

MINUTES OF THE SPECIAL MEETING
OF THE
ADMINISTRATIVE RULES REVIEW COMMITTEE

Time of Meeting: Wednesday, Thursday and Friday, October 10, 11, and 12, 1984, in lieu of statutory date of October 9, 1984.

Place of Meeting: Senate Committee Room 22 and Senate Chamber, State Capitol, Des Moines, Iowa.

Members Present: Senator Berl E. Priebe, Chairman; Representative Laverne Schroeder, Vice Chairman; Senators Donald V. Doyle and Dale L. Tieden; Representatives Ned Chiodo and James D. O'Kane.
Also present: Joseph Royce, Committee Counsel; Kathryn Graf, Governor's Administrator Rules Coordinator; Phyllis Barry, Deputy Code Editor; Vivian Haag, Administrative Assistant.

Convened Chairman Priebe convened the Wednesday session at 10:12 a.m., Room 22, State Capitol.

CONSERVATION
COMMISSION

John Beamer, Berniece Hostetler, Richard Bishop, Ross Harrison and Bob Fagerland were present on behalf of the Commission for the following:

CONSERVATION COMMISSION[290]
Sand and gravel permit regulations, ch 77 ARC 4979 E 9:26 81
Pheasant, quail and gray (Hungarian) partridge hunting seasons, 103.1 to 103.3 ARC 4984 E 9:26 84
Waterfowl hunting on Forney Lake and Riverton Area, 14.1(5), filed emergency after notice ARC 4980 FEAN 9:26 81
Falconry regulations, 18.1, 18.3, 18.5(3) ARC 4982 N 9:26 81
Bunting, special events, ch 35 ARC 4987 N 9:26 81
Waterfowl and coot hunting seasons, 107.1, 107.2, 107.3, 107.4(3), filed emergency after notice ARC 4981 FEAN 9:26 84
Wild turkey spring hunting regulations 111.1, 111.2(1), 111.2(2), 111.3 ARC 4983 N 9:26 84

ch 77

Chapter 77 was reviewed briefly by Beamer and he noted that 77.4 was modified at ARRC request; the public hearing generated changes in rules 77.5 and 77.7.

Priebe was reminded that the rules apply to Iowa's meandered streams. Beamer agreed to supply the Committee with a map depicting meandered streams.

Discussion of reporting procedures in 77.5(111). Schroeder thought it was quite broad as to discretion of the Director. He preferred a monthly reporting for all. No action taken.

ch 103

Bishop reported there were no major changes in ch 103. Closing of the pheasant season had been shifted to January 1 as last year since the population is down. Barry noted that the Bulletin showed the date of January 6 in 103.1 and she agreed to publish the correct version in the next Iowa Administrative Bulletin. However, the January 1 date was correctly published in the Iowa Administrative Code. Tieden commented that Iowa's

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CONSERVATION
COMMISSION
Continued

pheasant season runs longer than South Dakota's, which is considered the pheasant capital of the world.

14.1(5)

Discussion moved to 14.1(5)--limit on the number of shells at Forneys Lake and Riverton hunting areas was removed. Schroeder challenged, "Nonhunters may not possess shells or firearms in the area." He cited possible problem for sheriffs. Bishop responded that there had been no problems. Tieden called attention to outdated information on the hunting license pertaining to funds contributed by hunters. According to Bishop, this is changed every 5 to 10 years.

In a matter not officially before the Committee, Chiodo questioned the need for children to send a copy of their hunter safety course certificate after the first year. Bishop indicated the Commission would be supportive of statutory change to permit minors to obtain hunting licenses for subsequent years without proof of hunter safety course. Fagerland admitted that changes were needed in several areas of Code chapters 109 and 110. Chiodo thought the application should contain mention of the hunter safety certificate for checkoff purposes.

Motion to re-
fer to GA

Schroeder moved that the matter of hunter safety certificates be referred to appropriate legislative standing committees, with the suggestion that once a certificate has been submitted and a license issued, a subsequent license could be issued when a valid license number accompanied the application. The license could be renewed without additional proof of the applicant having passed a hunter safety course--applicable until the age of majority. Motion adopted.

Chiodo and Bishop discussed penalty for violations by 13-year olds. Bishop indicated that would be up to a judge but, generally, a fine is not imposed--a citation is written. In response to Priebe, Bishop explained the law pertaining to owners or tenants who wish to hunt deer on their land.

Falconry

Although the Department official responsible for falconry rules was not present, the Committee posed questions concerning them. Tieden interpreted the rules as being somewhat of a dichotomy in that stealing of falcons was permitted and the nestling was protected. O'Kane raised question re licensed apprentice--18.3(1). Review of falconry was deferred until Thursday.

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CONSERVATION
COMMISSION
Concluded
ch 35

Harrison explained the background for registration exemption for special boating events. He indicated that 35.2, liability insurance for special events, would be withdrawn. It will be suggested, at the time application for permit is received, that individual sponsors consider purchase of liability insurance for their protection.

ch 107

Discussion of amendments to chapter 107 which were basically the same as the Notice. O'Kane was of the opinion the rules were somewhat late and he suggested that the Fish and Wildlife Service be requested to provide their material on a timely basis. Bishop responded that the Department of Interior was more interested in accurate biological data than in Iowa's minor administrative problems. He added that others concur with O'Kane's suggestion but data isn't available earlier. Tieden was told that Iowa can be more restrictive, but not more liberal, than the federal government.

ch 111

Wild turkey hunting changes were statutory. Tieden questioned creation of Zone 13 to hunt only 10 turkeys. Department officials explained that more small zones will be seen since there are requests to stock turkeys.

AGRICULTURE
DEPARTMENT

Bette Duncan and Thatcher Johnson were present for review of:

AGRICULTURE DEPARTMENT[30]

Registration of Iowa-foaled horses and Iowa-whelped dogs, ch 14 ARC 4986 F..... 9/26/84

Johnson said that most changes were for clarification of chapter 14. He had met with breeders for horses and dogs and was unaware of opposition to the rules. Priebe, in re 14.14, questioned use of "any" and was advised it is restricted to thoroughbreds. Priebe also questioned language in f, "any other relevant information" as being somewhat broad. Royce assured Priebe it was common usage. Doyle suggested addition of "but not limited to" following "include" in 14.14(1) when the rules are again before the ARRC. Johnson was amenable.

Royce advised Tieden that, usually, forms are not included in the rules--just a description of them and their availability.

REFUGEE
SERVICE
CENTER

Richard Whitaker, Hounq Baccam and Marvin Weidner represented the Iowa Refugee Service Center for the following:

REFUGEE SERVICE CENTER, IOWA[715]

General organization and administration, Chs 1 to 3, 5, 7, and 8 ARC 4940 N... 9/12/84

Weidner, in response to O'Kane, described the translation services which were available for all of the five ethnic southeast Asian languages and five groups; Tai Dam, Hmong, Lao, Khamir and Vietnamese.

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REFUGEE
CENTER
Cont'd

Primary areas of service include employers, immigration work and medical attention. Volunteer translation services are available in a variety of languages--15 bilingual persons are on the staff.

