland's attention the matter with respect to rules that don't exist and he stated the pervue of the committee does. In the absence of rules that are required, Representative Monroe questioned when the rules would be before the Rules Committee.

McCausland stated he did not understand that he had been officially asked by the committee to respond and Senator Priebe advised him that the committee assumed McCausland knew he was asked and Priebe stated this was the official request. Mr. McCausland stated he had responded to Mr. Palmer's first correspondence.

Senator Doderer inquired if it would be appropriate to have an explanation containing detailed information on data processing in the rules.

Mr. Terry Swanson stated that the State of Iowa is in a position of actually doubling the workload and he has a five year plan which he offered to provide.

Senator Doderer called attention to an error in 4.3(2) "c" in the word "appropriation". It should read "appropriate action".

Senator Doderer also inquired about the rules of procedure and Mr. Swanson stated they are in the process of writing such information.

There was a brief discussion concerning voter regis-

GENERAL
SERVICES
(continued)

tration.

Representative Monroe commented that he had thought the problem of the supplement to the Code not being ready for use within sixty days after end of the session were solved but in checking with the Code Editor and the printer, he learned that it has not been. He suggested that possibly the rules need to be tighter. Mr. McCausland stated he would check out what the production problems might be. He stated the contract is a standard printing contract.

Representative Monroe suggested he was going to recommend that the committee review chapter 1 again on centralized purchasing. He feels it doesn't seem to be serving to the satisfaction of all people in the state that the bid process is fair.

SOCIAL
SERVICES

SOCIAL SERVICES[770] notice

Rules of procedure, 1.2

9/21/77

Abortions, 78.1(17), filed emergency

9/21/77

Abortions, rescinded 78.1(17), filed emergency

9/21/77

Economic impact, Ch 139

9/21/77

Ms. Judy Welp stated that the first thing they had were the rules of procedure for our council on Social Services and they tried to put in what the practice has been throughout the past year.

OBJECTION

Senator Doderer moved to object to these administrative rules on the grounds that they allow one of five people to carry a policy decision in a major agency.

Senator Priebe reminded that this was under notice.

Senator Doderer then stated she would not have to make the motion and that the Department of Social Services is aware of her objections.

Senator Priebe suggested this could be corrected ahead of time when the public hearing is held.

Ms. Welp stated they had relied on case law when they were writing the administrative rules. In response to a question by Senator Doderer as to what case law, Ms. Welp advised that their attorney had case laws supporting their quorum and voting requirements.

Senator Doderer requested Ms. Welp to advise Mr. Robinson that she thought his case law was a little obsolete. Senator Doderer asked Ms. Welp to tell Mr. Attorney that he is giving bad advice to the social services council and the Rules Committee has no objection if the department would like to refile rules stating the quorum would be three and it would take three votes to pass a measure. Senator Priebe suggested deleting the words "three and" and "three votes" and insert "the majority of the entire council".

SOCIAL SERVICES
(continued)

Ms. Welp informed the committee that both of the rules on abortion were filed emergency after the federal government cut off the matching money and the department rescinded the rule on the advice of the attorney general's office.

Senator Priebe stated that every ruling which comes out of the attorney general's office must be cleared by the attorney general. Senator Doderer said that the abortion ruling was not because she had discussed it with the attorney general and he was not aware of it.

Ms. Welp stated the attorney general has that requirement for official opinions and the abortion opinion was not an official one.

The committee discussed the rescinded part of the rule regarding payments for abortions. Senator Doderer asked since the emergency rule had been rescinded, how would the department pay for abortions which are made to save a woman's life. Senator Priebe and Ms. Welp both stated the state cannot pay since only the state's share (10%) of money was appropriated. Senator Doderer made the point that the state could not pay, even if the money was available, without having the rule.

Ms. Welp commented the state could pay for what federal is matching and Senator Doderer stated there should be a rule on it and there was a rule before, which was repealed. She was concerned as to method of payment for medical treatment for rape and incest victims. Ms. Welp commented they are already paying under chapter 78, Physicians Services. Senator Doderer then asked why the department felt it was necessary to have it in 78.1(17) if the it is already covered.

Ms. Welp responded because the department was wrong in promulgating the rule.

Senator Priebe commented that the appropriations committee had appropriated the money and specifically spelled out that the department could use the money for federal match. Senator Doderer replied that the bill did not state "only for federal match" and abortion is not referred to in the bill. She stated that since this is not spelled out in the bill, it should have a rule.

