



MINUTES

JUNE 2021 MEETING ADMINISTRATIVE RULES REVIEW COMMITTEE

MEMBERS PRESENT

Senator Zach Whiting, Vice Chair	Representative Megan Jones, Chair
Senator Pam Jochum [by teleconference]	Representative Jon Jacobsen [by teleconference]
Senator Waylon Brown	Representative Amy Nielsen
Senator Jesse Green	Representative Rick L. Olson
Senator Robert Hogg [by teleconference]	Representative Mike Sexton

EX OFFICIO, NONVOTING MEMBER: Michael Boal, Administrative Rules Coordinator, Office of the Governor

LSA CONTACTS: Organizational staffing provided and minutes prepared by Jack Ewing, Administrative Code Editor, 515.281.6048, and Kate O'Connor, Legal Counsel, 515.281.6329

BULLETINS NEEDED FOR THIS MEETING: 5/5/21, 5/19/21, 6/2/21

Procedural Business

Representative Jones convened the regular, statutory meeting of the Administrative Rules Review Committee (ARRC) at 9 a.m. on Tuesday, June 8, 2021, in Room 103, State Capitol, Des Moines, Iowa. The minutes of the May 7, 2021, meeting were approved. The next meeting was scheduled for July 13. Mr. Ewing discussed procedures for those participating in the meeting via Zoom. He briefly reviewed the LSA rules analysis report for bills enacted in the 2020 Legislative Session. He also reviewed the status of the technical bill sponsored by the ARRC and various options for a technical bill for the upcoming legislative session. The meeting was adjourned at 12:15 p.m.

Fiscal Overview

Mr. Adam Broich, Fiscal Legislative Analyst, presented the LSA fiscal report. With regard to the Department of Human Services ARC 5623, committee members asked why the estimated fiscal impact ranges from \$13,000 to \$420,000. Mr. Jess Benson, fiscal analyst, stated that the costs will be lower in the beginning as there are only a few providers qualified to implement the individual placement and support (IPS) supported employment (SE) evidence-based model. As the number of qualified providers increases, however, the annual cost to the state will increase as well.

TELECOMMUNICATIONS AND TECHNOLOGY COMMISSION, IOWA

Representing the agency: Mark Johnson

ARC 5635C (NOIA), Waivers, Chs. 9, 16
No discussion on ARC 5635C.

Rulemaking type is indicated in parentheses following the ARC number. The acronyms have the following meanings: Notice of Intended Action (NOIA), Amended Notice of Intended Action (ANOIA), Notice of Termination (NOT), Adopted and Filed Emergency (AFE), Filed Emergency After Notice (FEAN), and Adopted and Filed (AF).

HUMAN SERVICES DEPARTMENT

Representing the agency: Nancy Freudenberg, Janee Harvey

ARC 5596C (AF), Travel Trailers—Time Frame for Consideration as Permanent Place of Habitation, Rule 58.1

No discussion on ARC 5596C.

ARC 5597C (AF), Electronic Visit Verification, Chs. 73, 78, 83

Committee members noted the 21st Century Cures Act was signed into law in December of 2016, and that Iowa received a one-year good-faith exemption that required the department to implement electronic visit verification (EVV) for personal care services by January 1, 2021. Members asked if there is a financial impact to the state as EVV was not implemented until February 10, 2021. Ms. Freudenberg stated that the department began working with providers over a year ago to bring them online, and from January 1 until February 9 some providers billed within the EVV system and some billed outside of the system. She also stated that the department determined that it was in the department's best interest to train providers and to get them online in spite of the potential financial impact. Members requested that the department follow up with the committee on the actual financial impact resulting from the department's delay in implementing rules.

No action taken on ARC 5597C.

ARC 5619C (NOIA), Deaf and Hard-of-Hearing Persons—Terminology, Chs. 73, 78, 81, 82, 113

No discussion on ARC 5619C.

ARC 5623C (NOIA), Home and Community-Based Services—Individual Placement and Support Supported Employment, Rules 77.25, 78.27, 79.1(2)

Committee members asked for clarification on whether the IPS SE evidence-based model will be implemented in different regions or statewide. Ms. Freudenberg clarified that it will be implemented statewide for qualified providers.