7.2(2)c

Doyle raised question re limitation of cameras and recording devices in 7.2(2)c. Royce advised that intent was not to prohibit use of the equipment but to prevent disruption of the meeting by taking pictures or recording. Weidner described method by which refugees are permitted to enter this country and pointed out that any legal refugee may be served.

Schroeder referred to chapter 5 and suggested inclusion of a reference to Iowa's statute on confidentiality. Schroeder questioned last sentence of 7.2(2) as requiring too much information. Royce saw no problem.

Doyle inquired about service for a refugee who is arrested and Doyle was advised that translation services would be available. There was brief discussion of federal government interpreters. No action taken.

Committee
Business
Meetings

Chairman Priebe reminded ARRC members that the December meeting would be held on the 3rd and 4th. A fair board convention will be in progress at that time, also. November meeting was scheduled for the 13th and 14th, with tentative 15th. It was agreed that the January meeting should be held on the 8th and 9th.

Royce brought up the matter of funding for state archaeological study sites in Cherokee County. Federal provisions have created problems at the county level.

Motion

Schroeder moved that the subject be referred to the appropriate legislative standing committees. O'Kane seconded. Motion carried.

Lunch

Recessed at 11:30 a.m. for lunch. Reconvened at 1:32 p.m. with Priebe in the chair.

COMMERCE
COMMISSION

The following agenda was before the ARRC:

COMMERCE COMMISSION[250]
Disconnection moratorium, 19.4(10), 19.4(15)"h" and "i," 19.4(17), 20.4(11), 20.4(15)"h" and "i," 20.4(17) ARC 4997 9 26 84
Weatherization adjustment methodology, 19.10(3)"c"(1) ARC 4960 9 12 84
Annual electric energy supply and cost review, 20.13, 23.4 ARC 4998 9 26 84
Filing requirements--number of copies, 3.2(2), 3.4(3), 3.5(3), 3.6(2), 3.7(2), 4.3(2), 4.4(1), 7.2(8), 7.3(2), 7.4(1)"d"(1), 7.4(5), 7.4(6)"f," 7.5(3), 7.7(12), 7.7(17), 7.8(2)"a" and "c," 7.9(2), 7.9(3), 24.9(2)"a" and "b," 24.9(5) ARC 4958 9 12 84
Public utility advertisement, 16.8 ARC 4959 9 12 84

Commerce Commission representatives present were Ray Vawter, Shane L. Bock, Maureen Scott, Cynthia Dilley, Twila Morris, Dan Hanson and Eugene Rasmussen. Also present: Don Heidbrecht, United Telephone; Jack Clark, Iowa Utility Assn; Susan Johnson, Peoples Natural Gas Company.

Morris briefed the ARRC with respect to changes made in amendments to chapters 19 and 20 since the Notices. Word-ing had been added to the customer notice provision specifying that utilities shall include, on the notice to

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COMMISSION
Continued

its customers, the address and telephone number of the community action agencies administering the energy assistance program.

In addition, customers will be informed of the likelihood that the energy assistance funds will not cover their entire electric bill. It will be incumbent upon the customer to notify the utility of eligibility for energy assistance funds or of prior certification.

Tieden referenced problems with utility notification from one county to another. Morris informed O'Kane that the deadline for written comment had passed for RMU 84-21 on deposits. The Commission had held oral presentation but no final action had been taken.

19.10(3) Weatherization adjustment methodology--19.10(3)c(1)--sets minimum standards to ensure all utilities follow an objective and accurate method. The utility may obtain permission for an additional 3-month period if it can demonstrate that the other 3-month period has less gas usage per customer. There was discussion of paragraph two.

20.13 Major changes in the rules allow a utility to file detailed summaries of agreements or contracts rather than actual contracts. One company, where units are jointly owned, will be permitted to file the contract on behalf of all owners. A utility will be allowed to use its own fuel procurement planning period. 20.13(1)e was modified to include studies or investigation reports for other contract offers the utility received. Another provision will allow a utility to file separately, subject to Commission approval, what it considers to be highly proprietary information. Morris, responding to Tieden, said there had been some opposition and this was a compromise.

3.2 et al Amendments to rules 3.2 et al are intended to update the Commission's filing requirements to reflect increasing caseloads. The Commission has determined it is much cheaper for utilities to send the required number of copies. Schroeder expressed the opinion that Commerce could copy as cheaply as the utility. Vawter agreed to review the matter.

Bock said that 16.8 was intended to implement 1984 Acts, HF 2068, which provides that every public utility advertisement, which is to be charged to the customers or the public utility and which is not required by the Commission, state, or federal regulation, must include a statement that the costs of the ad are being charged to the utility's customers.

According to Vawter, the rule would be applicable to cooperatives as well. In answer to Chiodo, Vawter said it would not be a utility ad if the distributor submitted it, but he agreed to review that aspect. General discussion.

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COMMERCE
COMMISSION
Concluded

Bock knew of no opposition to the rule. Chiodo reasoned there could be a loophole, e.g., the Blue Flame Association, not the utility, will do the advertising and a tax will be avoided. O'Kane commented that the utility in his areas has expressed opposition to the rule. Chiodo declared, "that which cannot be done directly should not be done indirectly by the utility." No other questions.

Recess

Short recess at 2:00 p.m.

RACING
COMMISSION

Mick Lura was present to explain:

RACING COMMISSION, STATE[693]

Applications for track licenses and racing dates, ch 5 ARC 4947F..... 9/12 84

ch 5

Chapter 5 had been adopted under emergency provisions and also submitted under regular rulemaking procedure. The Commission made corrective changes after the hearing process which included substitution of "stockholder" for "principal stockholder." A lesser standard for fair racing applications was adopted. Brief discussion of county fair racing potential. Tieden was informed that provisions for the hiring of the Racing Commission Director were set out in the Code--not in rule form. There was discussion of Commission and Director duties and Lura reminded Tieden that the Director has no vote on the Commission. Tieden alluded to "a very sensitive area in NE Iowa."

5.7

Doyle wondered if 5.7 re gifts would be construed to require the Governor and Commission Director to pay admission to inspect condition of the track. He noted that South Dakota issues season passes. Lura pointed out that "with intent to influence" was statutory language but admitted that 5.7(2) was somewhat contradictory. He added that, by law, the Governor or Director would be at the track "in an official capacity." This matter had been discussed extensively.

5.2(4)

In re 5.2(4), Tieden viewed "one percent" as being arbitrary. Lura replied that the Iowa rules were tailored from those of Arkansas, Minnesota and Nebraska. Tieden asked that "corporations" be included after "parents" in 5.2(2)k when the rules are amended in the future.

