

MINUTES OF THE SPECIAL MEETING
OF THE
ADMINISTRATIVE RULES REVIEW COMMITTEE

Time of Meeting The special meeting of the Administrative Rules Review Committee was held Tuesday and Wednesday, November 17 and 18, 1987, State Capitol, Des Moines, Iowa, in lieu of statutory date.

Members Present Senator Berl E. Priebe, Chairman; Representative Edward G. Parker, Vice Chairman; Senators Donald V. Doyle and Dale L. Tieden; Representatives David M. Tabor and Betty Jean Clark. Staff present: Joseph A. Royce, Counsel; Phyllis Barry, Deputy Code Editor; Vivian Haag, Executive Administrator. Also present: Barbara Booker Burnett, Governor's Administrative Rules Coordinator.

Convened Chairman Priebe convened the Wednesday meeting at 10:05 a.m., Room 24, and called for special review of 1.6(5),

GENERAL SERVICES General Services, [ARC 7924, 9-9-87 IAB], which had been delayed into the General Assembly at the October meeting of the ARRC.

1.6(5)

Historical Museum Jack Walters, Director, and Kathy Williams were present for further discussion of the subrule which pertained to the consumption of alcoholic beverages in the new State Historical Building. Also present were Ann Marie Brick, Attorney General's Office, and David Crosson, Administrator, Carol L. Ulch, Deputy Administrator, State Historical Society of Iowa.

It was noted that emergency rules had been filed to allow the Department of Cultural Affairs to coordinate events to be held in the new building. [ARC 8136 and 8143, 11-18-87 IAB] Clark questioned Walters as to consumption of alcoholic beverages at the Botanical Center and state buildings throughout the state. Walters stated that the use of alcoholic beverages on the Capitol Complex had been restricted and that practice would be continued. He defended subrule 1.6(5) as an attempt to provide the same type of services to East Des Moines that are afforded other areas with respect to conventions, etc.

In response to Clark's concern re liability, Brick stated that she had worked with General Services and the Department of Cultural Affairs in drafting indemnification language that would insulate that additional risk. Any group which intends to serve alcohol in the Historical Building would be required to obtain a temporary license and sign an agreement to "hold the state harmless." [229--13.5(6)b(4)] There was further discussion. Tabor arrived.

Chairman Priebe recognized Crosson, who spoke in support of allowing consumption of alcoholic beverages in the new building. He stressed that more conventions would be held

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GENERAL
SERVICES
Continued

in the museum and the building would be leased for other functions. Also, a city permit would be required for additional protection. Crosson pointed out that alcoholic beverages are served in Regents institutions and at Terrace Hill.

In response to Priebe, Williams advised that the initial group rate would be the same but a fee would be imposed for every additional service provided. Walters indicated that parking would be provided south of the Wallace Building and a newly paved lot north of Grand on Penn Avenue would provide space for 80 cars. Buses would be directed to park immediately west of the Capitol--current practice--and all state complex lots would be available evenings and weekends.

Royce discussed the two sets of rules. The proposed rules and also emergency filed by the Historical Division basically delineate the physical use of the building. [229--Chapter 13] With the delay of 1.6(5) into the General Assembly, Chapter 13 could not be implemented with respect to serving of alcoholic beverages.

Department officials anticipated \$30,000 loss in fees since convention oriented groups will not rent the facility if liquor cannot be served.

Motion to
Lift Delay
1.6(5)

Committee members concurred that change in use of the museum was major departure from what many had anticipated--a "convention center" had not been envisioned. Clark reasoned that it was unlikely the Legislature would take any action against the subrule. She moved to lift the session delay of subrule 1.6(5). [Subrule 1.6(5) was renumbered as 1.6(6) in 11-4-87 IAC] The delay was lifted on a voice vote. Parker absent and not voting.

There was a discussion regarding charges for services and whether or not they would come under the definition of fees. Parker arrived and took the Chair.

INSURANCE
DIVISION

The Insurance Division was represented by Fred Haskins, Kevin Howe, Martha Crist and the agenda follows:

Acknowledgment of nonduplication, 15.11	ARC 8058	.....	F	10/21/87
Replacement insurance notification, 16.7(1)"b"(2)	ARC 8056	.....	F	10/21/87
Review of certificates issued under group policies, 35.21	APC 7997	.....	F	10/7/87
Limited benefit health insurance coverage, 36.6(10)	ARC 8057	.....	F	10/21/87
Uniform limited offering exemption, 50.16(2)"c"(1)	ARC 7996	.....	F	10/7/87
Iowa business opportunity sales Act, 55.3, 55.4(2), 55.5(2), 55.9	ARC 7995	.....	F	10/7/87
Continuation rights under group accident and health insurance policies, 29.2(2)	<u>filed emergency</u> ARC 7998	.....	FE	10/7/87
Uniform disclosure guidelines, 50.56	ARC 7994	.....	A	10/7/87

15.11

Howe explained that Blue Cross-Blue Shield supported rule 15.11 but asked for minor clarifications. A definition of "duplication" was added.

In 15.11(2), the Department clarified that the rule was intended to govern sales to persons 65 years of age or older as opposed to those who are simply eligible for Medicare.