Ms. Welp commented that all of the history of the program had included federal matching money and Senator Doderer said she had talked to the Fiscal Bureau of the Social Services Department and they advised other areas were paid for without federal match. Ms. Welp asked for an example and Senator Doderer commented that she could get one.

Senator Doderer moved the following objection:

SOCIAL SERVICES
(continued)

The Committee also objects to the rescission of rule 78.1(17) (filed emergency 9-1-77) on the grounds that it is beyond the statutory authority of the department to enforce the contents of that rule unless adopted pursuant to the provisions of Chapter 17A of the Code.

The motion carried 4 to 1.

Senator Doderer then moved the following objection:

The Committee objects to emergency filed rule 78.1(17) (filed 8-24-77), cutting off medical assistance funds for most abortions, on the grounds that the use of the emergency procedures of Chapter 17A in this case constitute an arbitrary, capricious and unreasonable attempt to avoid the public notice and public participation requirements of the rule-making process.

The motion carried with a vote of 4 ayes and 1 pass.

Representative Monroe commented that this issue was one of the most poorly handled that he has ever seen and he stated that the department could have had the public hearings, listened to all of the people and gone ahead and done exactly what the department wanted to do.

ADOPTIONS

The committee discussed the cost of adoptions in the state and the average income for a two-member family adopting was \$16,000 and there were approximately 515 adoptions handled.

Representative Doyle inquired if there was an agency in the state which requires the adoptive parents to file an income tax return with them for two years in order to take a percentage of their income and he was informed there was not. He asked if the department was going to require some kind of verification of income and was advised verification would be required. The information is based upon gross revenue.

In reply to a question from Representative Monroe about the three-day requirement for investigative procedures, the social services representative stated the time is used to visit with the prospective adoptive parents, checking of references, travel time and includes the time needed for a secretary to type the information.

MOTION

Representative Monroe opined that the budget looked awfully expensive and wondered if this was somewhat like what had happened with cosmetology, in that too much money is being generated. He moved that the appropriate appropriations committee review the receipts of this agency.

The motion carried unanimously.

SOCIAL SERVICES
(continued)

Senator Doderer referred to an objection which had been made by the Rules Committee in chapter 78.1(16) pertaining to sterilization and the age "twenty-one" and noted the objection still stands and nothing has been done in the department about the Rules Committee Objection. She noted there is a problem in the system as there should have been a report from the council stating why they felt it wasn't necessary to change the age to "eighteen" as requested.

Senator Doderer suggested the Rules Committee request all departments to report the action taken upon the objections being filed by the Rules Committee and the committee agreed to make this request to all departments.

VOCATIONAL
EDUCATION

Mr. Harlan Giese, Career Advisory Council, stated they had filed their rules for approval and he noted he was present to provide more information as requested by the Rules Committee.

Representative Monroe commented that the description which Mr. Giese had filed was not informative and requested the rules to be more specific.

Senator Doderer asked him to include the information regarding rules of procedure.

Mr. Giese agreed to make the suggested information as a part of the rules.

RECESS

The committee recessed at 4:55 p.m.

RECONVENED

The Rules Review Committee reconvened Wednesday, October 19, in Senate Room 24. In addition to Chairman Berl E. Priebe, those present were Vice Chairman William R. Monroe, Jr., Senator Minnette Doderer, Representative Doyle.

PUBLIC SAFETY

Mr. John Chaffner introduced Mr. Dennis Carr, President, Sheriffs' Association and Mr. Chaffner distributed the pamphlet about the gun safety course offered by the department. He discussed some corrections made to the rules and commented that the General Assembly had passed a section in the criminal code dealing with weapons control and the law provides for the Department of Safety to provide two or three functions or services. The new law speaks to two separate issues, one to the issuance of weapons permits. The weapons permits are issued by the state to those people who are non-residents of the state and to those employees whose need to go armed derives from their state employment. The county sheriff issues weapons to those individuals who are residents of his county who can reasonably justify a weapons permit. Two types of permits are provided in the statute, one is a professional permit for use by persons such as bank guards, security guards, peace officers, etc. and the other category is called a non-professional permit that says "anyone who can reasonably justify going armed" can have a non-professional permit.

DEPARTMENT OF
PUBLIC SAFETY
(continued)

The law also provides that the department develop a curriculum so that individuals seeking a weapons permit will have some training prior to receiving a permit. The curriculum has been developed requiring a minimum of four hours of instruction for candidates for permits and includes two aspects, one, a written exam and those candidates seeking a professional permit must fire a qualifying score of at least 60 on a range. The sheriff is left with the option of requiring non-professional candidates to fire a qualifying score.

