



MINUTES

Iowa Legislative Council

June 28, 2012 Second Meeting of the 2011-2012 Biennium

MEMBERS PRESENT:

Senator Michael E. Gronstal,
Vice Chairperson
Senator Jerry Behn
Senator Nancy J. Boettger
Senator Jeff Danielson
Senator Robert E. Dvorsky
Senator John P. (Jack) Kibbie
Senator Amanda Ragan
Senator Tom Rielly
Senator Mary Jo Wilhelm
Senator Brad Zaun

Speaker Kraig Paulsen,
Chairperson
Representative Peter Cownie
Representative Mary Mascher
Representative Kevin M. McCarthy
Representative Steven N. Olson
Representative Tyler Olson
Representative Jeff Smith
Representative Linda L. Upmeyer

MEETING IN BRIEF

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- I. Procedural Business
- II. Consideration of the Report of the Fiscal Committee
- III. Consideration of the Legislative Tax Expenditure Committee
- IV. Consideration of the Report of the Studies Committee
- V. Consideration of the Report of the Service Committee
- VI. Attachments



I. Procedural Business

Call to Order. The second meeting of the 2011-2012 Legislative Council was called to order by Chairperson Paulsen at 11:00 a.m., Thursday, June 28, 2012, in Room 22, State Capitol, Des Moines, Iowa. Senator Mary Jo Wilhelm and Representatives Mary Mascher and Tyler Olson attended the meeting via a teleconference connection.

Minutes of Prior Meeting. Senator Danielson moved that the minutes of the meeting of August 16, 2011, be approved without additions or corrections. The motion was approved by a voice vote.

Consideration of Reports. Council actions are summarized in these minutes.

Adjournment. The meeting was adjourned at 11:10 a.m.

II. Consideration of the Report of the Fiscal Committee

Chairperson Paulsen called Council members' attention to the Report of the Fiscal Committee. There being no objection, the report was received and filed. A copy of the report is attached to these minutes as Attachment A. Chairperson Paulsen described plans to schedule two meetings of the Fiscal Committee this interim, one prior to and one following the fall election. Senator Kibbie moved approval to hold the two meetings. The motion was approved by a voice vote.

III. Consideration of the Report of the Legislative Tax Expenditure Committee

Chairperson Paulsen called Council members' attention to the Report of the Legislative Tax Expenditure Committee. There being no objection, the report was received and filed. A copy of the report is attached to these minutes as Attachment B.

IV. Consideration of the Report of the Studies Committee

Chairperson Paulsen recognized Senator Ragan, who moved adoption of the Report of the Studies Committee. The report recommends that the Legislative Council approve five items for legislative action, including studies mandated by law and the establishment of other committees and their charges. The motion was adopted by a voice vote. A copy of the report is attached to these minutes as Attachment C.

V. Consideration of the Report of the Service Committee

Chairperson Paulsen recognized Vice Chairperson Gronstal for the Report of the Service Committee. Vice Chairperson Gronstal explained that the report contains annual personnel reports and recommendations from the Legislative Services Agency and the Office of Citizens' Aide/Ombudsman. The report also recommends that the Legislative Council approve the proposed budgets and budget allocations for fiscal year 2012-2013 for the Legislative Services Agency and the Office of Citizens' Aide/Ombudsman.



Vice Chairperson Gronstal moved adoption of the report. The report was adopted by a voice vote. A copy of the report is attached to these minutes as Attachment D.

VI. Attachments

- A. Report of the Fiscal Committee.
- B. Report of the Legislative Tax Expenditure Committee.
- C. Report of the Studies Committee.
- D. Report of the Service Committee.

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Report of the Fiscal Committee to the Legislative Council June 28, 2012

The Fiscal Committee held three meetings during the 2011 Interim:

- September 14, 2011
- October 18, 2011
- December 20, 2011

Holly Lyons, Director of the Fiscal Services Division of the Legislative Services Agency (LSA), and Jeff Robinson, LSA, provided regular revenue updates, and the Committee also received notices of appropriations transfers and lease purchases. There have not yet been any appropriation transfers for FY 2012. The Committee was briefed on FY 2011 transfers that occurred at the end of the fiscal year totaling \$3.2 million. These transfers are listed below.