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INSURANCE
DIVISION
Continued

16.7
35.21
36.6
50.16

No questions re 16.7(1)b(2) and no recommendations were offered for 35.21 or 36.6(10).

Goettsch explained amendment to 50.16(2)c and he informed ARRC that the exemption was strictly for those who have no history of securities violations. With respect to the filing fee of \$100, Goettsch said that Iowa was one of several states that did not have one and this was a "middle ground" approach. Parker suggested that this information should have been explained in the preamble language. Goettsch estimated that the filing fee would generate \$10,000. No questions re amendments to Chapter 55 or 29.2(2).

50.55

According to Goettsch, new rule 50.55 would allow Iowa to conform to the trend of one uniform statement of policy on disclosure. Clark asked for an example when a waiver could be granted. Goettsch responded that, under current law, "you have an exemption if you are registered with a number of exchanges and have already met their guidelines."

REAL ESTATE EXAMINING BOARD K. Marie Thayer and Kenneth Smith presented the following:

Brokers and salespersons amendments to ch. 1 ARC 8046 E 10-21-87
Administrative procedure, ch. 2 ARC 8047 E 10-21-87
Examination fees, 2.9, rescind 1.13, filed emergency after notice ARC 8045 FEAN 10-21-87

Smith described the amendments as "cleanup" following reorganization.

2.9

Discussion of rule 2.9 which revised the fee structure for examinations and was intended to reduce potential confusion during the license renewal season beginning November 1, 1987. Chairman Priebe observed that emergency provisions had been utilized for 2.9 and he cautioned agency representatives against abusing that prerogative. He declared that the Committee was quite concerned over the increased number of emergency filings. No action taken.

TRANSPORTATION
DEPT.

The Transportation agenda was as follows:

Seat belt exemptions, 600.16 ARC 8035 E 10-21-87
Drivers license, use of bioptic lenses, ch. 604 special review IAC

The Department was represented by Norris Davis, Driver Services, Gordon Sweitzer, Director of Motor Vehicle Division, LaVonne Short, and Neil N. Silbermann. Also in attendance were Jim Armstrong, and Lee Hook and Dr. Thomas Ward, representing Jim Armstrong.

Davis explained amendment to 600.16 and there were no recommendations.

Bioptic
Lenses
Ch 604
600.2(5)

Priebe announced there would be continued discussion of 761--Chapter 604 and 600.2(5) with respect to driving privileges for persons who use bioptic lenses to meet acuity standards required for a license. He called on Sweitzer, who introduced Dr. Silbermann, a Des Moines

TRANSPOR-
TATION
DEPARTMENT

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ophthamologist, and a member of the Iowa Medical Society Committee on Safe Driving. Silbermann explained that bioptic telescopic lenses were developed for the express purpose of enabling the applicant for driver license to read the 20-40 line on the vision chart. He continued that, practically speaking, a person should not wear these lenses when driving. He cited a variety of reasons with safety being primary. Silbermann distributed pictures showing what a wearer of bioptic lenses actually would see. Substantial portions of the visual field are missing when viewed through these lenses. The wearer is blind to oncoming traffic while looking through the lenses since it takes about three seconds to shift from distance to the telescopic lenses and back. At 60 miles per hour, or 88 feet per second, a driver would be "blind" while traveling 264 feet.

Silbermann pointed out that the size of the blind spot becomes a problem when traveling at a much slower speed. It is nearly impossible to concentrate on signs and also watch for pedestrians. He stressed that this position was taken by the American Committee on Optics and Visual Physiology and the issue has been debated throughout the country.

Silbermann provided statistics on accident rates in states which allow the bioptic lenses; in California, one and one-half times greater and in New York state, three times greater. In his opinion, the design of the lenses was an inherent problem. Manufacturers state that the bioptic lenses are designed for viewing blackboards, watching television, etc.

In response to Armstrong, Silbermann admitted that he had never driven with bioptic lenses. However, he knew of a national expert who wears these lenses and finds it to be a "frightening experience."

Armstrong stated that he had adapted to bioptic lenses after wearing them three years and he recalled that 23 states have approved restricted use of the lenses for driving. Armstrong emphasized that the lenses are for people with low vision profile, not those who are nearly blind. He urged case-by-case consideration.

Priebe reasoned that the ARRC lacked expertise on the subject and suggested possible referral to the General Assembly. Silbermann contended that better criteria for evaluation would be preferable to a vision test with the bioptic lenses. Armstrong maintained that 85 per cent of the time, drivers rely on their peripheral vision. He was more concerned for those individuals who were driving with tunnel vision. Armstrong mentioned his recent visit with Dr. Joseph Zahn, University of Nebraska. Zahn has a Ph.D. in physiological optics and is a professor of opthamology and supports use of the bioptic lenses.

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TRANS-
PORTATION
DEPARTMENT

Dr. Ward expressed his opinion that, in a very few cases, as with Mr. Armstrong, bioptic lenses "work wonders." He thought that Iowa law should provide exception for these rare individuals. Dr. Silbermann did not disagree with Armstrong but reiterated his position that criteria should be developed.

Hook, attorney for Armstrong, spoke in support of bioptic lenses for certain individuals. Hook saw a need for objective evaluation in these isolated cases.

