ALASKA STATE LEGISLATURE
JOINT COMMITTEE ON ADMINISTRATIVE REGULATION REVIEW
February 5, 2003
8:38 a.m.

TAPE(S) 03-1

MEMBERS PRESENT

Senator Gene Therriault, Chair
Senator Lyda Green
Senator Hollis French

Representative Bruce Weyhrauch, Vice Chair
Representative Tom Anderson
Representative Les Gara

MEMBERS ABSENT

All members present

COMMITTEE CALENDAR

^Introductory Organizational Meeting

WITNESS REGISTER

Ms. Deborah Behr
Assistant Attorney General
Department of Law
PO Box 110300
Juneau, AK 99811-0300
POSITION STATEMENT: Reviewed the procedure for adopting regulations under the Administrative Procedures Act

Mr. Robert Pearson
Office of the Lieutenant Governor
PO Box 110015
Juneau, AK 99811-0015
POSITION STATEMENT: Discussed the role of the Lt. Governor's Office in adopting regulations

ACTION NARRATIVE

TAPE 03-1, SIDE A

CHAIR GENE THERRIAULT called the Administrative Regulation Review Committee (ARRC) meeting to order at 8:38 a.m. Senators Green, French, Representative Gara, and Chair Therriault were present. Chair Therriault welcomed members and informed them that the committee would be meeting on an as-needed basis. He noted that Deborah Behr and Steve Weaver from the Department of Law and Robert Pearson from the Office of the Lt. Governor would explain the regulation process to members today.

MS. DEBORAH BEHR, regulations attorney for the State of Alaska, told members she has worked in her current position for about 11 years. She introduced Dave Marcus, the legislation and regulations coordinator for the Department of Law, Steven Weaver, assistant regulations attorney, and Robert Pearson, the new administrative coordinator in the Office of the Lt. Governor. Ms. Behr said she would begin her presentation by giving an overview of the Department of Law's statutory obligations on regulations.

MS. BEHR said Alaska is unique in that the Department of Law reviews regulations for legal sufficiency before they impact the public. Regulation standards are contained in statute, the Constitution and case law. The department must sign a memo verifying that each regulation meets legal standards. She provides regulation training to state agency personnel and is in charge of preparing the drafting manual for administrative regulations. Ms. Behr said she has tried to parallel the regulation manual to the legal drafting manual used by the Legislature so that the court has to look at one standard only.

MS. BEHR reviewed a flow chart detailing the steps used in the regulation adoption process. She noted that agencies draft the regulations, public notices and fiscal notes in consultation with an attorney at the Department of Law. She pointed out that the Board of Barbers and Hairdressers might not have ready access to an attorney, while the Division of Oil and Gas in the Department of Revenue would. Each proposed regulation is given a file number by the Department of Law. She asked that any legislative inquiries about a proposed regulation contain its file number.

MS. BEHR explained that agencies publish and distribute public notices, additional notice information and proposed regulations via e-mail. All e-mail notices contain the name of a contact person for further information. When a public notice is published, the public comment period begins. The public is given a chance to comment on all proposed regulations. Ms. Behr said

some regulations, such as minor technical changes to the insurance code, lend themselves better to written, rather than oral, comments. After the public comments are considered, the agency adopts the regulation. A board or commission must adopt regulations in a publicly noticed meeting. If a commissioner adopts regulations, the commissioner gives notice that he or she adopted them after the fact.

The final regulations are submitted to the Department of Law at adoption. They go through a thorough Department of Law review, based on statutory and constitutional obligations and state law. Simultaneously, the Governor's Office conducts its "HB 130 review." HB 130 gave the governor or lieutenant governor limited review power over non-board regulations to determine if there was faithful execution of the law or if comments of the ARRC were followed. The department has the authority to disapprove regulations. That is usually done when little counsel was available early on and a regulation is clearly in conflict with case law. In such a situation, the department tries to work with agency personnel to find appropriate language. Often, changing one or two words solves the problem. The Lieutenant Governor's Office then files the regulations, which can take effect in a minimum of 30 days. The 30-day delay period was designed to allow the public time to challenge the regulation in court.

MS. BEHR said the Lieutenant Governor's Office then sends copies to the ARRC and the regulations are published in the Administrative Code. In addition, the agency is obligated to post notice on the online public information system.

MS. BEHR then asked to address the following questions she is frequently asked by legislators on behalf of constituents:

- How can the public get involved in the regulations process?
- What do I do if my comments were not fairly considered?
- Why don't state agencies implement the intent of the statute?