No action taken on ARC 5623C.

Emergency Filing, Review Required: Child Care Assistance Provider Rates, Rule 170.4(7)“a”

Committee members asked if there is any type of guardrail in place to ensure that provider rates are updated on a timely basis. Ms. Harvey responded that approximately 10 years ago the state began to update provider rates every three years in order to sync with the due date for the state plan. She stated that the state conducted a market rate survey in 2017 and in 2020, and is scheduled to conduct another survey in 2023.

AGRICULTURE AND LAND STEWARDSHIP DEPARTMENT

Representing the agency: Colin Tadlock

ARC 5652C (NOIA), Federal Wholesome Meat Act Regulations—Adoption by Reference, Ch. 76

No discussion on ARC 5652C.

VETERINARY MEDICINE BOARD

Representing the agency: Colin Tadlock, Dr. Dewayne Rahe

ARC 5638C (AF), Licensure by Verification, Rules 1.4, 6.6-6.8

No discussion on ARC 5638C.

ARC 5639C (AF), Registration as Veterinary Technician by Verification, Rule 8.11

No discussion on ARC 5639C.

ARC 5640C (AF), Prescribing and Dispensing a Drug Directly to a Client, Rule 12.3(1)

No discussion on ARC 5640C.

ARC 5641C (AF), Licensure by Verification—Application Fee, Rule 6.2
No discussion on ARC 5641C.

ARC 5656C (NOIA), Waivers, Ch. 14
No discussion on ARC 5656C.

ARC 5669C (NOIA), Principles of Veterinary Medical Ethics, Rule 10.6

Dr. Rahe stated that the board has relied on the American Veterinary Medical Association's (AVMA) Principles of Veterinary Medical Ethics (Ethics) since 1998; however, the AVMA's Ethics do not necessarily pertain to all aspects of the practice of veterinary medicine in Iowa. Dr. Rahe stated, for example, that veterinarians in New York are prohibited from declawing cats; however, cats may be declawed in Iowa. He also stated that livestock production practices in California differ from livestock production practices in Iowa. He explained that the board formed a work group to develop Iowa-specific ethics rules, and the group consisted of two representatives from the board, an assistant attorney general, a member of the Iowa Veterinary Medical Association (IVMA), and the IVMA's legal counsel.

Dr. Rahe explained that the Iowa-specific ethics rules are based on the AVMA's Ethics; however, certain provisions have been added or modified to provide more clarity and to allow the board more flexibility when interacting with Iowa veterinarians. The work group focused on the veterinarian-client-patient relationship, veterinarian-client communication, veterinary medical records, client and patient privacy rights, professional behavior, and community service.

Committee members asked if other states have developed state-specific ethics rules and if doing so will put the state at odds with the AVMA. Dr. Rahe responded that only 18 states have adopted the AVMA Ethics verbatim and he does not believe that adopting Iowa-specific ethics rules will put the state at odds with the AVMA. Members asked if there is a reason for the redundancy in the rulemaking regarding veterinarians' responsibility to participate in activities to improve communities and for the betterment of public health. He stated that the board will review the duplicate language and follow up with the committee.

Ms. Jenny Dorman, assistant legislative counsel for the IVMA, stated that while the rulemaking will help veterinarians understand their ethical responsibilities, the IVMA recommends that more clarification be provided regarding the definition of "emergencies" as it relates to a veterinarian's right to choose whom to serve, with whom to associate, and the environment in which to provide medical care, except in emergencies. She noted that the AVMA Ethics include an attachment with annotations and clarifications regarding a veterinarian's responsibilities in an emergency. She provided an example of a veterinarian being able to waive client consent if an unexpected issue arises while a veterinarian is neutering an animal and the animal's owner cannot be reached in a timely manner. She also stated that further clarification is necessary regarding the veterinary-client-patient relationship.

No action taken on ARC 5669C.

CHIEF INFORMATION OFFICER, OFFICE OF THE

Representing the agency: Pearson Skepnek

ARC 5657C (NOIA), Broadband—Infrastructure, Targeted Service Areas, Grants Program, Rules 20.1-20.5, 22.1, 22.2, 22.4-22.7, also Filed Emergency ARC 5658C.