Sweitzer clarified that views of Dr. Silbermann were not necessarily those of the Department. Sweitzer agreed to cooperate in any study of the issue.

Motion to
Refer to GA

Parker moved that the matter of bioptic lenses be referred to the appropriate legislative committees and that available information be provided. Motion carried.

ENGINEERING
& LAND
SURVEYING
EXAMINING
BOARD

Patricia Peters and Kevin Kelly, attorney, presented the following:

Professional development, 3.2, 3.4 ARC 7980 N. 10/18/87

Peters said that amendments to chapter 13 of their rules would provide registrants specific guidelines as to appropriate continuing education. Tieden asked how qualifications are determined and Peters indicated that prior approval is not required. Kelly pointed out the difficulty in mandating specific educational credits since there are so many in engineering.

Doyle noted that service on local planning commissions, etc., could allow credit for C.E.--3.4(4)d. According to Kelly, this was intended to encourage the professional to perform civic duties. Fifty per cent of the total credit could be earned in this manner.

Recess
Reconvened

Chairman Priebe recessed the Committee at 11:50 a.m.
Reconvened, 1:40 p.m.

HUMAN
SERVICES

Mary Ann Walker, Mary Nelson, Nancy Trotter, Alice Fisher, Nancy Haigh, Cynthia Tracy, Dan McKeever, Anita Smith, Phil Bingaman, Jan Walters, C. S. Ballinger and Cindy Dobson were present for the following:

Food stamp investigation, 40.7(4)"d," 65.22, 66.24, 76.8 ARC 8025 E 10/21/87
Newborn's coverage under Medicaid, 75.1(20) ARC 8026 E 10/21/87
Transportation reimbursement, 78.13(10) ARC 8027 E 10/21/87
Foster care after age 18, 202.3(3) ARC 8028 E 10/21/87
Iowa adoption exchange, ch 203 ARC 8029 E 10/21/87
Welfare reform initiatives, chs 11, 12 Notice ARC 7731 ~~terminated~~ ARC 8030 N/T 10/21/87
Continuities of eligibility, 75.1(1-3), ~~filed emergency after notice~~ ARC 8021 F.E.A.N. 10/21/87
Medical and remedial care and services, 78.3, 78.30, 79.1(2), 79.1(5)"f" ARC 8062 N 10/21/87
Infir defined, capital and medical education cost add-ons, 79.1(5)"a," 79.1(5)"c"(1), 79.1(5)"c"(2) ARC 8019 N 10/7/87
Medically needy, 86.3(6) ARC 8018 N 10/7/87
Affordable child care, 91.1(2)"b" ARC 8061 N 10/21/87
Foster care providers and foster care project grants, 156.9, ch 101 ARC 8021, ~~also filed emergency~~ ARC 8020 N/F 10/21/87
Foster care services - waiver of review, 202.6(5) ARC 7993 N 10/7/87

No questions re 40.7(4)d et al. or 75.1(20).

78.13(10)

In re 78.13(10), Walker said that DHS allows for direct payment to a transportation provider which is statutory.

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HUMAN
SERVICES
Continued

Clark wanted assurance that the provider would be reimbursed. Walker reminded ARRC that Title XX providers are paid directly. She admitted there were some problems and cited an example of a day care center falsifying hours.

202.3(3) No questions re Chapters 203, 41, or 42. With respect to foster care after age 18, Walker stated that a 19-year old in college could be eligible--202.3(3).

75.1(14) Under federal policy, unborn children will be considered as members of a household for purposes of determining eligibility for the ADC pregnant women coverage group--75.1(14). The subrule increases income, resource guidelines, and according to Walker, more recipients would be eligible under the provision. In response to Tieden, Walker indicated eligibility is available as soon as the pregnancy is verified. Priebe was interested in the funding and Walker replied that many are already receiving medical coverage through the medically needy program. She cited a monthly average of \$413.00. Priebe notified Department officials of the ARRC concern for excessive use of filed emergency provisions and he requested a decrease in the number of filings.

78.3 et al. Amendments to 78.3 et al. would limit payment for outpatient services. Hospitals would be required to apply to DHS fiscal agent for certification. There was brief discussion of eating disorders, diet pills and the fact that chiropractors are precluded from participation in the program. [78.30(2)b]

Clark questioned the lack of a comma in the example in 78.30(4)b(4), second paragraph, between "depression" and "withdrawal." No recommendations re amendments to 79.1 et al., 86.3(6), 91.11(2)b.

Rules pertaining to foster care providers and foster care project grants were set out in 156.9 and new Chapter 164. Nelson commented they would provide transitional services for children in out-of-state placement. The General Assembly had earmarked \$200,000 for this program. Nelson explained that children were placed out of state because Iowa is unable to provide services. Priebe was advised of an estimated \$7 million ADC surplus. No recommendations re 202.6(5).