MS. BEHR explained that people can have their names put on an interested person list. Statute requires agencies to keep an interested person list on all regulations. If an e-mail address is provided, a person will receive all notices about particular regulations.

Regarding the second question, MS. BEHR said she has found the problem is usually that the public needs to be more precise. She gave an analogy of the legislative committee process and said it is not very helpful for a testifier to say a bill is bad; it is helpful when the person suggests specific amendments. She advised legislators to let their constituents know that public comments are public record in the State of Alaska, therefore people should be comfortable that the information they provide will become public.

MS. BEHR suggested that the statutes be written as clearly as possible so that their intent can be followed. She said if a statute says "X" and she reviews a proposed regulation that says "Y," it will not leave the department.

MS. BEHR said she has received calls from people saying they were surprised that a regulation took effect. She suggested that people be told to look at the State of Alaska Online Public Notice system [http://state.ak.us/pn/pubnotic.nsf]. Another question she is often asked is how to change a regulation. A regulation can be changed with a statutory change or by petitioning under the Administrative Procedures Act. She said she sees two or three petitions per year.

MS. BEHR updated the committee on changes in regulations in the last year. Two successful ventures with negotiated regulations making have occurred. She noted that former Representative James put a tremendous amount of effort into legislation [to allow negotiated regulations making]. Negotiated regulation making involves a committee made up of stakeholders, state agencies and the public. The two successes involved the cruise ship regulations for the Department of Environmental Conservation (DEC) and the charitable gaming regulations on accountability. Agencies are also moving forward in the electronic area and are accepting comments and sending notices via e-mail, as well as posting information on the Internet.

8:43 a.m.

CHAIR THERRIAULT referred to the flow chart and told committee members that they have two opportunities for input. In step 6, during the public comment period, the committee can provide input. Later on, the Lieutenant Governor will make sure that input was adequately considered. He asked Ms. Behr if a copy of the regulation is sent to the ARRC after the regulation has been put in place.

MS. BEHR said that occurs after she has signed off on it but before it becomes effective. She added that this committee has held oversight hearings in the past. She suggested that Tam Cook, Director of the Division of Legal and Research Services, brief the committee on the parameters of its authority.

CHAIR THERRIAULT cited a statutory reference and read:

> ...standing committee of the legislature shall furnish a notice of a proposed action under AS 44.62.190 shall review the proposed regulation, amendment, or a regulation on appeal [indisc.] before the date the regulation is scheduled by the department to be adopted. A standing committee conducting the review shall determine whether the regulation properly implements the legislative intent.

He noted if the legislature wanted to encourage a standing committee to look at a proposed regulation and determine whether the legislative intent was followed, it should be done early on in the process.

MS. BEHR said it should be done early on if the legislature wants to influence the shaping of regulations. She said she has seen that happen infrequently. It makes sense to do that with complicated regulations, such as those designed to implement the Forest Practices Act.

CHAIR THERRIAULT pointed out that the Administrative Regulation Review Committee can ask that a proposed regulation be frozen during the interim until the legislature is in session.

MS. BEHR suggested asking Ms. Cook for an opinion on that matter because of constitutional problems.

CHAIR THERRIAULT referred to the State of Alaska v. ALIVE court case, in which the court ruled that activity to be unconstitutional.

MS. BEHR said that in her experience, a letter from ARRC has a tremendous amount of influence. She felt the timing of that influence is important.

CHAIR THERRIAULT asked Ms. Behr to review the timeline for petitioning a proposed regulation.

MS. BEHR told members that anyone can petition a state agency for a regulation change at any time. The petitioner must follow the Administrative Procedures Act (APA) standards and the agency has a responsibility to respond. She noted it is an area of the statutes that could benefit from some fine tuning because, for example, a petition must be acted on within 30 days yet some of the boards meet only once per year. In such a case, the Department of Law has applied that to mean the board must address the petition at its first meeting of the year.

REPRESENTATIVE BRUCE WEYHRAUCH noted that action on a petition by an agency is discretionary.

MS. BEHR agreed that an agency is not bound to act.

REPRESENTATIVE WEYHRAUCH asked if she has any data on how often agencies respond to petitions.

MS. BEHR said that petitions are rare. She said two petitions were filed recently, one in the Department of Transportation and Public Facilities (DOTPF). She believes that DOTPF plans to respond positively to that petition. She noted that she receives about two per year and that the procedure does not work as well when a commissioner makes the decision.