FY 2011 General Fund Appropriation Transfers in accordance with Iowa Code Section 8.39								
Date	Appropriation	Type of Transfer	Appropriation	Bal Forward from FY 10	Total Available	Transfer Amount	Percent Available	Cumulative Transfer Total
07/05/2011	College Aid - Tuition Grant - For-Profit	Intra	\$ 4,650,487	\$ -	\$ 4,650,487	\$ 362,101	7.8%	\$ 362,101
08/22/2011	DIA - Indigent Defense Appropriation	Inter	31,680,929	145,346	31,826,275	2,088,686	6.6%	2,450,787
08/25/2011	DED - Historic Preservation Challenge Grants	Intra	165,775	125,775	291,550	145,775	50.0%	2,596,562
08/26/2011	IWD - Security Employee Training Program	Intra	12,711	16,326	29,037	12,872	44.3%	2,609,434
08/26/2011	IWD - Offender Reentry Program	Intra	302,621	200,421	503,042	250,000	49.7%	2,859,434
08/29/2011	GOV - Admin Rules Coordinator	Intra	122,829	-	122,829	4,500	3.7%	2,863,934
08/29/2011	GOV - State-Federal Relations	Intra	40,832	-	40,832	36,400	89.1%	2,900,334
09/06/2011	DIA - Administration Division	Intra	1,629,656	-	1,629,656	265,000	16.3%	3,165,334
09/06/2011	DIA - Investigations Division	Intra	1,240,626	74,755	1,315,381	40,000	3.0%	3,205,334

Summary of Committee Agenda Topics and Information Received

- September 14 meeting:
 - Received updates on the status of the General Fund budget
 - Overview of Item Vetoes of FY 2012 legislation
 - Update on monthly receipts
 - Information technology consolidation
 - Master marketing contract
 - Prison Industries update
 - Disaster recovery data and 2011 disaster update
 - Performance of Duty estimated and actual costs
 - Tobacco settlement revenues and expenditure history
 - Court debt collections
 - Medicaid update
 - Overview of Issue Review topics from Fiscal Services Division

- October 18 meeting at the University of Iowa:
 - Regents budget overview
 - Iowa State University budget presentation
 - University of Northern Iowa budget presentation
 - University of Iowa budget presentation
 - Update on University of Iowa flood recovery
 - Disaster recovery update from the Division of Homeland Security and Emergency Management
 - Update on Revenue Estimating Conference and General Fund receipts
 - Review of and Reserve Fund balance sheets
 - FY 2011 General Fund Appropriation Transfers summary report
 - Medicaid update
 - Military Pay Differential monthly report
 - Property Tax Equity Relief (PTER) Fund
 - Tour of the Dental Building and Pharmacy Building
- December 20 meeting:
 - Update on Board of Regents efficiency measures
 - Medication Therapy Management Pilot Project
 - Review of the Iowa Lottery budget process and operations
 - State Prisons funding and staffing
 - Delinquent Sales/Use Tax Collection
 - Summary of the December Revenue Estimating Conference
 - Review of General Fund balance sheet
 - Disaster recovery estimates and Performance of Duty expenditures
 - Court debt collection update
 - Medicaid update
 - Military Pay Differential monthly report
 - Board of Regents – follow-up from October meeting
 - PTER Fund - follow-up from October meeting

Materials distributed to the Committee related to these topics are maintained at the Fiscal Services Division office and are available upon request. The agenda, minutes, and handouts for each meeting can be found on the LSA website at:
<https://www.legis.iowa.gov/Schedules/committeeDocs.aspx?cid=46&ga=84&session=1>.

Respectfully Submitted,

Senator Bob Dvorsky
Co-chairperson

Rep. Scott Raecker
Co-chairperson

REPORT OF THE LEGISLATIVE TAX EXPENDITURE COMMITTEE TO THE LEGISLATIVE COUNCIL June 2012

Meeting: Members of the Legislative Tax Expenditure Committee of the Legislative Council met on November 16, 2011.