INSPECTIONS
& APPEALS

The Department was represented by Xenda Lindel-Prine, Mary Oliver, Roland D. Brown, Mary Smith and Pearl Johnson. Also present: Blaine Donaldson and Lyle Krewson, Iowa Hospital Association. The agenda follows:

Administration, 1.1(3), 1.1(4), 1.2 to 1.11	ARC 7986	F	10:7:87
Recompensation, overpayments of public assistance, ch 71	ARC 7987	F	10:7:87
Food stamp investigation section, ch 72	ARC 7988	F	10:7:87
Medicaid fraud control bureau, amend and renumber ch 6 to ch 73	ARC 7989	F	10:7:87
Economic assistance fraud bureau, ch 74	ARC 7990	F	10:7:87
Privacy of relatives of residents of health care facilities, 57.2(15), 58.27(5), 59.32(5), 61.22(5), 61.35(5)	ARC 7985	N	10:7:87
Residential care facilities--policy for dangerous behavior, 57.35(9)	ARC 7984	N	10:7:87
Health care facilities--suspected abuse of resident, 57.39(1), 59.13(9), 59.14(6), 61.37(1), 61.43(9)	ARC 7982	N	10:7:87
Suspected abuse reports--investigation, 57.39(5), 58.43(1), 59.48(10), 61.37(7), 61.49(10)	ARC 7983	N	10:7:87
Residential care facilities--minimum physical standards, ch 60	ARC 7991	N	10:7:87
Residential care facilities for mentally ill, ch 62	ARC 7992	N	10:7:87

- INSPECTIONS & APPEALS
Continued
Ch 1
Ch 73
Ch 74
57.24
57.35(9)
Ch 60
60.11(3)
60.3(6)
- No recommendations re amendments to Chapter 1, 71 or 72. In discussing Chapter 73 (previously Chapter 6), Tieden questioned authority to establish another bureau. It was pointed out that the bureau performs audits and investigations and is a federal grant program. With respect to complaints in 73.2, Department officials said they must respond to all--verbal or otherwise. According to Prine, rules in Chapter 74 expanded the definition of investigator and the explanation of the Miranda warning. Provisions for internal investigations were also added. No recommendations for amendments to 57.24(5) et al.
- Oliver told the Committee that the first sentence of 57.35(9) would be deleted before the subrule is filed. In reviewing amendments to 57.39(4) et al., it was noted that facilities must keep the victim separated from the accused abuser while a department investigation is in process. Under rules 57.39(5) et al., the Department of Inspections and Appeals will investigate all complaints of abuse that occur in health care facilities.
- Discussion of proposed revision of minimum physical standards for Residential Care Facilities. Department officials reported that a large committee spent approximately two years in developing the rules. As a result of a major modification, older facilities would not be required to have air conditioning. The ad hoc committee wants the change to conform with their interpretation of the statute, which would be reflected in the adopted rules.
- Parker expressed opposition to the reversal of position by the ad hoc committee. He thought air conditioning was important for all facilities and unless the requirement was reinstated, he would formally object. There was discussion of possible informal impact statement.
- Oliver referenced a survey taken by Elder Affairs which produced only a 50 per cent return. She noted that the cost for a/c was a definite factor for older facilities. Further discussion of benefits of a/c to heart patients and, also, the fact that many elderly people do not want a/c. Tabor wondered if there had been a survey of facilities with and without air conditioning. Oliver was unsure but indicated that such a survey could be made by combining it with the quarterly report. Oliver advised Donaldson that privacy screens would be optional at the residential level.
- Prine was willing to delete subrule 60.3(6) since it was Code language. Clark viewed ceiling height requirements to be very technical--60.4(20). It was noted that variances could be requested if safety of the patient were not jeopardized.

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INSPECTIONS
& APPEALS
Continued

Clark was informed that provisions in 60.5(6) follow uniform building Code. Parker and Tabor excused. Priebe voiced his opinion that inspections should be the responsibility of Department of Inspection and Appeals and another agency should draft the rules. He was concerned with certificate of need and Lindel-Prine responded that DIA rules do not address that area. Priebe asked for cost estimates re air conditioning.

Ch 62

Brief discussion of Chapter 62. No recommendations.

Minutes

Doyle moved approved of the minutes of the October meeting. Carried.

UTILITIES
DIVISION

Cynthia Dilley and Diane Munns were present for the following:

COMMERCIAL DEPARTMENT "ambush"
Service quality responsibility, 1.5(2), 1.5(1) ARC 8060 F 10-21-87
Customer definition, 19.1(3), 20.1(3) "21.1(10), 22.1(3) ARC 8059 N 10-21-87
Master metering, 19.3(1) "20.3(1) " ARC 8013 N 10-7-87

Also present: Cheryl M. Critelli, attorney, Iowa Power and Light Company and Jack R. Clark, Iowa Utility Association.

Dilley explained that amendments to 1.5 transfer the responsibility of service quality matters from the Bureau of Conservation Auditing and Research to the Bureau of Rate and Safety Evaluation. No questions.

19.1 et al.

Munns described amendments to 19.1(3) et al. as an attempt by the Utilities Board to clarify the definition of "customer." Clark and Critelli expressed concerns re the new definition of "customer." Critelli viewed it as being too "simplistic."

Doyle referred to comment in the preamble relative to customers removing or adding their names on the application. He did not believe that was set out in the rule.

No recommendations re 19.33(1)b or 20.3(1)b.

