

**MINUTES OF THE SPECIAL MEETING  
OF THE**

**ADMINISTRATIVE RULES REVIEW COMMITTEE**

- Time of meeting: The special meeting of the Administrative Rules Review Committee (ARRC) was held Monday, November 10, 1997, in Room 116, State Capitol, Des Moines, Iowa.
- Members present: Senator H. Kay Hedge, chair and Representative Christopher Rants, vice chair; Senators Merlin E. Bartz, John P. Kibbie, William Palmer, and Sheldon Rittmer; and Representatives Danny Carroll, Janet Metcalf, and Keith Weigel. Representative Minnette Doderer was excused.
- Also present: Joseph A. Royce, Legal Counsel; Kathleen Bates, Administrative Code Editor; Cathy Kelly, Assistant Editor; Jackie Van Ekeren Romp, Administrative Rules Coordinator; Diane Bolender, LSB Director; caucus staff; and other interested persons.
- Convened: •Chair Hedge convened the meeting at 8:06 a.m.

**HUMAN SERVICES DEPARTMENT** Present from the department were Mary Ann Walker, Sheryl Nuzum, Siri Granberg, Bob Krebs, Gloria Conrad, Maya Krogman, Wayne McCracken, Don Kassar, and Doug Howard.

- ARC 7546A: •Walker explained that the pilot diversion and self-sufficiency grant programs provide families immediate advances to defer impending emergencies. In response to Metcalf's inquiry about accountability, Granberg stated that one person in each of the three pilot diversion program counties is designated to allocate money and maintain information. Social security numbers are provided to other county offices so no additional diversion money is granted during any periods of ineligibility.  
•Rants noted a different allocation system exists in Woodbury County.
- ARC 7547A: No committee action on family investment program amendments to Chapters 9, 41, and 95.
- ARC 7562A: No questions on SSA RCF and IHRC reimbursement rates, 52.1(3), 177.4(3), 177.4(7).
- ARC 7548A: No questions regarding incorporation of FIP policies into Medicaid Chapters 75, 76, and 86.
- ARC 7598A: •Responding to Bartz, Nuzum said the proposed rules pertain to those SSI-related children with disabilities who were not previously covered under Medicaid.
- ARC 7549A: No questions concerning amendments to the Medicaid program in Chapters 78, 79, and 81.
- ARC 7550A: •In response to Hedge, Howard stated the class action suit relating to educational costs was settled, in part in recognition of these rules. He indicated the suit dealt with interpretation of federal law as it relates to recipients of Pell Grants. Howard said federal law prohibits DHS from using Pell Grants in calculating any benefits issued to recipients.
- ARC 7551A: No committee action pertaining to the child day care amendments to Chapter 110.
- ARC 7552A: •Bartz was advised by Howard that protective child day care services are for those families who have been referred to programs for child abuse, domestic abuse, or substance abuse. Protective child day care services deal with the family rather than the provider. Howard further stated the welfare reform task force recommended that protective child day care services be limited to licensed and registered providers.
- ARC 7553A: •Rittmer asked whether controversy exists concerning the mental health centers in relation to the required county service agreements. Walker stated that information will be provided.
- ARC 7554A: No committee action concerning amendments to Chapter 175, abuse of children.
- December agenda: •Rants said the state auditor's report was critical of DHS for taking so long to implement rules for the wraparound money provided to the juvenile court offices. The report further criticized the department for failure to supervise different agencies in maintaining financial accountability. Rants requested these matters be placed on the December agenda for special review.

**RACING AND GAMING COMMISSION** Karyl Jones and Karlyn Dalsinky represented the commission.

- ARC 7584A: No committee action on procedure and licensure amendments to Chapters 4 and 25.
- ARC 7585A: No questions concerning rescinding 13.6(6), occupational and vendor licensing.

**Committee business**

- Minutes: •Upon motion by Kibbie, the minutes were approved as presented.
- Motion deferred: •Metcalf moved that the chair and vice chair of the administrative rules review committee be changed to cochairs of equal power. The positions, one of whom would be from the House and one from the Senate, would alternate in chairing the monthly meetings.
- Motion to amend deferred: •Weigel moved to amend that the election be by the administrative rules review committee and not appointed by leadership in either house.  
Discussion ensued and the motion was deferred to the afternoon agenda.