REPRESENTATIVE WEYHRAUCH asked if an agency is petitioned under the APA, and the agency chooses not to address the petition, the petitioner is left with two options - to bring the matter to the legislature or sue the agency in court.

MS. BEHR said that is correct but she has never seen a lawsuit and she doubts one would be successful because it is difficult to compel someone to take an action. She felt the more convincing route is to make a case before the legislature.

REPRESENTATIVE LES GARA asked if legislators receive notice of all proposed regulations via e-mail or only the regulations that have been adopted.

MS. BEHR said that because state agencies did not have public e-mail addresses for new legislators during the interim, notices of proposed regulations were mailed. Legislators should now receive them via e-mail.

REPRESENTATIVE GARA noted the public notice rules are effective but, as an attorney, he feels that most regulations are written so that a person has to analyze the text to know what they mean.

He felt a brief summary would be useful and asked if it is possible to receive a lay, non-binding summary with each notice.

MS. BEHR said she wishes a non-binding summary could exist. She said that most of the agencies write "Dear Alaskan" letters that contain an explanation. They also have web pages that contain information. She pointed out that agencies, because of budget constraints, have asked her what the minimum notice requirements are. She said that a lot of material is made available but it is a balancing act for the agencies. She noted she can provide legislators with additional materials when requested.

REPRESENTATIVE GARA asked if legislators receive notice of proposed regulations through Ms. Behr's office.

MS. BEHR said each department is obligated to send notice to legislators. Her office acts like the "traffic cop." If the information is not there, she will make the department send it.

REPRESENTATIVE GARA expressed concern that legally, agencies do not have to send out a summary explaining the regulatory action, but the result is that for most people, notice of a regulatory change is not readily ascertainable. He requested that the agencies be advised that at no additional expense, they can attach a cover letter in the e-mail message.

MS. BEHR thanked Representative Gara for the suggestion and informed members that Administrative Order 157 contains training information and standards on how notices are to be drafted. She said she cannot verify that all agencies follow those standards to the letter.

REPRESENTATIVE WEYHRAUCH asked if a superior court declares a regulation to be unconstitutional, and that decision is not appealed by the state, at what point in the regulation adoption process the Department of Law would give notice and revisit the regulation.

MS. BEHR said that when a regulation is challenged, the Department of Law is usually a party to the case in some way. The agency attorney assigned to that area of law will talk to the commissioner of that department about a possible remedy. Her office cannot take a regulation off of the books like the revisor of statutes can do with statutes because she does not know how [the legislature] wants it to be repaired. Instead, a note is attached citing the court decision that declared it to be unconstitutional. It is possible, however, that the

commissioner can change one word and make the regulation constitutional so that approach is taken first.

9:07 a.m.

CHAIR THERRIAULT asked if a person would challenge the underlying statutory authority for a regulation through the petition process.

MS. BEHR said that must be challenged in court. She said the Department of Law assumes the statutes are constitutional until successfully challenged in court.

CHAIR THERRIAULT said he was talking about a case in which a challenge occurs because there is no statutory basis for the regulation, not because the constitutionality of a statute is questioned.

MS. BEHR said the APA requires her to determine whether there is statutory authority for the regulation. She repeated that if the statute is clear and says "X," the regulation cannot do "Y." However, what usually happens is the statute is unclear so she looks at the legislative history and other considerations. If a gray area exists, a person may decide to test the matter in court. If the statute is broadly written, it is often difficult for the court to determine whether the regulation follows the intent of the statute. Alaska does not have the same amount of documentation that Congress has regarding the history of legislation.

CHAIR THERRIAULT asked Ms. Behr if she is the sole person to make that determination or whether it gets farmed out to other people in the agency.

MS. BEHR said she makes the determination for the Department of Law. She noted that she has sat down with the Attorney General who has made the call on some very close issues. She told members:

> At the lower levels, for example, Barber and Hairdresser regs, an agency attorney assigned to that committee can look at it and say you can't restrict selling barber licenses to only people who are residents of the State of Alaska - you can't do that and they'll advise them of that and that's appropriate. And then they'll check in with me if it's something that maybe they haven't seen before because

the Department of Law has frankly a lot of young attorneys and we turn over pretty fast in the lower levels. So yes, people check in with me and I check in with the attorney general and get guidance if there isn't a clear case decision here.

CHAIR THERRIAULT asked if Attorney General Botelho made the determination on the soft money regulations.

MS. BEHR said that is correct.