EMPLOYMENT
SECURITY
Job Service

The following agenda was before the ARRC:

EMPLOYMENT SECURITY[370]

Employer's contributions and charges, claims and benefits, appeals procedure, 3.32(1), 3.33(2), 3.48, 4.7(2), 4.12, 6.7(1)"b"(1) and (2), 6.7(2)"b," 6.7(3)"a," "c" and "d" ARC 4954F..... 9/12 84
HRS. 8.112"e," 8.113"e," 8.54(1)"a," (24), 8.609"d," 8.811"e," 8.108(8), 8.108(9), 8.11(3), 8.132"e,"
8.1380"e," 8.1381(10) ARC 4955F..... 9/12 84

Claims and benefits, 4.7(2)"c"(1), 8.13(9) ARC 4985N... 9/26 84

chs 3, 4 &
6

James Hunsaker III and Joseph Bervid appeared on behalf of Job Service. Bervid reviewed amendments to chapters 3, 4 and 6. He explained that 3.32(1) was amended to satisfy federal requirements. No one appeared at the public hearing.

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EMPLOYMENT Hunsaker reviewed new language in 8.8(1)a relative to
SECURITY supplemental refunds for terminated members. Bervid
Job Service agreed to research 8.13(10)b as to remaining balances
IPERS and to report to Tieden.

O'Kane in the Chair.

VOTER Doug Lovitt of the Commission presented chapter 2 per-
REGISTRA - taining to voter registration forms and instructions,
TION COMM. IAB 9/12/84, filed emergency after Notice as ARC 4941.

ch 2 Lovitt said the rules clarify existing procedures and
implement requirements of 1984 Acts, HF 2468. Lovitt
recalled opposition to 2.1(1) and pointed out that space
for Social Security and telephone numbers is included
on the form so that the information may be obtained
if a registrant volunteers it. In order to vote, an
individual must register 10 days prior to a general
or primary election and 11 days prior to any other
election.

Lovitt discussed changes in the post card form which
has been available since July. Doyle expressed the
opinion that the "other signature" requirement was al-
most useless on the post card. Lovitt concurred, but
pointed out it was for out-of-state registrants, e. g.,
college students.

BOARD OF Jim Krusor was present for the following:
MEDICAL
EXAMINERS

BOARD OF MEDICAL EXAMINERS

Medical examiners, peer review committees, 135.206 to 135.208 ARC 4930 - carried over from September meeting 8/29/84
Physician's assistants, 136.3(2)"a" ARC 4931 - carried over from September meeting 8/29/84

135.206 & According to Krusor, the proposed changes in chapter 135
135.208 would allow the Board to establish special peer review
committees as needed. The Board sees the Committee as
viable alternatives in specific cases.

136.3(2)a Amendment to 136.3(2)a will allow graduates of AMA
approved surgeon's assistant's schools to be treated
equally with graduates of primary care programs. No
recommendations.

Minutes Minutes of the September meeting were approved as sub-
mitted.

Recess Recessed at 3:15 p.m. to reconvene at 9:45 a.m., Thurs-
day, October 11, 1984.

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Reconvened Chairman Priebe reconvened the meeting, Thursday, Octo-
Thursday ber 11, 1984, at 9:45 a.m. All members and staff present
October 11 except for Schroeder, who was excused.

CONSERVATION Amendments to falconry rules, having been carried over
from Wednesday, were before the Committee.

ch 18 Rich McGeough appeared on behalf of the Department and

CONSERVATION addressed the Committee re concerns about language in
 COMMISSION 18.3(1) "...Only a licensed apprentice falconer is
 Falconry authorized to take a red tailed hawk..." McGeough in-
 continued formed O'Kane that a drastic federal change, for the
 first time in the history of the country, will allow
 falconers to sell their birds. The Conservation Com-
 mission is cooperating with the federal government in
 this respect. The Commission will no longer authorize
 removal of those birds from the wild. McGeough contin-
 ued that the only birds available will be those raised
 commercially with one special concession being made for
 the apprentice--usually a very young person. The red
 tailed hawk is common enough with a temperament suitable
 for being handled by an apprentice.

Priebe viewed the rule as a good one and he asked McGeough
 to convey ARRC commendation for the rule. Tieden re-
 newed his request for the meandered stream map.

BLIND Tony Cobb and Nancy Norman were present for the Blind
 COMMISSION Commission. The following agenda was reviewed:

BLIND COMMISSION FOR(160)

General organization and administration, 1.2 to 1.5	ARC 4961	F	9/12 81
Services, 2.1, 2.2, 2.4	ARC 4962	F	9/12 81
Procedures, 3.2(2)"h" and "e" (5), 3.2(3), 3.3(1) to 3.3(4), 3.4 to 3.6	ARC 4963	F	9/12 81
Vending facilities, 4.4(1)"3" and "4," 4.5(2), 4.6(2), 4.7(2), 4.8"3," 4.9, 4.11(4), 4.11(7), 4.12(1), 4.12(2), 4.14, 4.15	ARC 4964	F	9/12 81
Employment practices, 5.1(2), 5.2(5), 5.2(6), 5.4(1), 5.4(2)	ARC 4965	F	9/12 81
Promotions, demotions, transfers and terminations, 6.1, 6.2, 6.6(1), 6.6(2)"a," "d"(1), "h," and "I"(3)	ARC 4966	F	9/12 81
General personnel policies and procedures, 7.1, 7.3, 7.5, 7.8(1), 7.8(3)	ARC 4967	F	9/12 81
Classification and compensation policies and procedures, 8.2(1), 8.4(1), 8.4(2), 8.4(3), 8.4(4)"b," 8.4(6), 8.4(8), 8.4(10), 8.4(11)	ARC 4968	F	9/12 81

Also present: Joe Van Lent, Nila and Bill Fuller, Na-
 tional Federation of the Blind.

- 1.4 Norman reported that the Board had attempted to satisfy
 ARRC concerns as to the number of Commission meetings.
 Meetings will be held at least six times each year, with
 additional ones as needed. When budgets or state plans
 are to be considered, the Board will attempt to meet
 after hours to accommodate blind people.
- 3.3(2) Tieden questioned new language in 3.3(2) "...and the
 responsibility shall not be...delegated..." and he was
 told that was to comply with federal regulations. Nor-
 man said that 3.4(1), pertaining to confidential infor-
 mation, was almost word-for-word from federal regulations.
 Tieden viewed "timely manner" in 3.4(2) as being nebulous.
 Royce said it was also federal language.
- 3.4(4)c Doyle referred to 3.4(4)c and recalled that other agencies
 had established fees by rule. In response to Doyle, Royce
 advised that, in this instance, the Department was not re-
 quired to establish fees by rule. However, for the sake
 of uniformity, it would be preferred. Priebe questioned
 reason for "extraordinary." Norman was amenable to es-
 tablishing fees by rule.

Chairman Priebe recognized Van Lent, who spoke of the
 blind's preference for Saturday Board meetings since
 that is their only opportunity for input to the Board.
 He referenced a \$20,000 architectural study of the

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COMMISSION
Continued

Commission building, which had been approved without bidding process or discussion.

In response to Priebe, Norman said everyone would have advance knowledge of meetings for next year. At least twenty-four hours' notice would be given for called meetings. Norman said the Board had met twice on Saturdays in the past year. She declared that no constituency was better informed about their agency than blind consumers. She cited examples, the most recent being the establishment of a client-assistance project. Also, a quarterly newsletter is distributed.