FAIR
BOARD

Jerry Coughlon appeared for returned checks, 1.5, filed emergency, ARC 8032, published 10-21-87 IAB. It was noted that the amendment was requested by the ARRC to list the correct statutory date.

ECONOMIC
DEVELOPMENT

Jude Conway and Bob Brooks represented the Department for:

Satellite centers, 11.4, 41.7, 41.15 ARC 7969 F 10-7-87
Community development block grant nonentitlement program, 23.1(3) "a," 23.4(3) "b," 23.5(3) "b," 23.5(4) "a,"
23.6(1) "a," 23.7(1) "a," 23.8(1) "a," 23.8(5), 23.9(1), 23.9(5) "a" "3," 23.9(6) "a" (5), 23.10(6), 23.10(7), 23.12(2), 23.12(5),
23.12(6) filed emergency ARC 7968 FE 10-7-87
Targeted small business loan and equity grant program, ch 27 ARC 7974, also filed emergency ARC 7973 N+FE 10-7-87

No recommendations for amendments to Chapter 41.

Ch 23
Ch 27

Brooks explained amendments to Chapter 23 which were clarifying in many instances. Chairman Priebe asked Department officials to return tomorrow for review of Chapter 27.

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LABOR
SERVICES
DIVISION

The following rules were explained by Walter Johnson:

EMPLOYMENT SERVICES DEPARTMENT (441) "umbrella"
Child labor 32.5, 32.7, 32.8, 32.11, 32.17 ARC 7867 F 10/7/87
Professional kickboxing, ch 100 ARC 7872, also filed emergency ARC 7971 NIFE 10/7/87

Johnson said that Chapter 32 had been reorganized to coincide with the statutes. Some new language was taken from the federal rules. Johnson told Doyle that nothing in the law would prohibit a child from working in a "business owned or operated by the parents." Johnson stated that Chapter 100 was filed emergency so that a kickboxing event could be held in August. ARRC members asked that emergency filings be avoided whenever possible.

RACING &
GAMING
DIVISION

Mick Lura appeared for amendment to 8.2(4)j(12), mutuel departments, published as ARC 7975, 10-7-87 IAB. Lura spoke of strong disagreement among the greyhound tracks as to payment in the case of a tie in the second half of a race. This situation occurs on the average of once a week. The Commission decided to allow both options which are common.

Doyle observed use of "grandstand" in new language in 8.2(4)j(12) and asked if it included "clubhouse." Lura agreed to notify all clubhouse operators to also display the calculations. Brief discussion of recommendations for legislation relative to Iowa Breeding Fund.

Recessed Chairman Friebe recessed the Committee at 3:45 p.m.

WEDNESDAY Chairman Friebe reconvened the meeting in Room 24, 9:10 a.m.,
Nov. 18 Wednesday, November 18, 1987. All members and staff were present.

NURSING
BOARD

Lorinda Inman, Associate Director, explained the following:

PUBLIC HEALTH DEPARTMENT (441) "umbrella"
Approved nursing education programs, 3.1 ARC 8053 F 10-21-87
Special licensure by endorsement, 3.1"15," 3.6 ARC 7891 9/9/87
Educational standards--Special

There was brief discussion of possible compromise in nursing education related to faculty qualifications--Chapter 2. Copies of a proposal were distributed and Chairman Friebe was optimistic that it was workable.

DIVISION
FOR THE
BLIND

R. Creig Slayton and Kris Leschefska were present for review of the following:

HUMAN RIGHTS DEPARTMENT (421) "umbrella"
Vocational and independent living rehabilitation services, 1.3, 2.1(1), 10.6(2), 10.7, 10.8, 10.9, ch 11 ARC 8041 V 10-21-87

Slayton indicated that the rules were in compliance with state and federal law. Doyle questioned 2.1(1)c relative to "establishment of reasonable fees" as to whether it should be more explicit. Royce saw no problem.

Slayton indicated he would make the determination when to release personal information under certain defined conditions. Tieden requested inclusion of a two-thirds quorum requirement in 11.4(2)&(3) to comply with ARRC policy. Slayton was amenable.

Committee
Business

Barry called attention to the fact that many agencies had not begun the process of rewriting their rules to conform with state reorganization, e.g., Agriculture, Public Safety, and Regents Board. In addition, other agencies are no longer in existence but rules remain in the Iowa Administrative Code. There was consensus that Barry should compile a list for Committee perusal for possible publication in the Iowa Administrative Bulletin.

AGRICUL-
TURAL
DEVELOP-
MENT
AUTHORITY
2.1 et al.

William Greiner appeared for the following:

AGRICULTURE AND LAND STEWARDSHIP DEPARTMENT [21] "umbrella"
Beginning former loan program, 2.1, 2.1(8), 2.3, 2.9, 2.11, 2.12, 2.16, 2.19, new 2.14, 2.19, renumber existing 2.14
to 2.19 as 2.16 to 2.21 ARC 8037, also filed emergency ARC 8036 N.F.F. 10/21/87

Parker and Tabor arrived. Parker in the Chair.
Greiner commented that the Beginning Farmer Loan Program was being expanded to sell tax exempt bonds to individuals for sale of land or property primarily for contract sales.