Committee members asked how many broadband blocks currently exist in Iowa under the new definition of "materially underserved," or what percentage of Iowans fall within the new definition. Mr. Skepnek responded that the previous nature of targeted service areas (TSA) was binary — census blocks were either designated TSA or non-TSA — which resulted in circumstances in which 1 percent of an area in a census block may be covered, and this did not reflect the spirit of the rule. He stated that he would look into the percentage of Iowans currently residing in a materially underserved area and follow up with the committee.

No action taken on ARC 5657C or ARC 5658C.

REAL ESTATE APPRAISER EXAMINING BOARD

Representing the agency: Brandy March

ARC 5611C (NOIA), Five-Year Review of Rules, Chs. 1, 3-6, 8-12
No discussion on ARC 5611C.

PAROLE BOARD

Representing the agency: Andrew Boettger

ARC 5609C (NOIA), Waivers, Ch. 16
No discussion on ARC 5609C.

HISTORICAL DIVISION

Representing the agency: Chris Kramer

ARC 5610C (NOIA), Terminology—Deaf and Hard-of-Hearing Persons, Rule 1.5(5)
No discussion on ARC 5610C.

ECONOMIC DEVELOPMENT AUTHORITY

Representing the agency: Lisa Connell

ARC 5622C (NOIA), Targeted Small Businesses, Rules 52.1, 52.2, 52.3(3), 55.2-55.7
No discussion on ARC 5622C.

ARC 5624C (AF), High Quality Jobs Program—Changing a Maintenance Period Completion Date, Rules 187.3(1), 187.4(2)“d”

Committee members stated that they understand the authority wanting to provide flexibility for businesses impacted by COVID-19; however, members expressed concern that the rulemaking conflicts with the law as the law authorizes the board, not the director, to amend a business’s maintenance period completion date. Members also questioned the purpose of the rulemaking when the COVID-19 impacted period expires on June 30, 2021. Ms. Connell acknowledged that the Iowa Code language was accidentally overlooked, and while the authority will still allow flexibility for impacted businesses, it will take all maintenance period completion date amendments to the board. She stated that very few businesses qualify to submit an amendment request and the language in the rulemaking will be rescinded in the fall.

No action taken on ARC 5624C.

ARC 5644C (AF), Enhance Iowa Board—Waivers, Ch. 213
No discussion on ARC 5644C.

CITY DEVELOPMENT BOARD

Representing the agency: Lisa Connell

ARC 5620C (NOIA), Waivers, Ch. 6
No discussion on ARC 5620C.

EDUCATION DEPARTMENT

Representing the agency: Thomas Mayes

ARC 5645C (AF), Organization and Operation, Rule 1.4(1)

Committee members asked if the two new offices — the Office of Learning, Results, and Programs; and the Office of Operations and Initiatives — will be in charge of staffing charter schools and the flexible student and school support program. Mr. Mayes responded that he anticipates that as the Office of Learning, Results, and Programs is already responsible for monitoring student achievement and accountability, charter schools and the flexible student and school support program will be folded into the same structure.

No action taken on ARC 5645C.

ARC 5646C (AF), Procedures and Petitions for Rulemaking, Rules 2.7(3), 2.12(2), 2.17(3), 2.18-2.20

No discussion on ARC 5646C.

ARC 5647C (AF), Waivers, Ch. 4

No discussion on ARC 5647C.

ARC 5648C (AF), Supplementary Weighting—English Language Learners, Rule 60.6

No discussion on ARC 5648C.

ARC 5649C (AF), Work-Based Learning Programs, Ch. 48

No discussion on ARC 5649C.

ARC 5650C (AF), Financial Management of Categorical Funding—Custodial Funds, Rule 98.101

No discussion on ARC 5650C.

ARC 5651C (AF), Open Enrollment of Special Education Students, Rules 17.6(3), 17.11

No discussion on ARC 5651C.

ARC 5661C (NOIA), Senior Year Plus Program—Student Eligibility, Internet-Based Coursework, Review of Proposals, Rules 22.2(2)“b,” 22.28, 22.33(3)“c”

No discussion on ARC 5661C.