Van Lent stressed that his group wanted more access to the Board, not the Commission. He pointed out that only one Board member is blind.

O'Kane asked Norman to comment on the bidding procedure. She said the fire marshal inspected the building and subsequent to that, the Commission asked General Services to check it. An architectural study was recommended and the Commission determined there were funds available. Bids were let with the cooperation of General Services. Priebe inquired if the job were let to the lowest bidder.

Norman stated the Commission decided what was needed and worked with General Services in developing the bid package that was let. Although an administrative decision was made, the Board was aware of the Fire Marshal's report.

Van Lent interjected the matter was not discussed at a Board meeting and Norman responded that he had been informed that the issue was an administrative decision.

Priebe thought it would be advisable for the Board to have full knowledge of matters of this nature.

ch 4 Discussion of amendments to chapter 4 and definition of vendor-owner. Priebe asked for explanation of 4.7(2). Cobb said it was from federal regulations and was suggested by the Federal Regional Office representative. He was sensitive to the fact that it was almost moot. Priebe recommended that the provision be removed when the rules are again amended. In Doyle's opinion, liability insurance records should be available.

Request to
remove

Ch 5 In reviewing chapter 5, Norman explained that the Commission has their own Pay Plan and a new Classification System was implemented July 1.

6.6 In response to Tieden's question re 6.6(2)h(2), Cobb said that their personnel rules contain a reduction-in-force plan whereby an employee may choose to "bump" to a lower classification in lieu of being laid off.

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BLIND In re 7.8(1), designated holidays, Doyle asked if the
COMMISSION state designation was used. Norman was unsure of vendors'
Concluded policy but the Commission uses state holidays.

Norman said 8.2(1) was clarified at ARRC request.

Fuller urged that rights of the blind Iowans not be forgotten. Chairman Priebe suggested that Fuller's group apprise the Governor of their concern. No action taken.

CAMPAIGN Kay Williams was present for the following:

FINANCE

DISCLOSURE

CAMPAIGN FINANCE DISCLOSURE COMMISSION[190]

Campaign contributions to state officeholders and candidates for state office, ch 7 ARC 4943 F..... 9/12 81

Williams informed Doyle that rule 7.4 was applicable only while the Legislature was in session. Receipt would be defined as when the candidate or officeholder actually received the money. The Commission encourages deposit of money soon after it is received--without timely deposit, disclosure is not afforded. Tieden and Williams discussed the process at length.

HUMAN
SERVICES

The following agenda was before the Committee:

HUMAN SERVICES DEPARTMENT[498]

Interim assistance reimbursement, ch 57, filed without notice ARC 4988 F..... 9/26 84
Administration of food programs, 65.3, 65.19(4), 65.19(9), 65.19(14), 65.19(19) ARC 4977 F..... 9/26 81
Medical assistance, recipient lock-in, 76.9(2) ARC 4974 F..... 9/26 81
Collections, nonassistance child support recovery programs, 95.1, 95.2, 95.5(1), 95.10, 95.11, 96.7, 96.8 ARC 4978 F..... 9/26 81
Purchase of service, 150.1, 150.3(3)"a," 150.3(5)"q," 150.5(4) ARC 4990 F..... 9/26 81
Overpayments, ch 11 ARC 4944 N..... 9/12 84
Interim assistance reimbursement, ch 67 ARC 4989 N..... 9/26 84
Amount, duration and scope of medical and remedial services, abortions, 78.1(17) ARC 4945 N..... 9/12 81
Intermediate care facilities, 81.6(1)"h"(4) ARC 4946 N..... 9/12 84
Home and community based waivers, ch 88 54.9, 75.1(18), 78.3(17), 78.12(17), 81.13(29), 82.2(45), 130.2(6), 130.3(4),
130.5(1)"h," 130.5(2)"j" to "m," 130.7(2)"h," 150.3(4)"d," 150.3(8), 156.6(3), 177.3(1), 177.3(2), 177.5(6), 177.12, ch 180,
202.2(6), 207.2(4), filed emergency ARC 4975 FE... 9/26 84

Human Services Department was represented by Mary Ann Walker, Gary Gesaman, Steve Rendall, Sherry Hopkins, Xinda Druart and Norma L. Ryan and Gordon Allen, Assistant Attorney General. Also present: Robert Mather, President, Progress Industries.

chs 57, 65 No questions re amendments to chapters 57 and 65..

76.9 In re 76.9(2), Priebe inquired as to procedure should recipient oppose going to just one pharmacist. Walker replied that if the recipient has been over-utilizing the service, they would be required to use the form in order to stay on the program. Emergency situations are covered.

Chs 95, 96 Amendments to chapters 95 and 96 had generated no comment. They implement mandatory wage assignments for absent parents delinquent in support payments and allow child support recovery officers to set a support obligation if one has not been established by the court.

ch 150 Walker reported much interest in purchase of service amendments to chapter 150. Mather presented a narrative wherein he addressed four areas which he described as subjective and impossible to implement fairly. Mather opposed disclosure of financial and statistical records in order to

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determine whether a "relationship" exists. He thought "suspected of being related" would be preferable. Mather had met with the purchase of service task force and made recommendations on behalf of provider agencies which they wanted included in the rules. Also, they had attended the public hearing.

Mather contended that the words "significant" and "substantial" were not measurable and should be clarified. He was unfamiliar with the rulemaking process and inquired as to the role of the Committee. Priebe responded with an explanation.

Mather distributed a booklet which described Progress Industries as a nonprofit Iowa corporation providing rehabilitation for citizens with handicapping conditions. He continued that Progress Industries does have a foundation and no attempt is made to hide that fact. The five-year old corporation is fully accredited in seven areas including Iowa.

Mather proposed that "significant" be defined to include a percentage. Internal revenue Code provides for 80 percent and up and he thought 80 would be acceptable. He could foresee costly litigation without a percentage factor.

Mather thought 150.3(5)g(3) could be construed to be a relationship between Progress Industries and their stationery store since they buy a significant amount of supplies. He pointed out that most provider agencies have approximately 100 suppliers. He preferred revision to provide "...services, facilities, and supplies..." and declared that subparagraph (3), as written, was unworkable. He cited a possibility of one landlord, such as a bank, being considered as "related, affiliated or having control" if one hundred percent of the providers' rent went to the bank.

Royce and Mather discussed the relationship between the foundation and the provider. Mather referred to his proposal and concluded that the Department should not be asking for figures on actual costs.

Allen recalled there was no opposition when the rules were adopted by the Council. Mather's suggestion had been considered and denied by the Council. Allen continued that the Department is attempting to provide identical treatment to the foundations and provider groups and the warehouse, which cost is presumed to be controlled by market principals--the owner would charge a prevailing rate. That is not necessarily true in foundation context--they are essentially organized to "favor the provider group." The Department pays on a cost-related basis, not on a fair-market basis. Allen took the position that a bank would not be a "related party" in the example cited by Mather.