Tieden was told that cost of bonds was about 75 to 85 per cent of a bank's prime or base rate, an 8 to 10 per cent range. Iowa has \$10 to \$12 million this year with \$7 million anticipated in 1988. Doyle took the position that a date certain should be included in 25--2.12(175). He recommended 10-01-87.

AGRICUL-
TURE &
LAND
STEWARDS-
SHIP

Agenda as follows was reviewed by Donna Gwinn:

Bonded warehouses and licensed grain dealers, 60.1, 60.3, 60.6 to 60.8, 60.10(1), 60.10(2), 60.11(1), 60.25, 60.28,
61.1, 61.2, 61.6, 61.8, 61.9, 61.13, 61.16, 61.16(1), 61.23, 61.24, rescind 61.5 ARC 8039 N. 10/21/87
Grain indemnity fund, 61.24, 62.1 to 62.6 ARC 8039, also filed emergency ARC 8038 N.F.F. 10/21/87

Also present: Kenneth L. Ludlow, Iowa Grain and Food Association, and Lynette Donner, Assistant Attorney General representing Grain Indemnity Board.

Ch 60,
61
62

According to Gwinn, rules were updated to comply with the 1987 Code. Doyle observed the absence of specific amounts for fees and thought they should be included. According to Gwinn, licensees are apprised of fees at renewal time.

Parker reminded Department officials of ARRC opposition to filed emergency rules. Donner pointed out that the Notice process was also being utilized. She added that penalties were being assessed against those who fail to submit reports on time. Tieden had received complaints about the assessment to cover all losses. Donner contended that was the nature of insurance. She added that most losses were incurred in southeast Iowa--between \$150,000 and \$200,000. One projection was for a \$6 million loss by the end of FY '87.

ECONOMIC
DEVELOP-
MENT

Ch 27

Jude Conway and John G. Seay were present to review Chapter 27 relative to targeted small business loans, which had been deferred yesterday. General discussion of the types of small businesses which avail themselves of the grant program. Conway was willing to include the statutory definition of "small business" in 261--27.2 rather than referencing section 15.102(4).

ECONOMIC
DEVELOP-
MENT
Concluded

In 27.6(2), Parker reasoned that quarterly reporting was excessive for small businesses--a lot of extra paperwork.

Parker reiterated ARRC position with respect to filed emergency rules and he estimated that the DED had utilized filed emergency rules about 50 per cent of the time last year. Priebe resumed the Chair.

EDUCATION
DEPARTMENT

Termination of the following proposal was explained by Kathy Collins, Legal Consultant:

Extracurricular interscholastic competition, 9.14(1), 9.18(11) ARC 8054N. 10/21/87

9.18(11)

Collins stated that the amendments would be terminated because, in her opinion, they were unconstitutional. The last sentence of 9.18(11) was of particular concern since it precluded associate members from participating in events at state level. The Board of Education withdrew the proposal at their October meeting and will research procedures of other states.

Clark reasoned that, "If you exclude yourself from an organization, you exclude yourself from all areas of the organization." Termination was published as ARC 8129 in 11-18-87 IAB. Tieden excused to attend another meeting.

ENVIRON-
MENTAL
PROTECTION
COMMISSION

Mark Landa, Pete Hamlin, Randy Clark, and Dennis Alt appeared on behalf of EPC for the following:

NATURAL RESOURCES DEPARTMENT 11661 "umbrella"
Water use permits, 50.2, 51.6(4), 52.2(2), 52.2(3), 52.2(4), 52.4(3)"a" and "b," 52.4(4)"d," 52.7(1), 52.7(2), 52.9, 52.10,
renumber existing 52.10 ARC 8064F. 10/21/87
Emission standard defined, 20.2 filed emergency ARC 8023FE 10/21/87
Fluoride analysis, 41.1(3)"f"(5), filed emergency ARC 8063FE 10/21/87
Underground storage tanks, 135.3(5), 135.3(8), 135.3(9), 135.4, 135.5, 135.11, renumber existing 135.4 to 135.11 as
135.6 to 135.13, filed emergency ARC 8022FE 10/21/87

Randy Clark described amendments to Chapters 50, 51 and 52 as Waterplan legislation of 1985. No questions.

20.2

Revised rule 20.2 was reviewed by Landa. No recommendations. Doyle excused. No questions re 41.4(3)f(5).

135.3(5)

Hamlin focused on technical amendment provisions pertaining to underground storage tanks. The amendments parrot new groundwater legislation in HF 631.

Priebe and Parker cautioned Department officials against emergency rule making. Landa agreed to convey ARRC sentiments to the Commission. Clark commented that public input was always preferable even when rules parrot legislation.