ARC 5662C (NOIA), Regional Planning Partnerships—Funding, Governance, Rules 46.9(1)“a,” 46.10

No discussion on ARC 5662C.

ARC 5663C (NOIA), Definition of Dyslexia, Rule 62.6(3)“a”

No discussion on ARC 5663C.

ARC 5664C (NOIA), Terminology, Chs. 31, 41, 56, 120

No discussion on ARC 5664C.

EDUCATIONAL EXAMINERS BOARD

Representing the agency: Darcy Hathaway

ARC 5665C (NOIA), Licensure, Chs. 13, 15, 16, 18, 20, 22, 24, 27

No discussion on ARC 5665C.

ARC 5666C (NOIA), Deaf and Hard-of-Hearing Persons—Terminology, Rules 13.28(25)“b,” 14.2, 16.2(1), 27.3

No discussion on ARC 5666C.

ARC 5667C (NOIA), Statements of Professional Recognition — Behavior Analysts, Mental Health Professionals, Rules 16.1(1), 16.9, 16.10

Committee members asked if the rulemaking had been in progress for a period of time and Ms. Hathaway confirmed that it had been under discussion for a while. Ms. Emilie Souhrada, speaking on behalf of the Iowa School Social Workers' Association (ISSWA), stated that school mental health professionals — including school counselors, school psychologists, and school social workers — are included in instructional support personnel as defined in the Every Student Succeeds Act. Ms. Souhrada recommended that the word “school” be removed from the statement of professional recognition (SPR) for mental health professionals so that it encompasses both district-employed and community-based mental health professionals that serve students in a school setting. Ms. Souhrada explained that the SPR for school social workers has been interpreted as applying only to special education social workers and not to general education social workers, even though special education social workers have been practicing in Iowa for 20 years. She further explained that the school social worker professional services license (PSL) has also been interpreted as applying only to special education social workers. She stated that the ISSWA recommends that both the SPR and the PSL be expanded to encompass the general education social worker role. She also stated that the ISSWA recommends that rule 16.10(2)“d” be amended to specify that social workers must obtain an SPR or PSL specific to social work that authorizes them to provide mental health services in a school setting.

Ms. Emily Piper, representing the Iowa Chapter of the American Association for Marriage and Family Therapy (AAMFT), stated that the AAMFT is supportive of the rulemaking and of removing the word “school” from the SPR for mental health professionals.

No action taken on ARC 5667C.

ENVIRONMENTAL PROTECTION COMMISSION

Representing the agency: Elaine Douskey

ARC 5625C (AF), Underground Storage Tanks, Chs. 134-136

Mr. John Mayes, representing FUEL Iowa, thanked the commission for its work on the rulemaking and its collaboration with stakeholders. Mr. Mayes stated that the collaboration resulted in businesses having more flexibility in complying with the rules while balancing their responsibility to the environment.

No action taken on ARC 5625C.

NATURAL RESOURCE COMMISSION

Representing the agency: Matt Bruner, Greg Harson

ARC 5593C (NOIA), Waterway Speed Zoning—East Okoboji, Rule 40.31(2)

No discussion on ARC 5593C.

ARC 5601C (AF), Deer Hunting by Residents—Firearms, Rules 106.7, 106.10(5)

No discussion on ARC 5601C.

PETROLEUM UNDERGROUND STORAGE TANK FUND BOARD, IOWA COMPREHENSIVE

Representing the agency: James Gastineau

ARC 5637C (NOIA), Waivers, Ch. 16

No discussion on ARC 5637C.

PUBLIC HEALTH DEPARTMENT

Representing the agency: Susan Dixon

ARC 5626C (AF), State Plumbing Code—Adoption of Uniform Plumbing Code, 2021 Edition, by Reference, Ch. 25

No discussion on ARC 5626C.

ARC 5627C (AF), State Mechanical Code—Adoption of International Mechanical Code, 2021 Edition, by Reference, Rules 61.1-61.5

No discussion on ARC 5627C.

ARC 5633C (NOIA), Radiation Therapy Standards—Certificate of Need Applications, Rule 203.3

No discussion on ARC 5633C.