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Allen added, "in that instance, this group is not associated with, affiliated with, does not control or own, in any sense of the word, the bank." However, they may be all of those with the foundation. Re specific percentage--Allen said this was a difficult question to answer because the amount is difficult to set. Foundations have all advocated a specific amount, understandably, since "if you know the amount is 80 percent, it is easier to come in at 79 percent." In re access to records, the Department is attempting to validate costs.

Motion to
Refer to
General
Assembly

Priebe suggested the material be submitted to Human Resources Committees in the Legislature and to have providers meet with them after January in an attempt to compromise. Doyle so moved. Motion carried.

In response to Tieden, Allen said there was no hostility between the two factions but a very strongly held difference of opinion. Allen concluded that the Department has an obligation to run an effective and economic program.

Defer

Human Services rules were deferred momentarily to consider the following Merit Department rules as presented by Clint Davis:

MERIT
DEPT.

MERIT EMPLOYMENT DEPARTMENT[570]
Phased retirement program, holidays, 4.5(15), 11.1(1), 14.10 ARC 4951F... 9/12/81
(holiday pay, 14.10(5) ARC 4991N... 9/26/81

No questions re phased retirement program.

14.10(5)

O'Kane asked who would be affected by 14.10(5). Davis offered a background on statutory revision that excludes holiday pay for those who are not receiving other benefits. Impetus for change was to comply with the new statute.

O'Kane observed that the new Act was not referenced in the preamble. Davis agreed to provide the legislative authority for the rule.

HUMAN
SERVICES
ch 11

Review of Human Services rules resumed. Chapter 11 provides ability for state income tax setoff when it is determined there has been an overpayment. Tieden was interested in reaction from the various hearings held around the state but Walker stated that responses would not be known until after Friday.

Hopkins explained that income tax "rebate" was interchangeable with "refund."

ch 78

Walker reported that revised subrule 78.1(17) will require physicians to report the medical basis for determining that a fetus should be aborted because it is deformed, mentally deficient or afflicted with a congenital illness. According to Walker, the Medical Society is aware of the rule.

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HUMAN
SERVICES
Continued
81.6(11)
h(4)

Amendments to 81.6(11)h(4) will raise the maximum allowed compensation to a nursing home administrator who is involved in ownership of an Intermediate Care Facility. Tieden requested explanation of the inflation factor in the last paragraph. Gesaman advised that it was not tied to any consumer price index and is generally lower. It is based on actual percent of increase in the care facility's reported costs from one 6-month period to the next.

O'Kane questioned reason for the semiannual basis and suspected that facilities would prefer annual reporting. Department officials pointed out the inflation rate was substantial and adjusting costs on annual basis only would be inadequate. Gesaman thought O'Kane's point was well taken but cautioned that annual reporting would have implications for other rules as well.

ch 83
et al

Walker said the rules govern services provided to only fifty blind and disabled individuals at one time who meet the income and resources limitations for SSI, except for the deeming of income and resources from parent or spouse or whose income exceeds SSI limitations--must be below 300 percent of maximum monthly payment. Priebe thought the program was an excellent approach.

ch 75
Special
Review
Request

There was brief discussion of rumors alleging a possible loophole in establishing medicaid eligibility. O'Kane requested that the chapter 75 of Human Services rules be placed on the November ARRC for special review.

Recess
Reconvened

Chairman Priebe recessed the Committee at 11:55 a.m. for lunch. The meeting was reconvened at 1:30 p.m. with quorum present.

TRANSPOR-
TATION
DEPT.

Keith E. Davis, Dwight L. Stevens and Candice Bakke represented Department of Transportation for the following:

TRANSPORTATION DEPARTMENT[820]

Highways contracts set aside for disadvantaged business enterprises. (06G)ch 2 ARC 4938 N... 9:12 81
Signing manual. (06K) 2.1 ARC 4884 - carried over from September meeting N... 8:15 81
Public transit. contracts set aside for disadvantaged business enterprises. (09A)ch 1 ARC 4939 N... 9:12 81

Davis cited 1984 Acts, HF 2398, as the law which [06G] chapter 2 will implement. The 1982 Highway Act requires that at least 10 percent of federal funds must go to disadvantaged businesses.

Responding to Priebe, Davis said the contractor must furnish DOT with documentation as to ownership, capital, controlling interest, and a committee reviews the material.

2.2(3)

Discussion of 2.2(3). DOT maintains there is much better control by having knowledge the contractor can do the work before they make a bid. Most work done by disadvantaged businesses is on a sub-contracting basis.

Priebe wanted assurance the requirements would not be so tough as to preclude qualification by a business.

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TRANSPOR-
TATION
DEPT.

Davis responded that 2.2(2) provides that it is no more than 10 percent of total federal funds obligated to the state. A business operated by women or wounded veterans was cited by Department officials as examples of possible "disadvantaged business enterprise."

[06,K]2.1

Stevens commented that Code §321.252 requires DOT to adopt a Signing Manual and specifications for a uniform system of traffic control devices. In 1978, Federal Highway Administration published such a manual, a copy of which Stevens displayed. The manual was adopted verbatim by the Transportation Commission, effective October 10, 1979 and it has been updated twice. O'Kane had problems with adopting a manual which Iowa cannot change.

Royce asked if DOT could add rules to the manual and he was told they can adopt the revisions. O'Kane had suggested changes over the years with no success.

Priebe called attention to the removal of a cattle sign on Highway 18, one mile west of Algona. Advertisement signs are now in place much to the chagrin of several farmers. Priebe had observed inconsistencies in control of signs throughout the country. Iowa seemed much more strict than other states. Stevens pointed out that Iowa took advantage of additional funding for highway beautification. Stevens commented that the Algona matter would come under the jurisdiction of off right-of-way signs, which was not under his authority but he agreed to refer the matter to appropriate division.

Bakke said that [09,A]chapter 1 rules were similar to [06,G]chapter 2. She emphasized that they can provisionally certify a disadvantaged business enterprise in order not to hold up a bid let.

Royce asked if the 10 percent requirement amendment created any problems and Bakke replied that DOT had 10.3 percent this year. She stressed that DOT has been aggressive in locating disadvantaged businesses and she reviewed the process.

Bakke was unable to inform Doyle as to whether or not ex-inmates could become part of that program but she agreed to investigate.

PUBLIC
SAFETY
DEPT

Connie White and Carroll Bidler appeared on behalf of the Department of Public Safety. Private detective business or profession, chapter 2, ARC 4970, Notice IAB 9/12/84 was before the Committee.

White said that when rules are developed, there will be another public hearing. It will be necessary to implement the rules on an emergency basis to meet the January 1 effective date.

Bidler indicated the requirement to make written reports to the Department will be modified. He pointed out a statutory problem which surfaced in the last few days

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PUBLIC
SAFETY
Continued

relative to a new law on bonding requirements for licensed agencies based on number of employees. Surety bond requirements by statute are \$10,000 for three or fewer employees, \$25,000, 4-25 employees, more than 25 employees, it is \$50,000. Middle-sized agencies are having trouble obtaining that surety bond because companies are asking four to five times the amount of equity of the company in surety. Corrective legislation may be needed.