**ECONOMIC DEVELOPMENT** Mike Miller, Lane Palmer, Miriam Ubben, Melanie Johnson, Carol Stuart, and Allen Williams appeared on behalf of the department.

- ARC 7592A •In response to Metcalf, Palmer said local housing assistance grants could be given to homeless service providers for ongoing operational costs, but since other funds are designated for that purpose, it would be unlikely.
- Weigel was apprised that 59 applications were received by the mid-October deadline and that \$4.5 million of the total \$18 million was distributed.
- Kibbie was informed by Palmer that all counties are eligible to participate in this program.
- ARC 7593A •Weigel was advised by Ubben that applications for the governmental enterprise fund are available throughout the year.
- In response to Bartz's inquiry regarding pooling of funds under the new program, Ubben stated that dollar amounts for rural development are not reduced and the program does not include population restrictions. Bartz suggested the lack of population limits could result in the inclusion of metropolitan areas and requested a written response from the department concerning why the program was expanded beyond its scope and the entities it serves.
- Hedge was informed that the emergency adoption expedited the process for those cities ready to make application.
- Weigel requested the names of those cities be included in the information supplied to Bartz.
- ARC 7591A •Responding to Kibbie, Ubben stated the population guidelines for rural innovation grants were raised from 20,000 to 30,000 to accommodate requests of larger communities facing similar economic development issues.
- Weigel pointed out that department members previously stated all communities under 20,000 would receive the grants and this would not take from those smaller communities but would provide an opportunity to bring in new communities. Ubben replied it is going to be more competitive.
- Kibbie requested the department provide a response on whether this change might preclude smaller communities from receiving grants and why that possibility was not initially presented to the committee.
- ARC 7590A No committee action on amendments to entrepreneurs with disabilities, 56.2 and 56.6(1)
- ARC 7587A No questions regarding entrepreneurial ventures assistance program, Chapter 60
- ARC 7589A •In response to Metcalf, Williams stated that while any city with a population of 24,000 or more is eligible for its own enterprise zone designation, there may be only one enterprise zone commission within a county.
- Weigel asked the department to specify the programs it was referring to when it stated that 59.5(1)"d" was amended to be consistent with the policies of other IDED financial assistance programs which have an hourly wage cap of \$9.50. Weigel suggested that since no existing programs have the \$9.50 wage cap, the department apparently intends to coordinate existing programs to the enterprise zone wage cap.
- Williams stated to Rittmer there are 24 eligible rural counties that may set up enterprise zones anywhere within county boundaries with the one percent of total county area limitation. Williams noted applications have been approved for seven counties and for the cities of Des Moines and Council Bluffs, and applications for Dubuque, Waterloo, and Burlington will be considered later this month.
- ARC 7588A Hedge questioned the need for an emergency filing concerning export trade assistance program amendments to 68.7 and 68.8.

**ENVIRONMENTAL PROTECTION COMMISSION** Present from the division were Diana Hansen, Mel Pins, Roy D. DeWitt, Jeff Fiagle, and Michele Mangan.

- ARC 7570A No committee action on water pollution control—federal standards, 60.2, 62.4, 62.5 and Rants in chair 63.1(1)"a."
- ARC 7566A No committee action regarding RCC funds amendments to 211.2 and 211.11.
- ARC 7567A No questions concerning packaging—heavy metal content amendments to Chapter 213.
- ARC 7568A No questions on regional collection center household hazardous material disposal funding, 214.11.
- ARC 7569A No questions pertaining to regents tire-derived fuel program, 216.7.

**NATURAL RESOURCE COMMISSION** Appearing on behalf of the commission were Steve Derman, Richard Bishop, Gregory Jones, Richard Smith, and Eileen Bartlett. Others present included Shirley Peckosh representing the Iowa Nursery and Landscape Association, Mark Fleming from Fleming Landscape and Irrigation, and Don Petersen representing the Iowa Farm Bureau.