PROFESSIONAL LICENSURE DIVISION

Representing the agency: Steven Garrison

ARC 5617C (NOIA), Psychologists—Standards of Practice, Supervised Professional Experience, Waivers, Chs. 240, 243, 244

No discussion on ARC 5617C.

ARC 5672C (AF), Optometrists—Use of Injectables, Rules 182.5-182.7

Committee members asked if the American Society of Plastic Surgeons' (ASPS) objection to the rulemaking was due to the substance of the rulemaking or a matter of policy. Mr. Garrison responded that it was a matter of policy as the ASPS objects to optometrists administering injectables.

No action taken on ARC 5672C.

MEDICINE BOARD

Representing the agency: Joseph Fraioli

ARC 5599C (AF), Appointment of Executive Director, Rule 1.3

No discussion on ARC 5599C.

ARC 5600C (AF), Waivers, Rules 3.1, 3.4, 3.17, 8.11, 9.18, 10.6, 11.6, 13.21, 17.4(2), 17.5(13), 17.11, 17.30, 19.8, 20.8(12), 20.20, 20.25, 21.8, 23.1

No discussion on ARC 5600C.

ARC 5668C (NOIA), Standards of Practice—Medical Cannabidiol, Rule 13.15(1)

No discussion on ARC 5668C.

PUBLIC SAFETY DEPARTMENT

Representing the agency: Sarah Jennings, Rebekah Cochran

ARC 5603C (AF), Fire Service Training Bureau—Programs, Services, Fees, Rule 53.2

No discussion on ARC 5603C.

ARC 5604C (AF), Firefighter Training and Certification, Ch. 251

No discussion on ARC 5604C.

ARC 5654C (NOIA), Waivers, Rules 10.222, 401.113

No discussion on ARC 5654C.

NURSING BOARD

Representing the agency: Kathy Weinberg

ARC 5615C (NOIA), Background Checks for Nursing Students, Rule 2.13
No discussion on ARC 5615C.

ARC 5616C (NOIA), Submission of Waiver Information, Ch. 15
No discussion on ARC 5616C.

TRANSPORTATION DEPARTMENT

Representing the agency: Tracy George

ARC 5607C (AF), Holiday Rest Stops; Promotion of Iowa Agricultural Products at Interstate Rest Areas; Maintenance Bureau, Rules 105.2(4), 105.4, 105.5, 106.3, 106.4
No discussion on ARC 5607C.

ARC 5618C (NOIA), Odometer Disclosure Statements, Rule 400.52(3)
No discussion on ARC 5618C.

ARC 5621C (NOIA), Motor Vehicles Operated by an Automated Driving System, Chs. 380, 400, 524, 540
No discussion on ARC 5621C.

TREASURER OF STATE

Representing the agency: Karen Austin

ARC 5634C (NOIA), Waivers, Ch. 19
No discussion on ARC 5634C.

LABOR SERVICES DIVISION

Representing the agency: Kathleen Uehling

ARC 5595C (NOIA), Boiler and Pressure Vessel Special Inspector Commissions, Rule 90.9
No discussion on ARC 5595C.

ARC 5632C (AF), Penalties for Citations; Waivers; Rulemaking, Chs. 1, 3, 5
No discussion on ARC 5632C.

PUBLIC EMPLOYMENT RELATIONS BOARD

Representing the agency: Erik Helland

ARC 5631C (AF), General Procedures; Impasse Procedures; Bargaining Unit Determination and Representative Certifications; Retention and Recertification Elections, Chs. 1, 2, 4, 5, 7, 15
No discussion on ARC 5631C.

REVENUE DEPARTMENT

Representing the agency: Tim Reilly, Clara Wulfsen

ARC 5605C (AF), Bundled Transactions, Chs. 216, 231
No discussion on ARC 5605C.

ARC 5606C (AF), Broadband Infrastructure Grant Exemption, Rules 40.84, 53.28, 59.30
No discussion on ARC 5606C.

ARC 5612C (NOIA), Interest Expense Deduction Adjustments, Rules 40.85, 53.29, 59.31
No discussion on ARC 5612C.