Tax Expenditure Review: The committee received presentations and conducted a review of all of the following:

I. Legislative Tax Expenditure Committee Creation and Duties

Mr. Michael Duster, Legislative Services Agency, Legal Services Division, provided background information on the 2010 legislation that created the committee including information on the committee's composition, purpose, and duties. Code section 2.48 required the committee to review the Iowa earned income tax credit, the Iowa franchise tax credit, the High Quality Jobs Program, and specified research activities tax credits in 2011.

II. State Tax Credits Contingent Liabilities Report

Mr. Jeff Robinson, Legislative Services Agency, Fiscal Services Division, gave a presentation on the history and purpose of the Tax Credit Contingent Liabilities Report. The report was initially created by the Department of Revenue in 2007 for the benefit of the Revenue Estimating Conference. The report is prepared three to four times per year prior to meetings of the Revenue Estimating Conference. To create the report, the Department of Revenue uses the Iowa tax return credit schedules to calculate actual tax credit redemptions and make future year projections. Mr. Robinson explained the three different methods used to track and project tax credit awards and redemptions.

III. Report on the Maximum Aggregate Tax Credit Limit for Certain Economic Development Programs

Mr. Tim Whipple, Legal Counsel, Iowa Economic Development Authority (IEDA), presented and summarized the report he prepared on the maximum aggregate tax credit cap for awards issued by IEDA, formerly the Iowa Department of Economic Development (IDED). The report covered fiscal years 2009-2010, 2010-2011, and 2011-2012.

IV. Searchable Tax Incentive Database Demonstration

Ms. Vicky Clinkscales and Ms. Tina Hoffman, IEDA, provided a demonstration of the searchable tax incentive database available on the IEDA website. The demonstration detailed the search capabilities and limitations of the website and conducted searches for the committee to demonstrate the types of information provided for each tax incentive recipient. The database provides a description of the source, status, obligations, performance projected, budget, and expenditures for each award.

V. Review of the Iowa Earned Income Tax Credit

Mr. Zhong Jin, Iowa Department of Revenue, presented information on both the federal and Iowa earned income tax credits. The federal credit is currently refundable and computed using specific criteria including earned income, filing status, and number of dependents. The amount of the credit increases based on the credit's criteria, up to certain amounts of income then decreases until it completely phases out at higher income levels. In tax year 2009, there were 26.5 million households that claimed the federal Earned Income Tax Credit for a total of \$59 billion.

Iowa enacted an earned income tax credit in 1989 as a way to supplement income for claimants of the credit. It was originally a nonrefundable credit equal to 5 percent of the federal credit. In 1991, the Iowa earned income tax credit was increased to 6.5 percent of the federal credit. In 2007, the Iowa earned income tax credit was made refundable and increased to 7 percent of the federal credit.

In addition to Iowa, 21 other states and the District of Columbia currently offer an earned income tax credit. Of these, all but Delaware, Maine, and Virginia offer a refundable credit. The rates of such credits range from 3.5 percent to 43 percent of the federal credit.

The committee was also provided with the statistical composition of Iowa's earned income tax credit claims for the tax year 2009. There were 208,342 Iowa households that claimed the credit. The total amount of those claims was \$28.5 million.

VI. Review of the Iowa Franchise Tax Credit

Ms. Angela Gullickson, Iowa Department of Revenue, presented information on the Iowa franchise tax credit. The credit was created in 1997 to prevent double taxation on shareholders of certain financial institutions. The Iowa franchise tax is a tax imposed on financial institutions conducting business in Iowa and is imposed at a rate of 5 percent of net income. Some financial institutions are organized as S corporations, which pass through their income to shareholders who pay tax at the individual level. In order to prevent double taxation on these taxpayers, the franchise tax credit is allowed. The tax credit is equal to the lesser of Iowa tax liability on the pass-through financial institution income or the shareholder's share of franchise tax paid. The credit is available against corporate and individual income taxes and is nonrefundable, nontransferable, and cannot be carried forward to future tax years. Since 2006, the credit has been claimed an average of 2,420 times per year for an average total amount of credits of \$12.25 million per year.