CHAIR THERRIAULT asked if she agreed with Attorney General Botelho's determination.

MS. BEHR said the Attorney General signed the document and he speaks for the Department of Law.

CHAIR THERRIAULT said that legislative counsel believe those regulations have absolutely no statutory authority but unfortunately the state now has to expend funds in the court system over regulations that will probably be thrown out. He asked if the Department of Law can re-examine that issue and save the state that expense.

MS. BEHR said at this point, the Alaska Public Offices Commission (APOC) would have to review the regulation and repeal it.

CHAIR THERRIAULT asked how APOC would begin the repeal process.

MS. BEHR said APOC could hold a meeting to give public notice. She explained that the same process used to put a regulation on the books would be used to take one off of the books.

REPRESENTATIVE TOM ANDERSON asked if the online public notice system contains a database of all proposed regulations or whether the regulations are posted at the end of the process.

MS. BEHR referred to Exhibit 3 and replied that state agencies should be giving notice of all proposed regulations on that system. She deferred to Mr. Pearson for further information on the technical aspects of that system.

REPRESENTATIVE ANDERSON asked if the proposed regulations are categorized by industry so that a constituent could keep up with the ones that might affect his or her business.

MS. BEHR said if a person was starting a small business and wanted to know the regulations that might have an effect, that person should go to the Department of Law's home page where all of its regulations are listed. A person should also go to the other state department home pages. She explained that the online web page contains regulations that are in the process of being adopted. It is not an effective place to research the statutes and regulations that might affect a business.

There being no further questions for Ms. Behr, CHAIR THERRIAULT called Mr. Pearson to testify.

9:12 a.m.

MR. ROBERT PEARSON, Special Assistant to the Lieutenant Governor for Regulations, distributed copies of adopted regulations that were submitted to the Department of Law for review and approval and a checklist of procedures for members' information. He told members when the Lieutenant Governor signs and date stamps a regulation, it is considered filed. The Lieutenant Governor's chief of staff is delegated to sign regulations but the Lieutenant Governor is considering appointing more delegates to sign emergency regulations in his absence.

MR. PEARSON reviewed a handout he referred to as the HB 130 review packet. HB 130 was enacted in 1995 to grant the ARRC more authority to review regulations and to give the executive branch more power to independently evaluate regulations and to return a regulation unfiled in the rare chance a problem is found. He pointed out that HB 130 requires regulations be evaluated for their impact on private citizens and to have a fiscal note. He told members the vast majority of regulations do not have a fiscal impact. Most regulation packets come to the Lieutenant Governor about one to two weeks before filing.

SENATOR HOLLIS FRENCH referred to the example provided by Mr. Pearson and noted it was signed by Commissioner Flanagan in April of 2002. He asked why it was transmitted to the Lieutenant Governor's office on February 4, 2003 and asked if that is a normal timeframe.

MR. PEARSON said the timeframe varies a great deal. He thought that particular timeframe was slower than average. He said some regulations take more time than others depending on the complexity of the regulation and other factors.

CHAIR THERRIAULT thanked Mr. Pearson and informed members that he would like to take up the concept of a central panel of hearing officers. He told members that Mr. Stancliff wrote a report on this issue for Senator Ogan several years ago. He asked Mr. Stancliff to address the committee.

MR. DAVE STANCLIFF, ARRC aide, provided members with copies of a brief he prepared entitled "Independent Administrative Hearings Through A Central Panel." The options contained in the brief are based on what other states have already accomplished. To date, 26 states and several municipal governments have established central panels. Mr. Stancliff gave the following overview:

> The origin and evolution of central panels follows the origin and evolution of high volumes of administrative law and the administrative procedures acts put into place to direct bureaucracies.
>
> As administrative law became more and more prevalent, there arose objections by the public to how it was being conducted.
>
> Legislatures including Alaska's have become concerned with agencies and Boards and Commissions pursuing agendas of regulation beyond either the intent or authority for such action in statute.
>
> Our state constitution, like most others, prohibits legislative manipulation of administrative or executive functions. Framers obviously envisioned the need for those who carry out the day-to-day administrative duties under statute to be free of the extended influence of legislators in the normal performance of those duties.
>
> Our courts have also ruled that the legislature may not annul regulations.
>
> That has left lawmakers here in Alaska and throughout the country searching for ways to balance the long arm of the executive with some action by the legislature.
>
> One of the most profound and effective tools employed to some degree or another by these 26 states and other municipal governments is the creation of a central panel.