REVENUE &
FINANCE

Carl Castelda appeared to answer questions on the following agenda:

REVENUE &
FINANCE
Continued

Organization, public inspection, amend and transfer 730—ch 6 to 701—ch 6, 6.1 ARC 8012 F 10/7/87
Use tax, 30.10(3), 52.1(1) ARC 8010 F 10/7/87
Property tax, 71.20(2)"a," 71.20(3)"c"(1), 74.4(1), 78.1(3), 78.2(1), 79.5(1), 79.5(4), 80.1(1)"a," 80.1(1)"a," 80.2(1)"a,"
80.3(1), 80.3(5)"d," 123.1 ARC 8011 F 10/7/87
Trade in property, 15.19, 15.19(2), 15.19(3) ARC 8049 N 10/21/87
Taxable and exempt sales, agricultural products and services, 16.52, 17.4, 17.9, 17.9(5), 18.44(5),
18.44(6) ARC 8052 N 10/21/87
Exempt sales of prizes, 17.21 ARC 8009 N 10/7/87
Taxable and exempt sales determined by method of transaction or usage, sales and use tax on services, 18.31(1),
18.47, 20.7, 20.8, 20.70 ARC 8007 N 10/7/87
Prescription drug defined, 20.7, 20.7(1) ARC 8008 N 10/7/87
Diabetic testing materials, 20.8, 20.8(1)"c" ARC 8051 N 10/21/87
Fuel tax used in refuse vehicles, 63.26(4), 64.7(6) ARC 8050 N 10/21/87

No questions re Chapter 6, 30.10(3), 52.1(1) or 72.20 et al.

15.19 Castelda and Clark discussed history of tax on trade-in property and Castelda noted that rule 15.19 reflects the new law. Clark referenced Example 2 which, in her opinion, was "double taxation."

16.52 No questions re 16.52 et al. In discussion of rule
et al. 17.21, Priebe thought that gross receipts from sales of tangible personal property which will be given as prizes should be taxed at the wholesale level. It was noted that the statutory language appeared in SF 511.

18.31 No questions re 18.31 et al., 20.7, 20.8, and 63.26(4).
et al. Castelda gave brief explanation of 64.7(6) and Priebe was interested in the method used to determine a 30 per cent credit. Castelda responded that it was based on information from the industry and other states. He admitted that the amount of fuel would vary from truck to truck.

TREASURER Michael Tramontina and Lynn McCormick were present for:
OF STATE Linked deposit program for targeted small businesses, ch 8 ARC 8044, also filed emergency ARC 8043 N+FE 10/21/87

Tramontina defended the filed emergency rules since new funding was not involved. Changes were anticipated as a result of their October 21 hearing.

Treasurer of State and Department of Transportation officials were apprised of the ARRC opposition to emergency rules.

TRANSPOR- Julie Fitzgerald and Harry Miller represented DOT. The
TATION agenda follows:
DEPARTMENT

Essential air service terminal improvement program, ch 715 ARC 8034, also filed emergency ARC 8033 N+FE 10/21/87
Promulgation of rules--role of Commission--Special

Ch 715 Miller said that Chapter 715 was adopted on an emergency basis to implement a one-year funding program. Rules had been sent to affected airports but no response was forthcoming. Miller said that subrule 715.11(5)--cost underruns--would be rescinded since it was unworkable.

Special Review Special review continued relative to the statutory role of the Transportation Commission. Royce offered

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TRANSPOR-
TATION
DEPARTMENT

background information on the issue which had been discussed at the 10-13-87 meeting of the ARRC.

Gary Kaufmann, Legislative Service Bureau, pointed out that DOT rules are approved by the Commission which is contrary to state reorganization--most rule-making power is now vested in the Director, not the Commission. Kaufmann shared his memo on the matter. Priebe viewed that legislation as "one of the worst areas of reorganization." Clark opined that the Director would not be precluded from "ensuring that all players are in agreement." She thought it bordered on semantics.

Tabor and Fitzgerald discussed the preamble language used by DOT. Burnett commented, "It is very clear that the Director has rule-making authority" and she recommended clarification in the preamble. No formal action.

Priebe requested Kaufmann to draft legislation to reinstate rule-making authority for all Commissions. Priebe and Doyle were excused to attend a ceremony in the Supreme Court. Tieden returned. Parker in the Chair.

PUBLIC
HEALTH
DEPARTMENT

Michael Magnant, William C. Mauer, Dennis H. Bach, David Fries, Susan Anthony, Joyce Borgmeyer, Phyllis Blood and Sue Osmann were present for the following:

Community water fluoridation grant program, ch 20	ARC 8004	.....F.....	10/7/87
Governor's alliance on substance abuse, ch 91	ARC 7976	.....F.....	10/7/87
WIC Program, ch 73--special review		.....	IAC
Newborn screening policy, 4.1	ARC 8048	.....N.....	10/21/87
Financial assistance to eligible AIDS patients, ch 11	ARC 8015, also filed emergency	ARC 8014	.....N/FE 10/7/87
Statewide indigent obstetrical and newborn patient care program, ch 75	ARC 7978, also filed emergency		.....N/FE 10/7/87
ARC 7977			N 10/7/87
Statewide indigent obstetrical and orthopedic patient care program, ch 82	ARC 7979	.....N.....	10/7/87

No questions re Chapter 20. Osmann agreed to provide cost figures for Chapter 91.

Special
Review
Ch 73
WIC

Royce reminded Committee members that this issue had been discussed last month. He recalled the allegation that convenience stores would be precluded from participation in the WIC program and that no rule existed on the subject.

Bach indicated a hearing had been held. It was noted that revised rules were published in 11-18-87 IAB and would be before the ARRC in December. No action.