The second part of the law requires that any gun which enters the marketplace, a permit to purchase that weapon must be obtained from the sheriff.

Senator Kelly arrived.

Mr. Robert Anderson of the Iowa State Rifle Association advised the committee that he had been unaware of the proposed rules coming before the committee until the last few days and did not have an opportunity to comment before October 11. He commented that he was under the impression that the original intent was a 3 or 5 day cooling off period rather than a registration of weapons. He stated the Iowa State Rifle Association objects to gun registration.

Senator Priebe advised Mr. Anderson that these rules were still under notice and with 25 signatures, a public hearing could be requested. Mr. Chaffner stated that Mr. Anderson's concern seemed to be with the statute, not the rules, and that a hearing could not be held upon the statute.

Discussion of weapons permits was recessed to allow Mr. Anderson and members of the Department of Public Safety to discuss some of Mr. Anderson's concerns.

DEPARTMENT OF
PUBLIC INSTRUCTION

SCHOOL BUDGET REVIEW[740]
General provisions, Ch 1

notice

9/21/77

Dr. Robert Benton pointed out that they have been a bit derelict in getting these rules on the books and they tried to set forth the various items of concerns which have come before them. He stated they have written the definitions as clearly as possible, the rules of order are stated relating to quorums, times of meeting, etc. There is also a section on interpretations.

The committee discussed the three-quorum requirement with Dr. Benton and he stated it is not necessarily defined but is interpreted that three are necessary to pass an issue.

DEPARTMENT OF
TRANSPORTATION

TRANSPORTATION DEPARTMENT[820]

notice

Safer-off-system roads, [06,P] Ch 5
Safer-off-system roads, [06,Q] Ch 18
Personalized plates, [07,D] 11.42
Abandoned vehicles, [07,D] Ch 2
Motor vehicles, [07,D] 10.8
Transport carriers, [07,F] 13.1, 13.4

9/21/77
9/21/77
9/21/77
10/5/77
10/5/77
10/5/77

DEPARTMENT OF
TRANSPORTATION
(continued)

Mr. Rob Forrest advised the committee that they had changed the requirement to become an official escort from a two year's experience to taking a test, passing it and then become the official escort.

Representative Doyle asked if they were doing anything on checking on city ordinances requiring these escorts through town. Mr. Forrest commented that their jurisdiction is just with the primary system.

Representative Doyle stated he understood that off-duty policemen, all over the state, were charging \$40 to \$50 to escort through towns and he feels someone should have some control over this practice.

Representative Doyle asked if he knew of any statutory authority relative to costs and Mr. Forrest stated he did not believe they had any statutory authority. Senator Priebe commented this might be an area to look into.

Doyle asked about rules for taking off amber lights when they are not actually being used and Forrest said he did not think there were rules.

Senator Priebe suggested the department try to work out the escort problem with the Transportation Committee of the legislature.

SPANISH-SPEAKING
PEOPLES COMM.

SPANISH-SPEAKING PEOPLES COMMISSION[785] ..
Organization and operation, Chs 1, 2, 3 notice

10/5/77

Mr. Hector Sanchez stated he had appeared before the committee previously and had been asked to submit a new draft of his proposed rules.

Senator Doderer asked about quorum requirements and Mr. Sanchez stated the quorum was a majority of those present. He said they had not had any problems in this area. Senator Doderer asked them to write rules of procedure relating to quorums, notification of time of meeting, number of affirmative votes required to pass a measure, etc.

REGENTS

REGENTS[720]
Board of regents, 3.39, 3.148 notice
(see also filed emergency)

10/5/77

Mr. Donald Volm stated that at his last appearance some concerns were expressed on technicalities with chapter 17A, and since then he has met with Mr. Royce and believes he has corrected some of the problems.

Senator Doderer asked if they had rules for operational procedures and he advised there is a Board of Regents Procedural Guide, but that he was not familiar with it. Senator Doderer stated that even though the Regents have a guide, the information should be in the rules.

REGENTS
(continued)

Representative Monroe commented that Doderer had touched on an issue which has been a concern of his for sometime and Senator Doderer requested Mr. Volm to carry the request to the Regents that the Rules Committee would like to have the information in the rules so that the public can know when they meet, what constitutes a quorum and how many affirmative votes are required to pass a measure.

Representative Monroe assumed the chair.