Legislatures have found that when they require higher standards of adjudication of regulations, fueled by the goal of serving public due process, and removed from the influence and pressure of state agencies, the writing of regulations improves, the promulgation of regulations improved, and the enforcement of regulations improved.

The reason is as old as the Constitution itself. When an arm of government is held accountable in a fair and impartial way, the temptation to abuse power is diminished.

In Alaska, most hearing officers work for various agencies throughout the state and they work for the agencies that are actually being challenged through appeals. No person being brought before a tribunal where the judge works for the entity being challenged is going to believe they will... [end of tape].

TAPE 03-1, SIDE B

MR. STANCLIFF continued:

...just don't feel like they are going to get a fair shot. That is why our judges are held to strict standards of conduct called canon.

Traditionally government agencies have enjoyed the confidence and the protection that in-house hearing officers have provided. Their employees, grounded in their agenda and filled with their expertise, have loomed as serious barriers to the citizen who feels he has been wronged by an agency through a regulation or action.

Added to the possibility of real agency bias and the reality of perceived bias by citizen complainants is the lack of professional qualifications of hearing officers, standards, oversight, and training. With each arm of government in many locations using hearing officers of many varieties and qualifications, it is no wonder that inefficiencies and questions of fairness have arisen.

These challenges of in-house institutionalized hearing officers are not unique to Alaska. The solutions

contained in the materials the committee will be receiving based on the reform measures of other states is not unique either.

The current administration is looking for efficiencies and a government more customer friendly and sensitive to the rights of its citizens. The legislature is looking for ways to reduce spending and increase efficiencies. Citizens are expecting and deserve the highest levels of due process when they ask for adjudication.

All these goals and more are achieved through the establishment of central panels. Logjams impeding entrepreneurial ventures and survivability of projects in vulnerable phases of development hinge on fair, timely, and professionally conducted adjudication.

Even so, such sweeping changes should be accomplished with smooth transitions and with a sensitivity to those hearing officers currently working for agencies. This can be done as it has in other states by allowing time for transition while steadily working toward an overall goal of truly independent hearings, well trained, cross trained hearing officers, protected and held to high standards of performance through two things: administrative oversight and incremental budgeting.

At this point, the legislature has no idea what is spent on hearing officers in the State. They have no way of knowing the performance because it is not quantified. And they have no way of controlling the cost.

There is no way to calculate the cost that in-house hearings have placed on citizens and businesses. When we have regulations that continue to stand because adjudications are not fair, it is costly to Alaska.

No Commissioner or Attorney General would want to plead their case in Superior Court before a judge that works for their adversary and yet many in the past have vigorously defended the rights of their employees to hear and adjudicate matters of public interest in their own house, among their own employees, and in less than a judicial setting.

Ironically, in other states the very administrations that oppose losing their in-house hearing officer functions later reverse their opinions and come to appreciate central panels very highly. High public confidence and satisfaction, better regulations, and being able to administrate clear of shadows of biased appearances actually improves the atmosphere of commissioners and central regulators.

To close, legislatures can expect special interests well served by government to oppose independent hearings. They can also expect the executive to want to move carefully and have the option of reforming through success and positive motivation. To that end, some legislatures have allowed the Governor to exempt certain hearing functions from being centralized, or have given generous time limits in which to achieve the transition.

This legislature and this administration will have to determine how to proceed with this reform if they choose to undertake it. The legal premise supporting it is sound. The public interest to be served is substantial. It has proven to be a non-partisan good government reform in other states and none have gone back once the independent system is in place.

I think the research will bear out that administrations of both political party persuasions and legislatures of both political party persuasions find good reasons and have enacted central panels.

It is rare when a House, a Senate and an executive are afforded an opportunity to reform and correct a major source of public and administrative frustration. The time and ability may indeed exist now in Alaska.

The information available on this issue is voluminous and convincing in both theory and result, but the deciding factor will ultimately be based on the efforts of you, the policy makers, and the visionaries if Alaska is independent and centralized hearing functions are to take place.

Contained, Mr. Chairman, in the packet is a very fine example from the State of Maryland. This system was

> instituted and the results are in, both here and in Colorado, on how much money the states have saved in administrative hearings, how much more quickly workers' comp and some of the more difficult decisions are made, how fewer employees are eventually needed to perform and, what's most outstanding about this particular piece of information and the information that Colorado provides, is that these states have decided that the public should rate what their hearing officers are doing. They actually ask for public comment and surveys to see how satisfied people are in terms of getting a fair hearing, a fast hearing, and good justice in terms of the ultimate resolution.