- ARC 7571A No questions on refunds or changes for special deer and turkey permits and general licenses, 15.11.
- ARC 7572A No committee action pertaining to sand and gravel permits, Chapter 19.
- ARC 7576A No committee action concerning zoning of Cedar River, 40.45.
- ARC 7575A No committee action on waterfowl and coot hunting seasons, 91.1 to 91.4, and 91.6.
- Hedge in chair.
- ARC 7577A No questions pertaining to wild turkey spring hunting license quotas, 98.12.

**NATURAL RESOURCE COMMISSION** continued

- ARC 7574A •Noting favorably the department's changes in deer depredation management, Bartz said concern exists that horticultural or agricultural producers still face expensive measures to protect their property from damage. Adding that Senate File 362 specifically addressed wild animal depredation and these rules speak only to deer depredation management, he then moved to object to the rules.
- Motion to object Bishop stated two depredation people were hired to handle problems pertaining to all wildlife species. While deer management is the major problem, other problems are dealt with on an individual basis rather than through a broad-based program.
- Peckosh and Fleming expressed concern over costly measures that must be taken to protect property and the time involved to receive depredation permits. Petersen reiterated the cost factor and expressed concern over damage from other species.
- Kibbie asked how the \$1,500 amount for excessive crop damage in a single growing season was determined. Bishop replied that is the same worth as a deer taken out of season and is an amount paid per producer.
- Motion failed After further discussion, the vote was taken and the motion to object failed.
- Motion to refer Weigel moved to refer the rule to the legislature. The motion carried.
- Motion carried
- ARC 7573A No questions pertaining to trapping near beaver lodges and dens, 108.7(2).

**AGRICULTURAL AND LAND STEWARDSHIP DEPARTMENT** Walter Felker was present from the department.

- ARC 7599A No questions regarding the amendments to Chapter 64, pseudorabies disease.

**SOIL CONSERVATION DIVISION** Appearing on behalf of the division were Jim Gulliford and Bill McGill.

- ARC 7542A No committee action on amendments to Chapter 10, financial incentive program for soil erosion control.
- ARC 7543A No questions concerning the water protection fund amendments to Chapter 12.
- ARC 7601A No committee action regarding the agricultural drainage wells—alternative drainage system assistance program, Chapter 30.

**REVENUE AND FINANCE DEPARTMENT** Carl Castelda appeared on behalf of the department.

- ARC 7581A No questions on direct pay permits, 12.3, 13.1, 15.3, 15.3(1), 29.3, 30.1(2), and 107.8.
- ARC 7583A No committee action on individual income tax amendments to Chapters 39, 40, 41, and 43.
- ARC 7582A No questions on interest and dividends amendments to 40.2, 40.3, 40.32, 40.52, 53.5, and 53.6.

Rants in chair

**ETHICS AND CAMPAIGN DISCLOSURE BOARD, IOWA** Lynnette Donner was present from the board.

- ARC 7605A No committee action on civil penalties for late-filed disclosure reports, 6.2, 6.3, 6.5, and 6.6.
- ARC 7606A No committee action on penalties for late filing of lobbyist and client reports, 13.6, 13.7.

**TELECOMMUNICATIONS AND TECHNOLOGY COMMISSION, IOWA** Representing the commission were Harold Thompson and Libby Nelson. Others present included Representatives Marcella R. Frevert and David G. Lord; Jim Butt from Midwest Communications, Inc.; Judy Pletcher and Michael R. May from Rural Iowa Independent Telephone Association; Michael Eggle from the Internet Providers Association of Iowa/netINS; Judi Langholz representing netINS; Todd Schulz and Julie Johnson McLean from Iowa Telecommunications Association; Judy Pepler and Curt Stamp representing US West; Doug Jensen from Northwest Internet Services; Jan Lovell from Clear Lake Telephone; Donald D. Miller from Northwest Iowa Coop Association; Trevor Bonnstetter representing River Valley Telephone Coop; Thomas H. Fey from Eastern Iowa Community College District/Palmer College of Chiropractic; and John S. Flannery from GTE.