DEPARTMENT OF
TRANSPORTATION

TRANSPORTATION DEPARTMENT[820] filed

Relocation assistance, [06,F] 8.7(8), filed without notice

Loads of excess size, [07,F] 2.4(4)"b"

9/21/77

10/5/77

Mr. Bob Shelquist discussed the right of way to relocation assistance revisions and advised that the change was made from fifteen days for relocation to seven days.

There was a general discussion of the safer-off-system roads.

Representative Monroe commented there is to be a public hearing on November 3.

Mr. Shelquist distributed a brochure about the system.

Mr. Chuck Sinclair discussed personalized plate rules and advised that amendments have been proposed to the current rules, based partly upon enactment of S.F. 167. Owners of motor trucks will no longer be prohibited from buying personalized plates. The department is repealing the prohibition that prevented non-residents from obtaining personalized plates.

Senator Priebe resumed the chair.

In reply to a question by Representative Monroe on revocation of plates, Mr. Sinclair stated that they must be returned to the department in Ames. Representative Monroe said he could see some problems with mailing the revoked plates.

Mr. Sinclair commented that the proposed rule on abandoned vehicles was promulgated on behalf of the state comptroller to clarify and modify procedures that have been administratively determined in the past.

A representative from the Linn County Treasurer's office expressed a concern for the 10 day period for locating an owner or lien holder of an abandoned vehicle and would like to see a change made in this time period. After general discussion of the problems, Senator Priebe suggested contacting the Transportation Committee to see if something couldn't be worked out to change the statute.

Representative Monroe commented he thought this problem would be solved when the law allowing license plates to

DEPARTMENT OF
TRANSPORTATION
(continued)

remain with the owner rather than with the vehicle is implemented.

Mr. Sinclair discussed the rules dealing with dealer sales on mobile homes and advised that they are as a result of the enactment of S.F. 167. The committee discussed the problems inherent in selling mobile homes and in particular those located in mobile home parks such as are located in and around the state universities.

Mr. Bob Steiner discussed the liquid carrier statute and the problems involved and the intent is to bring consistency and require all that all transfers of liquid carrier certificates will require the board's approval.

PUBLIC SAFETY

PUBLIC SAFETY[680]
Weapons, 2.300—2.305 notice

9/21/77

Mr. Chaffner stated they had met with the parties from the pistol and rifle association and have come to an agreement of terms. The association suggested on page 1, rule 2,300(5) reasonable justification in the language re professional permit and the words "professional permit" were added. Another category was added on reasonable justification for a non-professional permit. The written statement must contain clear and convincing evidence that the applicant should be permitted to go armed. The deadly force was left off of the non-professionals.

Representative Monroe made the point that he would be able to get the non-professional permit for squirrel-hunting purposes and then proceed to conceal that weapon legally.

Mr. Chaffner responded there is a provision to allow sheriffs to put restrictions on permits.

PLANNING AND
PROGRAMMING

Mr. Don Appel, State Building Code Commissioner, explained the intended action which was published in the Administrative Code. The first section which had a change was as a result of H.F. 224, which requires all mobile homes to be tied down. Also, any home sold after January 1 has to be installed according to the state building code. He advised they are adding a section because of H.F. 75 relating to thermal and lighting efficiency standards.

In response to a question by Senator Priebe, he advised they have had considerable questions and are having public hearings next week.

AGRICULTURE

VETERINARY MEDICAL EXAMINERS BOARD[842] notice
General rules, Chs 1-8

9/21/77

Ms. Duncan commented that she had drafted the rules for the Veterinary Medical Examiners Board and she advised that chapter 17A imposes a mandate on all of the boards to tell of their organization. Senator

AGRICULTURE (continued)

Priebe asked how many were on the board and was informed the number was 7 and the discussion centered around rules of procedure. Senator Priebe asked her to carry the request back to the board to submit the correct information re quorum, etc.

Senator Kelly asked what was used to determine the amount of fees and she stated she did a study as to what all of the other boards were collecting. He made the point that the general fund of the state should not pay the cost of running the licensing boards. The board should be totally self-supporting.

Mr. Royce stated there is a discrepancy between SF 312 and 169 of the Code, Veterinarians chapter and when a license is revoked, under SF 312, the board has to take action, but in 169, the secretary of Agriculture and the attorney general take action.

Senator Kelly requested that the committee write a formal letter to the State Government Committees calling their attention to the problem.

Representative Monroe advised that the committees were aware of the problems with SF 312.