MR. STANCLIFF encouraged members to contact Judge Edwin Felter from Colorado for more information as he is an expert in this field. In addition, he has asked Mr. Bob Boener of the National Council of State Legislatures to brief the committee in two weeks at the request of the Chair. Mr. Ed Hein, a former legal drafter for the Alaska Legislature, is now an independent hearing officer for the National Marine Fisheries and has also offered to discuss this topic with members.

9:32 a.m.

CHAIR THERRIAULT said the ARRC has specific statutory obligations regarding reviewing regulations and bringing the legislature into the process. The central panel concept is one that he would like to committee to take a look at. He said that because the ARRC is a joint House and Senate committee, he believes it is the proper forum to look at what other states have done to deliver better service to constituents and realize cost savings. He noted that when this topic was considered in the past, there was a lot of suspicion that the costs put forward by the Administration were not credible. He told members he is not asking members to take such a proposal back to their caucuses at this point, he would merely like members to consider whether they feel it is worth going in this direction.

CHAIR THERRIAULT then asked members to let him know about any other ideas they would like to address in the realm of regulations.

REPRESENTATIVE ANDERSON asked if committee members agreed to go with a central panel system, whether the changes would have to be made in statute.

CHAIR THERRIAULT said they would. He pointed out that the existing hearing officer positions would have to be removed from the individual departments and placed in a new, central entity.

REPRESENTATIVE GARA said he had a series of questions to ask to better understand the motivation behind this change. He noted Mr. Stancliff mentioned that the central panel system will solve several problems, one being that lawmakers cannot annul regulations. He questioned what Mr. Stancliff meant since lawmakers can annul a regulation by passing a law to supersede it.

MR. STANCLIFF said a court decision says the separation of powers prevents the legislature from simply saying it does not like a regulation and annulling it. The legislature has always had the authority through statute and policy to change and affect a regulation. He pointed out that some states have given emergency regulation appeal and promulgation authority to their legislatures. Alaska law has granted emergency regulation promulgation authority but not repeal authority.

REPRESENTATIVE GARA noted that Mr. Stancliff's report says that one problem is that many regulations are poorly written. He said this proposal would change the hearing officer system after regulations are adopted. He asked how that will effect poorly written regulations.

MR. STANCLIFF said that an interesting aside that has been discovered in the establishment of central panels is that when people are held to high standards at the end of the process, they develop high standards early in the process in the development of regulations. The quality of the entire system tends to improve, including enforcement of the regulation.

REPRESENTATIVE GARA asked if the hearing officers would review the application of regulations after they have been adopted.

MR. STANCLIFF said the central panel concept is one that establishes central oversight, better training, and insists on due process of the standard for adjudication of regulations. He felt Representative Gara's question brings up a good point and said that usually, soon after central panels are established, the legislature starts to get suggestions from the central panel and amendments to the Administrative Procedures Act that facilitate the promulgation of better administrative law.

REPRESENTATIVE GARA asked if a hearing officer can toss out a regulation.

MR. STANCLIFF said a hearing officer cannot.

REPRESENTATIVE GARA said if the agencies are no longer responsible for appointing hearing officers who administer regulations from the executive branch, someone within the executive branch would have to do the appointments. He asked if the governor would appoint the central panel hearing officers.

MR. STANCLIFF said that is the central focus of most policy debate as central panels are put into place. Normally, the department of administration in other states houses the central office. A chief administrator oversees the adjudicators. They are protected from any negative consequences of their decisions but they still operate on behalf of the administration. Some legislatures have chosen to give these adjudicators final decision making authority. Others have given it to commissioners, but they must seriously consider the opinions of the hearing officers. Other states have added one more layer by requiring the court to consider the hearing officers' input.

CHAIR THERRIAULT repeated that the appeal of this issue is looking at different methods of service delivery at a lower cost but he is not sure this is the best method.

REPRESENTATIVE WEYHRAUCH felt this is a reasonable approach to an old problem.

CHAIR THERRIAULT told members that Mr. Stancliff will be reviewing the proposed regulations. He asked members to contact him about any proposed regulations they feel the committee should look into.

MR. STANCLIFF asked each member to assign a staff person to look at the proposed regulations because he cannot possibly know which regulations are of interest to each member.

There being no further business to come before the committee, CHAIR THERRIAULT announced the next ARRC meeting would be held on February 19 at 8:30 a.m. in the Fahrenkamp Room and adjourned the meeting.