VII. Review of the High Quality Jobs Program

Mr. Whipple, Legal Counsel, IEDA, summarized the IEDA report on the High Quality Jobs Program. The High Quality Jobs Program is a flexible program allowing IEDA to provide various forms of tax incentives to eligible businesses that meet certain job creation and capital investment requirements. Mr. Whipple explained the seven core eligibility requirements for participation in the High Quality Jobs Program. First, the business must have a willing local community as a partner. Second, the business must not be engaging in an intrastate relocation, meaning it cannot close or substantially reduce its operations in one area of the state in order to move to another area. Third, the business must meet certain wage threshold and job creation or retention requirements. Fourth, the business must

provide a sufficient package of benefits for new jobs, as set by the IEDA board. Fifth, the project must provide a sufficient “fiscal impact ratio” to justify the incentives. Mr. Whipple provided a short history of how the “fiscal impact ratio” was developed and how it is used. Sixth, the business cannot be a retail business or have a history and practice of violating state laws. Seventh, IEDA considers the overall quality of the project by evaluating the quality of the jobs created, the impact of the project on other businesses in competition with the project, and the current and future economic impact to the state.

Mr. Whipple summarized the six different tax incentives available under the program. First, a business may receive a refund of the sales and use taxes it pays on certain qualifying items. Second, a business may qualify for a third-party sales tax credit for certain sales taxes paid by certain third-party developers with whom the business has a relationship. Third, a participating community may exempt any business improvements from property taxation for a period of up to 20 years. Fourth, a business may qualify for an investment tax credit on a certain percentage of new investment directly related to the project’s jobs. Fifth, businesses subject to the insurance premiums tax may be eligible for an insurance premiums tax credit equal to a certain percentage of a new investment directly related to the program’s jobs. Sixth, if the business is increasing research and development activities in the state, it may be eligible for a supplemental research activities tax credit in addition to the other Iowa research activities credit.

Mr. Whipple explained the schedule used to determine the amount of total incentives that may be awarded for a project and how IEDA administers each project. IEDA also attempts to ensure there is some form of local match supporting the project so local communities have a stake in the project’s success. The local match may come from a variety of different entities and may be in many forms, though tax increment financing is used in the majority of projects funded by the program.

After a contract is signed the business enters into a three-year performance period during which it performs its obligations and receives an annual tax credit certificate. After the end of the third year a compliance determination is made. This is followed by a two-year maintenance period during which the business is required to maintain its obligations under the contract and receives annual tax credit certificates. At the end of the two-year maintenance period another compliance determination is made by the IEDA and the business may be issued a letter of default and referred to the Iowa Department of Revenue for failing to fully perform its contractual obligations.

Mr. Whipple provided an explanation and analysis of the High Quality Jobs Program’s performance. Mr. Whipple then proposed a method for calculating the state’s return on investment by analyzing both the cost to the state and the benefits realized by the state. According to Mr. Whipple, however, many factors make it difficult to accurately measure the cost and benefits to the state.

VIII. Review of Research Activities Tax Credits

Ms. Amy Rehder Harris, Iowa Department of Revenue, gave a presentation on the federal research activities credit and the Iowa research activities credit. The federal research activities credit was introduced in 1981 as a nonrefundable, automatic credit. The federal credit is equal to 20 percent of a taxpayer’s incremental qualified research expenditures,

which is calculated using eligible expenditures above a specified base for research that is experimental, technological, or conducted with the goal of developing a new product or process. In the alternative, taxpayers may calculate their credit using the simplified method, which is equal to 14 percent of qualified research expenditures that exceed 50 percent of the taxpayer's average qualified research expenditures over the previous three years.