WATER, AIR & WASTE
MANAGEMENT
Morris Preston and Mike Murphy were present for the following:

WATER, AIR AND WASTE MANAGEMENT[900]

Air quality, waste water treatment, waste disposal, clarifying amendments, 20.4, 23.5, 101.1, 101.7, 101.5(2), 103.2(1)F, 103.2(2)F, "c" and "d," 102.13(2), 104.2(4), 104.10(10), 104.10(11), 105.2(7), 105.2(8), 106.2(4), 106.2(5), 65.2(1), 69.17(1), 102.11(3) "a" and "b" ARC 4956 F 9/12 81
Delegation of construction permitting authority, forms, rules of practice, water supplies, 9.1 to 9.5, 40.2, 41.1, 40.3(1), 40.4(1), 40.4(4), 41.2(1), 41.3(1), 41.3(3), 41.3(4), 41.4(1), 41.4(2), 41.4(3), to 41.4(5), 41.4(7), 41.4(9) to 41.4(15), 41.5(1), 41.5(2), 41.12 to 41.14 ARC 4957 N 9/12 81

Also present: Bob Krause, Iowa Association of Municipal Utilities and Roger A. Nowadsky, League of Iowa Municipalities.

Murphy gave a brief overview of 20.4 et al. Priebe and Tieden mentioned complaints of litter blowing around landfills and wondered about enforcement. Priebe reiterated complaints from Lake Mills about dumping of paint from Minnesota. Murphy stated that this is an option of the local landfill. Priebe thought a meeting was needed to consider the matter.

102.14(3) O'Kane inquired as to why "municipal" was removed from 102.14(3). Preston thought it was because chapter 121 of DWAWM rules covers both municipal and industrial sludge. Communities are allowed to deposit sludge on farmland in accordance with these rules.

O'Kane and Preston discussed the difference between stabilized and unstabilized. Murphy summarized proposed amendments of the DWAWM Commission--many of which were intended to implement recent legislation. Drinking water regulations have created interest, one area being with the new law which requires engineers to certify that plans and specifications of water supply systems are in accordance with federal and state regulations. Engineers have had problems with their insurance carriers and want a narrower scope of authority. DWAWM has been following the literal wording of the statute but expressed willingness to work with that group.

Krause distributed a summary of IAMU opposition to several portions of the proposed rules. He contended the poorly drafted rules would do a disservice to their 190 publicly owned water utility members--and would be onerous to many smaller cities. Other areas of concern were: Inadequate safeguards, particularly in monitoring and notification for unspecified contaminants provides great potential for staff abuse; the new recordkeeping rules are particularly

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WATER, AIR & WASTE MANAGEMENT Continued
onerous to small cities; design standards and construction permitting system with the "comeback" provision are ultra vires as written--an alternative to the proposed and present system should be based on management by objective (MBO); the direct mail notification procedures should be revised to take into account post card and coupon billing systems; and cross connection provisions should be clarified and protections against staff abuse should be added.

Murphy said there was no definite time frame for adopting the rules but he was willing to keep staff and Committee informed of the progress.

HEALTH DEPARTMENT
Peter Fox, Health Licensing; Keith Rankin, Barber Board; and Irene Howard, Professional Licensure, were present for the following agenda:

Physical therapist, disciplinary procedures, 138.112(7)"c,"d"(6) and (7), and "e" ARC 4992.....F..... 9/26 84
Physical and occupational therapy examiners, penalty fees, 137.2(6), 137.5(1), 137.5(2), 138.101, 138.201(4), 138.210(17), 138.210(18), 138.210(19), 138.207(7), 138.207(8) ARC 4993.....N..... 9/26 84
Physical therapy examiners, license fees, 137.6(1), emergency after notice ARC 4952.....F.E.A.N..... 9/12 84
Cosmetology examiners, school instructors, 149.2(5) ARC 4994.....N..... 9/26 84
Cosmetologists, continuing education, 151.3(4), filed emergency ARC 4972.....F.E..... 9/26 84
Barber examiners, 152.5(1), 152.102(3), 152.110(2)"d"(4), 152.110(3), 160.6(3), 160.6(9) ARC 4942.....N..... 9/12 84
Barbers, continuing education, 152.102(4), filed emergency ARC 4973.....F.E..... 9/26 84

chs 137, 138, 149
No questions re physical and occupational therapy rules.
No questions re 138.112(7)c, d and e. Discussion of 149.2(5) relative to ratio of cosmetology instructors to students.
Doyle questioned whether "or fraction thereof" was arbitrary. Fox said the Board had not received adverse comments and he was of the opinion that schools were already complying. Fox responded to Doyle that it would be difficult to determine fiscal impact.

O'Kane reminded ARRC that comment period was still open. Subrules 151.3(4) and 152.201(4) were rescinded upon advice of the Attorney General as possibly having the effect of trade restraint.

chs 152, 160
Fox explained that 152.5(1) was amended to require an applicant, prior to entering barber school, to submit a medical certification that they are free from disease (infectious or contagious)---Code §158.3. Rankin pointed out that student barbers commence serving customers the day they enter school. Tieden wondered if a Code change might be needed and Rankin was asked to seek AG assistance on the matter.

Doyle questioned Rankin with respect to language that was removed from subrule 152.102.(3). According to Rankin, use of continuing education correspondence courses for barbers will be eliminated. The Board has learned that 99 percent of those who took the courses were disabled in one way or another. The option now will be to attend a course or apply for a waiver signed by a physician. Royce interpreted the law to allow the exemption for CE only if the barber were not practicing--e.g., retirees. Fox said the waiver could be granted for one year. In response to Doyle, Rankin said there are four health inspectors; one assigned to barbers.

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HEALTH
DEPT
Barber
Rules

Doyle asked Royce to review policies of other agencies with respect to CE waiver. Rankin indicated he keeps a file on complaints from both barbers and consumers. No further comments.

NURSING
HOME
ADMINIS-
TRATORS

No questions posed re the following:

NURSING HOME ADMINISTRATORS BOARD OF EXAMINERS[600]
Hearings, 2.6(8)"a" ARC 4953 N... 9/12 84

No Agency
Reps

No agency representative was called to appear for the following:

ARTS COUNCIL[100]
Iowa arts council literary awards, poetry, 2.3(14)"a"(1), 2.3(14)"d"(5) ARC 4971 F... 9/26 84

Recess

Committee was recessed at 3:00 p.m. to be reconvened at 9:00 a.m., Friday, October 12, 1984.

Friday
October 12
REVENUE
DEPT.

Chairman Priebe reconvened the meeting in Room 22 at 9:20 a.m. The Chairman announced a short recess and the meeting was reconvened in the Senate Chamber. All members and staff were present.