VOTER REGISTRATION

VOTER REGISTRATION[845] notice
Registration lists, 3.1(4)
Systems, Ch 6
File update, Ch 7

10/5/77
10/5/77
10/5/77

Mr. Terry Swanson advised the first change is in chapter 3 and addresses how requesters would pay for lists. There is a lot more flexibility allowed.

Representative Monroe commented he had two problems with chapter 3, one concerning the payment being made in the registrar's office and objects to that being transferred out. He stated they had a situation beyond what chapter 47 states and there is a complexity of lists in that if a list is requested involving the whole state, and a person comes in and wants a simple sort--say a county list--since one list is in the process, the other person would have to wait to obtain the county list.

Senator Priebe suggested Mr. Swanson to get together with Representative Monroe and work those problems out.

Representative Monroe stated that in chapter 6 and 7, the terminology is unfamiliar.

VETERINARY MEDICAL EXAMINERS BOARD

VETERINARY MEDICAL EXAMINERS BOARD[842] notice
General rules, Chs 1-8

9/21/77

Dr. Slaughter, State Veterinarian, appeared before the committee, along with former State Senator James Schaben.

VETERINARY MEDICAL
EXAMINERS BOARD
(continued)

Senator Schaben had concerns with how a person would be able to hold swine separate and apart as requested by the proposed rule on Aujewsky's disease.

Dr. Slaughter commented this was a difficult thing to define.

Schaben stated he did not understand what was meant in 16.147(11) when it is stated "movement means the physical relocation of swine from one premise to another and that animals may move through two markets and the movement must be completed within 72 hours."

Dr. Slaughter stated that the present law allows for movement from one approved market to another.

Senator Schaben commented the thing he is really bothered by is the way the shipment of out-of-state hogs is treated. He feels they are making it much easier to ship pigs into Iowa from out-of-state. He does not see how this will help curb a disease.

The discussion was around the organizations which had appeared at the Ames Public Hearing and Dr. Slaughter said the objection voiced by Schaben had not been expressed at the hearing, but Slaughter does feel it is valid. Also discussed were the problems of testing cows for disease, the cost of testing and who would be keeping the cow during the time of testing for the disease.

Ms. Duncan stated she would look over the rules, get together with Dr. Butler and see if they can get an amendment prepared. Senator Schaben stated he might question the constitutionality if the department goes ahead with the rules as they now stand.

Senator Schaben commented he really objects to the 2nd quarantine on swine.

Representative Monroe assumed the chair.

JOB SERVICE

Mr. Ed Longnecker was present to discuss chapter 8 with the committee.

Senator Doderer asked about the department's operational rules of procedure and Mr. Longnecker advised they did publish meeting times.

Representative Monroe commented there were some problems with 8.5(20) dealing with the exclusion of foreign exchange students, etc. from IPERS. Mr. Longnecker advised that social security excludes these people generally because they are here for less than 6 months. Senator Doderer suggested there should be an exemption in the law and stated they cannot be taken out in the rules. She advised this would be handled by the State Government Committee.

JOB SERVICE
(continued)

The committee also discussed others who are excluded and included under the IPERS program and the statutory authority for exclusions.

Senator Doderer made the point that the medical examiner is taken out in (25) and put back in in (27) and this is not clear. She commented that the law should be changed so that the rules do not have to go into occupations.

Representative Monroe suggested this could be handled by declaratory rule and the committee discussed the vehicle in 17A whereby this could be accomplished.

Monroe commented that he could not locate where student employees are covered in 97B.41 sub 1. He noted that these rules are filed.

The committee discussed the "vow of poverty" made by some priests and Senator Doderer commented she did not believe there was statutory authority for this.

Representative Monroe suggested the possibility of a delay on the section "Definition of Employee" and stated the rules did not reflect the definition of employee. He also noted there is no reference to capitol agencies.

Senator Doderer stated the workers in the county agencies should be covered under IPERS. The committee discussed temporary employees.

MOTION

Deferral

Senator Doderer moved to delay the effective date of 8.5(1), definition of employee, for 70 days from 10-26-77. The motion carried unanimously.

REVENUE DEPT.

Mr. Gerald Bair and Mr. Elliott Hibbs, Department of Revenue, appeared to discuss some general concerns.

The committee held a general discussion concerning publishing the supplements to the Iowa Administrative Code in pamphlet form. The committee directed Barry and Royce to discuss the matter with Vern Lundquist and Ted Little and report to the committee at the November meeting.

Respectfully submitted,

Vivian L. Haag, Secretary

APPROVED

Chairman

Dated 11-1-77