Iowa introduced a research activities credit in 1985 to encourage research activity in the state. In contrast to the federal credit, Iowa's credit is refundable, which has the consequence of providing support to businesses engaging in research in Iowa even if they have no state tax liability. The credit was made permanent in 1991. It is calculated using the definitions found in the federal research activities credit and is equal to 6.5 percent of incremental qualified research in Iowa. Like the federal research activities credit, taxpayers may instead claim the alternative simplified credit under Iowa Code section 15.335, with percentages based on the amount of gross revenue.

Ms. Harris provided statistics on the 36 states that currently offer a research credit. Twenty states, including Iowa, rely on the federal credit rules. The credit rates range from a low of 1.25 percent to a high of 25 percent, with the most common rate being 10 percent. Besides Iowa, only Louisiana, Minnesota, Nebraska, New York, and Virginia offer refundable credits. Iowa's credit claims have increased since 2002 when the credit was made available to individuals in addition to C corporations. However, Ms. Harris noted that since 2006, over 90 percent of credit claims by C corporations are made as refund requests, with between 60 and 70 percent of all corporate claimants receiving some refund. Such percentages are significantly lower for individual claimants, with the percentage being between 20 and 30 percent for (both figures) refund requests and refunds paid.

Research activities credit claims are concentrated by filing type, industry, and size. Since 2006, almost 80 percent of credit claims come from large companies with 500 or more employees. Also, almost 90 percent of claims come from the manufacturing industry, with the three biggest subgroups being machinery, transportation equipment, and chemical manufacturing.

Total annual research expenditures since 2006 have averaged almost \$1.19 billion, which equates to an average of \$50.7 million in annual credits, or \$0.043 of credit per research dollar. Claimants' research expenditures are concentrated as follows: 66.8 percent in wages, 22.8 percent in supplies, 0.3 percent in computers, and 10.1 percent in contract research. Ms. Harris confirmed that contract research must be conducted in Iowa to qualify for the credit.

Ms. Harris also shared the results of a 2011 research activities credit survey conducted by the Iowa Department of Revenue. Ms. Harris explained with whom the survey was conducted, what questions were asked, and what answers were received. In general, the survey looked at reasons why some companies conducting research were not claiming the credit, the employment characteristics and research decisions of those claiming the credit, where multistate companies were conducting other research, and the relationship of Iowa research to Iowa production and sales.

Respectfully submitted,

Senator Joe Bolkcom, Co-chairperson

Representative Thomas R. Sands, Co-chairperson

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**REPORT OF THE STUDIES COMMITTEE
TO THE LEGISLATIVE COUNCIL
June 28, 2012**

The Studies Committee of the Legislative Council met on June 28, 2012, and makes the following report for approval by the Legislative Council:

2012 Studies. That the attached proposal for studies for the 2012 Interim be adopted by the Legislative Council.

Respectfully submitted,

Senator Amanda Ragan
Chairperson

Proposal for 2012 Legislative Interim Studies

A. Statutory Committees

1. Legislative Tax Expenditure Committee (Iowa Code §§ 2.45(5) and 2.48)

Charge: The committee is a permanent body created under the Legislative Council. It is required by statute to approve annual estimates of the cost of tax expenditures by December 15 each year and perform a scheduled review of specified tax credits so that each credit is reviewed at least every five years. The second scheduled review, to review the Fund of Funds, targeted jobs withholding credits, the funding of urban renewal projects with sales tax revenue, school tuition organization tax credits, and tuition and textbook tax credits, is in 2012.

Members: 5 Senate / 5 House

Meeting Days: 1

2. State Government Efficiency Review Committee (Iowa Code § 2.69)

Charge: The committee is a permanent legislative committee that meets, as directed by the Legislative Council, at least every two years to review state government organization and efficiency. The committee met initially in 2011, and the first report is due January 1, 2013.

Members: 5 Senate / 5 House

Meeting Days: 1

3. Property Assessment Appeal Board Review Committee (Iowa Code § 421.1A(7))

Charge: The review committee was established as of January 1, 2012. The review committee is required to submit a report recommending any changes to the Property Assessment Appeal Board. The report is due January 15, 2013. Staffing assistance for the committee is provided by the Department of Revenue.