- ARC 7579A No questions pertaining to the termination notice regarding access to facilities and dial-up access from remote locations, 14.1(2) and Chapter 16.
- ARC 7578A Eggle, McLean, Lovell, Pletcher, Butt, and Jensen spoke in opposition to the authorized users with dial-up access from remote locations in proposed Chapter 16 rules.
- Weigel was advised by Eggle that approximately 3.5 percent of the state population currently is not being served by local Internet access.
- Responding to Kibbie, Thompson said state government will make its services available to the general public regardless of what communications lines the agency provides and the public chooses to use. Thompson cited examples in which kiosks in public locations might be accessed to secure hunting licenses or copies of birth certificates with payment by credit cards. ICN currently furnishes telecommunications connectivities to all state government. He stressed the commission is neutral and seeks to resolve the matter now to avoid future network expansion controversy.
- Metcalf cautioned Thompson that because of these concerns the proposed rules should not be filed emergency; Thompson concurred.
- Motion to refer Rittmer moved the rules be referred to the legislature. Following discussion, the motion carried.

Recess The committee recessed at 12:35 p.m. and reconvened at 1:19 p.m. Hedge in chair.  
 Committee business Bolender presented the budget proposal for fiscal year 1998/1999.  
 Microphone system •In response to Metcalf, Bolender stated a new microphone system will be purchased by the legislative service bureau for use by the administrative rules review committee as well as by other committees.  
 Motion on budget •Metcalf moved to submit the proposal to the governor as the 1998/1999 fiscal year budget.  
 Motion carried The motion carried.

**PERSONNEL DEPARTMENT** Linda Hanson, Gregg Schochenmaier, Clint Davis, Phyllis Watson, Sheila Broome, and Mary Ann Hills were present from the department. Others present included Gregory Seller from Great-West; Terry Hancock and Jim West from the Nyemaster Law Firm; Dennis Schneider from Iowa Association of Life Underwriters; Mike Donahoe and Jerry Foster from Equitable of U.S.; Gary Voggesser from Equitable of Iowa; Serge Garrison from ILHIA; and Kelly Lovell from IPERS.

ARC 7464A •The Bartz motion to object which had been tabled from the previous meeting was brought before the committee.  
 •Rittmer stated the governor's task force is currently meeting and taking the matter under advisement.

Donahoe, Schneider, and Hancock spoke in opposition to the personnel department's actions and supported both an objection to the rules and the work of the the task force.

Motion to substitute •Kibbie moved a substitute motion to object on the basis the rules went beyond the statutory authority of the agency and the emergency filing constituted an abuse of the Code  
 Motion carried authority of the agency and the emergency filing constituted an abuse of the Code  
 Motion to object rule-making provisions. Following discussion, the motion to substitute was approved. The  
 Motion carried vote on the motion was taken and carried.

Committee business The department of economic development made available written response to the questions raised during the morning presentation.

December agenda Weigel requested the matter of the \$150 fee imposed for persons enrolling in the basic certification training program conducted by an agency other than their own or by the Iowa Law Enforcement Academy be placed on the December agenda.

December meeting The December meeting is scheduled for Monday and Tuesday, December 9 and 10, 1997.

Motion deferred •The motion by Metcalf regarding the change to cochairs was before the committee. She  
 January agenda clarified that should the motion pass, the position of vice chair would be eliminated and a new election for cochairs would be held. Discussion ensued and it was determined to place the matter on the January agenda.

Motion to lift Weigel moved to lift the August 17, 1994, objection to natural resource commission rule  
 objection 571—106.11(481A) relating to deer depredation permits. The motion carried.  
 Motion carried

Adjourned The meeting was adjourned at 2:35 p.m.

Respectfully submitted,

*Kathleen K. Bates*  
 Kathleen K. Bates

*Cathy Kelly*  
 Cathy Kelly

APPROVED:

*H. Kay Hedge*  
 Chair H. Kay Hedge

*Christopher Rants*  
 Vice chair Christopher Rants