ARC 5613C (NOIA), Relief From Joint and Several Liability for Substantial Understatement of Tax Attributable to Nonrequesting Spouse or Former Spouse, Rule 38.15
No discussion on ARC 5613C.

ARC 5636C (NOIA), School Tuition Organization Tax Credit, Rules 42.32, 52.38
No discussion on ARC 5636C.

ARC 5659C (NOIA), Sales Tax Exemption—Computer Peripherals; Citations, Chs. 18, 230
No discussion on ARC 5659C.

ARC 5673C (AF), Honey Creek Premier Destination Park Bonds, Rule 40.3
No discussion on ARC 5673C.

ARC 5614C (NOIA), Marketable Food Products for Human Consumption, Rule 230.2(1)

Mr. Tom Sands, President of the Iowa Taxpayers Association (ITA), provided a brief summary of the membership and mission of the ITA, and stated that the rulemaking will have a negative impact on the industry that uses Iowa's raw products to manufacture and process food for human consumption. He stated that the department is trying to define "marketable food products for human consumption" more narrowly than the General Assembly intended, as is codified in Iowa Code section 423.3 (49). He highlighted that the statute, unlike the rulemaking, does not exclude manufacturers of food ingredients and he asserted that if the legislature had intended to more narrowly define "marketable food products for human consumption," it would have done so. He stated that there will be a fiscal impact on the companies that the department has excluded from the definition. He noted that the pandemic highlighted the importance of the industry that uses Iowa raw products to process food for human consumption. He stated that the ITA is opposed to the rulemaking; however, it is committed to working with the department to improve Iowa's tax policy and the corresponding rulemaking.

Mr. JD Davis, representing the Iowa Association of Business and Industry (ABI), stated that the ABI is opposed to the rulemaking. He stated that 29 of the largest 100 food processors in the country have operations in Iowa, and 1,000 of the food processors in Iowa are responsible for \$35 billion in food production. He noted that this information may be found on the Iowa Economic Development Authority's Internet site. He stated that the ABI is willing to work with the department on the rulemaking.

No action taken on ARC 5614C.

IOWA PUBLIC EMPLOYEES' RETIREMENT SYSTEM

Representing the agency: David Martin

Special Review: Protection Occupation, Rule 4.6(4)"b"

Committee members asked for clarification on the origin of this issue. Mr. Martin explained that when the state fair created its own police department, the police officers became IPERS-eligible as regular class members. He further explained that the police officers want to be reclassified as a "protection occupation," similar to other police officers. He stated that IPERS supports this change; however, it must be accomplished legislatively and not through rulemaking. He provided the example of a statute that was amended when the Regent's police force was established to allow those police officers to be classified as a "protection occupation." Members asked for the citation to the statute that excludes the state fair police from the "protection occupation" classification. He referenced Iowa Code section 97B.49B(1)"e," and explained that it requires that the police officers be employed by a city, not by the state fair board.

UTILITIES DIVISION

Representing the agency: Matthew Oetker, Cecil Wright

ARC 5608C (AF), Electric Vehicle Charging Service, Rule 20.20

Committee members asked what the process would be if the owner of an electric vehicle charging station (EVCS) wanted to use solar panels to generate power at the site and was unable to work out an agreement with the appropriate utility. Mr. Oetker stated that if an entity wanted regulatory certainty the entity must make application to the board. He further stated that the procedure to make such an application is not detailed in the rulemaking in order to allow flexibility for regulated entities, and in the hypothetical presented, the application might include a petition for a declaratory order or a petition for rulemaking. Members asked if the rulemaking creates barriers for an owner of an EVCS to resolve such an issue with the appropriate utility. He stated that there is nothing in the rulemaking that would cause any issues in the hypothetical presented.

Mr. Bob Rafferty, speaking on behalf of IA 80 Truckstop (IA 80), stated that IA 80 had initiated the rulemaking three years ago because it wanted to move forward with fast chargers; however, it was advised that it could not charge by the kilowatt hour. He thanked the division for moving forward with rulemaking that allows a business to install an EVCS, and to charge by the kilowatt hour or other method the business deems appropriate. He stated that IA 80 does object, however, to the owner of an EVCS using self-generated power for the station. He emphasized that the rulemaking is only the start of the discussion necessary to be responsive to the needs of customers who want electric vehicles. He stated that vehicle fuel is a very competitive market and as EVCS becomes more common, the legislature will need to decide if, in the future, it wants vehicle fueling to be a competitive market or a government-controlled monopoly.