The following agenda was before the Committee:

REVENUE DEPARTMENT[730]
Games of skill, chance, bingo and raffles, 91.2, 91.4, 91.5, 91.6(1), 91.6(3), 91.7, 91.8, 92.3, 92.8, 93.1, 93.2, 93.6, 94.1, 94.2(1), 94.3 to 94.5, 94.7, 94.8, 94.10(1), 94.10(2), 94.10(4), 94.10(6), 94.11, 95.2, 95.6, 96.3 ARC 4950 F... 9/12 84
Taxes, penalties, 12.10(4), 12.11, 30.10(1), 44.3(2) to 44.3(5), 44.4, 44.8, 46.5, 52.6(4), 52.6(5), 52.6(12), 58.6(4), 58.6(5), 58.6(12), 63.8, 63.9, 75.2, 81.8 to 81.10, 81.15, 85.2(19), 89.6(1), 89.6(3) to 89.6(5), 89.6(7), 104.8(2), 104.8(3), 104.9 ARC 4948 N... 9/12 84
Taxation, communication services, 18.20 ARC 4995 N... 9/26 84
Sales and use tax on services, recreation, 26.24 ARC 4949 N... 9/12 84
Motor fuel and special fuel, 63.14, 64.8, 65.21 ARC 4996 N... 9/26 84
Equalized valuation of agricultural realty, productivity, 71.12(1)"a" ARC 4732 N... 6/20 84

Revenue Department was represented by Carl Castelda, Deputy Director, Gene Eich, Property Tax Division, Darwin Clupper, Clair Cramer, Technical Services, John Christensen, Brian Bruner and Ed Henderson. The following made presentations: Jim O. Henry, President, Iowa Property Taxpayers Assn; Dale Rourick, Wiota, Cass County; Jerry Shepler and Ted Yanacek, Iowa Farm Bureau; Evertt Stoneberg; John Highland; Dr. Gerald Miller; Frank W. Peclacek, attorney; Dr. Marvin Julius, Consultant; Richard Bailiff, Adams County; Horace Daggett, State Representative, 92nd District; Ralph L. Neill, Farmer, Adams County; Leonard Boswell, Farmer, Decatur County.

Chairman Priebe explained the procedure he would follow in conducting the meeting so that there would be opportunity for interested persons to speak.

Games of
Skill, Tax
Tax, penal-
ties

No recommendations were offered for amendments re games of skill, et al, and tax, penalties. The amendments were intended to implement 1984 Acts. Tieden was surprised to learn that no comment had been received by the Department.

18.20

Under divestiture of the AT&T system, certain changes were made in the communication services industry and rule 18.20 addresses taxation of these services. Revenue officials met with communication representatives in an attempt to

REVENUE
DEPARTMENT
Continued

understand deregulation in terms of imposition of state sales tax. The industry was afforded opportunity to review initial drafts of the rule. One question the Department will consider is whether or not one-way communication service can be taxed.

26.24

Amendment to rule 26.24 was intended to address the question of taxation of commercial recreation instructional services. In paragraph two, Chiodo wondered if the golf range would have to be closed when instruction is being given. Cramer indicated they would try to clarify this type of situation before the rules are adopted. He stated that the Department's position was that if instruction takes place at the driving range, it would not be taxable, but other services relative to golf recreation would be.

ch 63 et al

Amendments to chapters 63, 64 and 65 contain department's response to changes in the industry relative to taxation of motor fuel for nonhighway use. No questions.

Doyle referred to a July 9 AG opinion re Code §87.4 on coverage for groups that combine workers' compensation and asked if the Department intended to file rules. Castelda noted the Department's responsibility is in the area of depositing funds and issuing refunds. Administration of tax as it appears in the Code is the Insurance Department's responsibility. He had received some telephone calls on the issue and referred the matter to Tony Schrader in the Insurance Department. Castelda agreed to ask Schrader to write Doyle concerning the matter.

Productivity
71.12(1)

Priebe made opening remarks re the productivity rule and he referenced the informational meetings which had been held around the state. [For extensive review of productivity, see August 16 minutes, pages 3142 through 3146].

Eich was willing to answer questions on the rule. Henry had a simple plea for "more flexibility, more responsibility, and more adaptability in the rules" as well as an understanding of "farm folks." Rourick declared, "We on the farm are penalized whenever an improvement is made." He spoke of the financial hardship faced by farmers which may force many to lose their land.

Shepler observed that impact of the proposed rule was significant as evidenced by the numbers in attendance today. He distributed copies of detailed documents to ARRC members wherein he expressed support of county-by-county data as the most logical and clearest way of assessing agricultural land--the worksheet method. Shepler pointed out areas where the Farm Bureau disagrees with the Department as to their calculation of productive land--Exhibit B. He cited acres in roads, house lots, ponds and wasteland as examples of non-

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REVENUE
DEPARTMENT
Productivity
Continued

productive land and made the point that the Department's 33.8 million-acre figure may need to be reduced. The Bureau's figures re land in farms differs from those of Revenue by 1.2 to at least one-half million acres. They also questioned production expenses for the five-year period of 1977-1982 and argued the rule should be specific, e.g. fencing costs, crop hail and liability insurance, grain storage and drainage, which most farmers carry.

Shepler took the position that the constants and multipliers formula which allows a 6.6 percent reduction, was nebulous. He continued that the capitalization rate should be increased to reflect current interest rates. In summary, he asked the Rules Committee to support more clearly defined rules--use actual production acres and more clearly reflect expense faced by landowners in determining their property evaluation.

Chairman Priebe recognized Dr. Julius, who had assisted in developing the formula when he was a professor at Iowa State University. He is now retired and serves as a consultant. Julius recalled the history of his involvement with the equalization process--which began with talk of removing buildings--at that time, they went to 100 percent productivity.

In 1981, the Revenue Department took a closer look at structures. Julius summarized that they moved from county-by-county worksheet method to the point where actual production, over a 5-year period, was the basis for determining each county income. A change was made to general formula based on corn suitability rating which is a soil quality measure and row crop percentage which indicates intensity of use of the soil. Julius readily admitted that, with more information, other methods might be used. He added that it was difficult to separate the income of structures and dwellings as required by the Code because, by and large, any measurement in the "real world" counts income for the total farm. He concluded, "Perhaps a more refined method is needed for pulling out that income."

Priebe asked Julius to respond to the comment about differences in the number of acres "pulled out" for roads, etc. in 1978 and 1982. Julius was somewhat disturbed as to the amount of calculating which has been done in the area of total acres and other acres. It was his understanding that figures from the Crop and Livestock Reporting Service were used to determine a valuation per acre which is then applied to the assessor's acres. A bigger block of acres in total is used to obtain a per acre figure, which then goes against taxable acres of the county. If the two have about the same mix, it doesn't make a difference if the first set is larger. In fact, the issue over other acres would work against the interest of the rural farm taxpayer. A larger number of acres reduces the average.

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REVENUE
DEPARTMENT
Productivity
Continued

Julius found it "somewhat disturbing" that this is considered as a problem. Expenses dealing with the improvement and maintenance of property are not in the budget worksheet used at state level. He was not willing to make a judgment on this--right or wrong.