4.1
Ch 11

No questions re 4.1. Fries gave brief overview of Chapter 11 on funding for AIDS patients who receive anti-viral prescription drugs. Public meetings had been held before these rules were presented to the Board of Health.

Royce interjected, "This is a small program to provide a very necessary drug to a desperately ill segment of the population," and he questioned the extensive list of regulations. According to Fries, the federal

PUBLIC
HEALTH
Continued

guidelines are for low-income clients and the Department utilized existing rules for other cash assistance programs. In addition, the belief is that funding will increase next year. Parker reminded Fries that since the rules were filed emergency, the ARRC was precluded from any action and he lectured Public Health officials concerning filed emergency rules. He asked the Department to follow strict guidelines before utilizing the filed emergency process.

Ch 75
Ch 82

Clark pointed out repetitive language in Chapter 75 and suggested cross referencing. Royce supported the procedure followed by the Department. Clark recommended clarification of 82.1.

LOTTERY
DIVISION

Charles Strutt was present for the following:

REVENUE AND FINANCE DEPARTMENT(701) "umbrella"
LOTTO, ch 10 ARC 8003, also filed emergency ARC 8002 N+FE 10/7/87
Pull-tab general rules, ch 11 ARC 8001, also filed emergency ARC 8000 N+FE 10/7/87

Ch 10

Clark commented that the rules were quite technical. Strutt responded that ARRC would probably be surprised at the number of calls pointing out printed miscalculations. Some individuals request copies of all calculations.

Ch 11

Strutt continued that Chapter 11 pertains to pull-tab tickets and major revision would be submitted after Christmas.

NO AGENCY
REPS

No agency representatives were requested to appear for the following:

ALCOHOLIC BEVERAGES DIVISION(185)
COMMERCE DEPARTMENT(181) "umbrella"
Class "E" liquor control licenses, bond 5907 ARC 2881 N 10/7/87
COLLEGE AID COMMISSION(245)
Iowa guaranteed student loan program, ch 36 ARC 8031 F 10/21/87
COMMERCE DEPARTMENT(181)
Custodians of records, ch 17 ARC 8055 N 10/21/87
INDUSTRIAL SERVICES DIVISION(343)
EMPLOYMENT SERVICES DEPARTMENT(181) "umbrella"
Purpose and function—division address, 12 filed emergency, ARC 7970 FE 10/7/87
MANAGEMENT DEPARTMENT(611)
Organization and operation, rule making, chs 1, 5, 6, 7 ARC 8042 F 10/21/87
PHARMACY EXAMINERS BOARD(609)
Pharmacy business licenses, 7.1, 5, 2, 12 ARC 8005 N 10/7/87
Hospital pharmacy licenses, ch 12 ARC 8000 N 10/7/87
VETERINARY MEDICINE BOARD(842)
Address—corrections examination provisions, reciprocal license for revisions 12, 2, 1, 3, 10, 1, 10, 12, 13, 5, 1, 11
5 (for 6) ARC 7999 N 10/7/87

GENERAL
SERVICES
1.6(5)

Tabor brought up the Session Delay of General Services subrule 1.6(5) re use of alcoholic beverages in the new historical building. There was discussion of the proper procedure for the Committee to follow.

Motion to
Delay

Parker suggested a possible 70-day delay for further study and Tabor so moved. Discussion followed.

Priebe opined that it was highly unlikely there would be enough votes to change the law in the next General Assembly.

Recess

The Committee was recessed for lunch.

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Reconvened Chairman Priebe reconvened the Committee at 1:20 p.m.

GENERAL SERVICES The ARRC resumed discussion of the Tabor motion to delay 1.6(5) for 70 days. Royce reviewed Code section 4.1(22)--computation of time.

Substitute Motion Tabor moved as a substitute motion that a special review be held at the January meeting. Motion carried. See also p. 3760 herein.

The following letter was drafted by Royce:

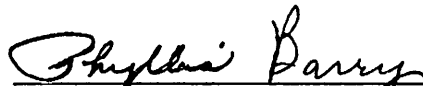
At its November 17th meeting the committee voted to rescind an earlier action where it delayed the effective date of 450 IAC 1.6(5) until the adjournment of the 1988 regular session of the General Assembly. This subrule appears as part of ARC 7924, published in X IAB 6 (9-9-87). This subrule provides that alcoholic beverages may be consumed at the new state historical building, with the approval of the appropriate state officials. The committee rescission allowed the subrule to go into effect on November 18, 1987.

At its November 18 meeting the committee voted to again review this subrule at its January 5 1988 meeting. Committee members suggest that the department temporarily defer approving additional rental contracts, that allow the serving of alcoholic beverages, until after the January 5 meeting. It was reasoned that any possibility of vetoing or modifying the rule would be eliminated if a large number of contracts were signed, since the legislature is unlikely to take any action that might impair a contract.

Meeting Dates The December meeting dates were changed to Wednesday and Thursday, December 9 and 10, 1987, and a special meeting was scheduled for January 5 and 6, 1988, in lieu of statutory date.

Adjourned Doyle moved to adjourn the meeting at 1:45 p.m. Motion carried.

Respectfully submitted,


Phyllis Barry, Secretary
Assisted by Bonnie King and
Vivian Haag

APPROVED:

CHAIRMAN