Mr. Alex Cutchey, representing the Iowa Association of Municipal Utilities (IAMU), expressed appreciation for the board's revisions to the initial rulemaking language based on the IAMU's comments and stated that the IAMU supports the revised rulemaking.

No action taken on ARC 5608C.

ARC 5628C (AF), Electric Lines, Rules 11.2, 11.3(3), 11.5(1)“d,” 11.9(6)

No discussion on ARC 5628C.

ARC 5629C (AF), Rate Cases, Tariffs, and Rate Regulation Election Practice and Procedure, Ch. 26

Committee members urged agencies not to circumvent the legislative process by adopting in rules the substance of bills that have not been enacted by the General Assembly, but noted that was not the case for this rulemaking. Members stated that after examination of the rules and underlying legislation, and discussion with the board, the rules seemed to be consistent with the legislation.

Ms. Paula Dierenfeld, speaking on behalf of the Iowa Business and Energy Coalition (IBEC), described the future test year as a significant change in the way utilities seek rate increases from the board. She stated the historic test year, the only available method for rate increases prior to 2018, is easier for customers to review and challenge, as opposed to a future test year based on future estimated costs. She expressed support for the rulemaking, stated that it adds additional consumer protections, and that it is supported by 2018 Iowa Acts, Senate File 2311. She described the protections as a prohibition on multiple test years, which Alliant Energy had attempted, and which the board rejected, after SF 2311 was enacted, and a prohibition on using a new future test year until a subsequent proceeding on a prior future test year is complete. She stated future test year rate proceedings are more complex and costly than historic test year rate proceedings.

Mr. Chaz Allen, speaking on behalf of the Iowa Utility Association, expressed concern with the rulemaking, which he asserted exceeds the authority given by the statute and may ultimately make future test years unusable. He stated that the language in the rulemaking regarding subsequent proceedings that require submission of detailed class information may effectively create a second rate case, allowing for reconsideration of issues from the original rate review, which may lead to customer confusion and possible litigation. He stated that the prohibition on using a new future test year until the subsequent proceeding on the prior future test year is concluded will increase uncertainty and risk, and affect the ability of utilities to recover their costs. He encouraged the General Assembly to review and improve the statute relating to subsequent proceedings.

Ms. Jennifer Easler, the Consumer Advocate, stated that the rulemaking is a fair compromise and expressed concern about the possibility of it being delayed. She stated that the rulemaking establishes appropriate standards for future test years to ensure the information submitted by utilities is detailed enough to provide confidence that the approved rates are just and reasonable. She stated the subsequent proceeding is the one check available on the future test year to ensure that the project costs are reasonably consistent with actual costs. She noted the statute and the rulemaking give the board the authority to adjust rates accordingly if that is not the case. She asserted the requirement for submission of detailed class information in subsequent proceedings is appropriate.

Mr. Bob Rafferty, speaking on behalf of Iowa American Water Company, thanked the board for making changes to the initial language of the rulemaking, but asserted the current language on subsequent proceedings exceeds the board's authority and has the potential to create another rate case, which will be expensive. He stated he was not requesting any action from the committee; however, he indicated that he would discuss the matter with legislators in the future.

No action taken on ARC 5629C.

VETERANS AFFAIRS, IOWA DEPARTMENT OF

Representing the agency: Melissa Miller, Karen Connell

ARC 5592C (NOIA), Veterans Trust Fund, Rules 14.2-14.4

No discussion on ARC 5592C.

ARC 5653C (NOIA), Waivers, Rule 4.14

No discussion on ARC 5653C.

ARC 5655C (NOIA), Waivers, Rule 4.15

No discussion on ARC 5655C.

ARC 5660C (NOIA), Iowa Veterans Home, Ch. 10

No discussion on ARC 5660C.