Julius advised Priebe that constants and multipliers simply describe a system where, if you take the average value of one variable, the CSR and row crop percentage, and average level of income, and figure it with the budget worksheet, when you decrease CSUR by 10 percent, the income for counties of that type is not decreased by 10 percent. He then answered a series of questions by Committee members on the very technical formula. The interest costs were discussed--Julius indicated it was his understanding that some interest costs were included. He stressed that, "role has been to make a workable system" following Code provisions.

Eich interjected that Revenue was looking at interest cost, not on land but on production. Tieden said many farmers and assessors had concluded the formula should be more localized--such as regional, rather than a state-wide basis. Julius responded, in that event, it might be better to use the budget worksheet method. There is a variation--it would be possible to take yield average trend over a period of time. Whereas, regionally, the result could produce boundary lines with a sharp jump from region to region.

Daggett reasoned that use of the formula in the averages would result in unfair treatment for less productive counties. Julius reiterated the formula is essentially based on CSR--soil quality--along with row crop. He noted that NE Iowa does not farm the land as intensively. During the last 5 to 10 years, weather conditions have not remained at an average level.

Daggett called attention to the fact that they have fewer buildings in his area but the value is above the state average. Julius responded that CSUR value is also considered.

In response to Sondeberg, Julius said that CSR numbers recognize weather conditions. Bailiff spoke in support of the position taken by Shepler--especially with respect to acres in roads.

Peclacek referenced the fact that Taylor County agriculture assessments increased from 90 percent over a 5-year period and he pondered "Is the formula working and reflecting what accurately happened?" Julius replied, "Just as well as in any other so-called problem county--under the old system, your valuation would have been considerably lower."

REVENUE
DEPARTMENT
Productivity
Continued

Eich informed Peclacek that the formula had been used for 6 years and, at its inception, Dr. Julius had recommended update every 5 to 10 years. A study on stress levels and effect on yields was done by agronomists and climatologists with conclusion that no change should be made.

Shiverly spoke of escalating taxes and less productivity in his area. Eich gave history of the valuation process on this issue. He clarified for Henry that the Governor's involvement would be only to the extent that the Legislature changed the Code and he would sign the bill.

Stoneburg had served as consultant to SW Iowa assessors and he contended that the formula wipes out half of the weather factor in CSR. He reasoned that refining of weather data in individual areas could be done with computers very rapidly on a county basis and resolve some of the differences.

Highland, soil scientist, commented on CSR. Tieden posed question to Miller as to the possibility of assessing a per bushel or per dollar value on each CSR. Miller did not believe that kind of calculation was made. He discussed assignment of CSR, where each soil was studied for physical and chemical properties to a depth of 5 feet. The Tama Soil on a level slope is the best soil with an assigned value of 100. All other soils--approximately 400 types--have been classified in Iowa following the same procedures and deductions. After that, weather adjustments for rainfall were applied to those soils roughly west of I-35 in north central Iowa.

Chiodo was told there was a correction factor for rainfall plus stress index on a county-by-county basis. Soil survey maps from Adams County were presented to Committee members.

Miller viewed Daggett's point to be valid with respect to the flow in the formula for insufficient weather factor. Jan Peterson, Montgomery County, said their county assessors figured in nonproductive "little fingers" of land which would raise the valuation. Miller emphasized that it is the assessor's responsibility to make adjustments for equalization in a particular county. Hastings suspected that "we are leading to the point that the CSR is for each county and additional refinements should be made." It was Miller's personal opinion the formula could be adjusted but the soil, based on data, is "solid."

Peclacek recalled previous testimony by individuals who contended the formula was not working in particular counties. He advocated return to the basic concept which is income approach, with valuations on ag farmland using "real numbers." He concluded CSR was not developed to equalize land values for the whole state.

REVENUE
DEPARTMENT
Productivity
Continued

An Adams County resident observed that some ARRC members were not present at this time. Chairman Priebe explained that two members had been called to the telephone. He emphasized that the issue before the Committee today had been reviewed at length at previous meetings. He added that the rule was under Notice and no Committee action could be taken until it is adopted. Committee options were then outlined.

Chiodo made the point that there is a "heightening awareness" of the problem which was "beyond the scope and power of this Committee and the Legislature will be forced to act." Several others present commented in opposition to the rule.

In response to question by Bucksman, Chairman Priebe stated that the Director of Revenue is appointed by the Governor and confirmed by the Senate. Priebe then introduced Graf and described her function as the Governor's Rules Coordinator. The study committee process and make-up of Board of Tax Review were discussed. Graf gave background on the rulemaking process. She stated that the rules must be within legislative intent and pointed out that 71.12(1)a was only a proposal and the Governor can take no action until it is adopted. She was hopeful that the Farm Bureau and the Department could work together in an attempt to resolve differences. Graf emphasized the Governor's concern about the issue.

Tieden wanted it understood that the Governor cannot change rules but does have authority to rescind an adopted version. Rules are promulgated by the Department and have the effect of law. Only the legislature can make a change. If the Governor were to exercise his veto [rescission] authority, the productivity rules would return to the old system and legislative action would be needed.

Eich reviewed the sequence of events that led to the inadvertent filing and publication of 71.12(1)a in the Iowa Administrative Code. An emergency filing was utilized to rescind the rule prior to its effective date.

Daggett took the position that "it was never the intent of the Legislature to use the formula that has been offered. He had served on the original committee. Daggett distributed copies of ACSC county yields for the last two years and discussion ensued.

Neill spoke of his "deep roots in agriculture" and contended the rule would be very unfair to southwest Iowa and he cited reasons. He urged opponents to let their views be known by letter. Boswell, a farmer and candidate for the Senate, viewed the matter as being urgent and he declared that input should not be limited to the Farm Bureau. He had concern for lack of young farmers in south and southwest Iowa.

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DEPARTMENT
Productivity
Continued

Eich responded to questions raised by Tieden. Schroeder referenced the fact that land price on the productivity formula in Illinois had lowered--in Iowa, "ours has worked up." He wondered if it could be the fact that Illinois uses both operators and landlords figures. Schroeder thought Iowa's taxes would be lowered if that system were followed. In response to Schroeder, Eich suspected that land value differences between the two states would probably be on the cap rate.


Eich explained the primary responsibility and functions of the Revenue Department and indicated that most positions are under the Merit system, including his. He spoke of the lengthy process they had followed to provide input on the productivity rule--including four informational meetings.

Peclacek wondered if this same extensive review was pursued when the existing rule was adopted. Eich recalled that in 1970, it was unnecessary since the rule was quite broad. The purpose for the current revision is to implement amendment by Senator Priebe to Code section 442.21 (2)e which mandated that the formula be set out by rule. Eich assured the group that the Department is reviewing all information with an open mind. No action taken.

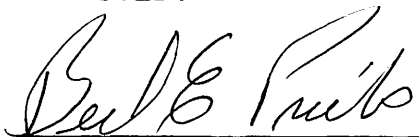
Adjourned

Tieden moved adjournment at 1:06 p.m. Carried. Next meeting scheduled for November 13 and 14, 1984.

Respectfully submitted,


Phyllis Barry
Assisted by Vivian Haag

APPROVED:


CHAIRMAN