Members: 3 Senate / 3 House / 3 State and Local Officials

Meeting Days Authorized For Legislator Per Diem And Expenses: 2

B. Other Interim Committees

1. Mental Health and Disability Services Redesign Fiscal Viability Study Committee (2012 Iowa Acts, SF 2315, § 131)

Charge: The committee shall meet in the 2012 Legislative Interim to analyze the fiscal viability of the mental health and disability services redesign provisions enacted in the 2012 Legislative Session. Upon request to and approval by legislative leadership, the committee may contract to have an independent analysis performed. Reports of such an analysis are required to be submitted to the General Assembly for consideration during the 2013 Legislative Session.

Members: 5 Senate / 5 House

Meeting Days: 2

2. Electronic Commerce Study Committee (Memorandum to the Studies Committee)

Charge: The committee shall meet in the 2012 Legislative Interim to collect information from stakeholders relating to the collection of sales and use taxes from local and Internet-based retailers (known as “E-fairness”) and the collection of electronic payment transaction interchange fees (known as swipe fees).

Members: 3 Senate / 3 House

Meeting Days: 1

REPORT OF THE SERVICE COMMITTEE TO THE LEGISLATIVE COUNCIL

June 28, 2012

The Service Committee of the Legislative Council met on June 28, 2012, and makes the following report and recommendations to the Legislative Council for approval:

I. PERSONNEL REPORTS

A. The Service Committee received and filed the annual personnel report from the Legislative Services Agency and recommends that the following employees be promoted, subject to performance review with approval of and effective date set by the director of the agency:

- Ms. Gina Garrett, from Administrative Services Officer 2, grade 29, step 6, to Administrative Services Officer 3, grade 32, step 4.
- Ms. Jacki Ellenwood, from Administrative Services Officer 1, grade 26, step 4, to Administrative Services Officer 2, grade 29, step 2.
- Mr. David Craft, from Administrative Services Officer, grade 23, step 7, to Administrative Services Officer 1, grade 26, step 5.
- Mr. Mitch Rykhoek, from Computer Systems Analyst 1, grade 27, step 3, to Computer Systems Analyst 2, grade 29, step 2.
- Ms. Lisa Henschel, from Computer Systems Analyst 1, grade 27, step 3, to Computer Systems Analyst 2, grade 29, step 2.
- Mr. Jonathan Ihm, from Computer Systems Analyst 1, grade 27, step 3, to Computer Systems Analyst 2, grade 29, step 2.
- Mr. Jess Benson, from Legislative Analyst 2, grade 32, step 6, to Legislative Analyst 3, grade 35, step 4.
- Ms. Marcia Tannian, from Legislative Analyst 2, grade 32, step 4, to Legislative Analyst 3, grade 35, step 2.
- Mr. Kenneth Ohms, from Legislative Analyst, grade 27, step 3, to Legislative Analyst 1, grade 29, step 2.
- Mr. Michael Duster, from Legal Counsel 1, grade 32, step 5, to Legal Counsel 2, grade 35, step 3.
- Mr. Jack Ewing, from Legal Counsel, grade 30, step 3, to Legal Counsel 1, grade 32, step 2.
- Mr. Andrew Ward, from Legal Counsel, grade 30, step 3, to Legal Counsel 1, grade 32, step 2.
- Mr. Roger Karns, from Administrative Services Officer 2, grade 29, step 7, to Administrative Services Officer 3, grade 32, step 5.
- Ms. Jessica Clark, from Assistant Editor 2, grade 27, step 5, to Assistant Editor 3, grade 30, step 3.

B. The Service Committee received and filed the annual personnel report from the Office of Citizens' Aide/Ombudsman and recommends that the following employees be promoted, subject to performance review with approval of and effective date set by the director of the agency:

- Ms. Barbara Van Allen, from Assistant Ombudsman 2, grade 32, step 5, to Assistant Ombudsman 3, grade 35, step 3.
- Ms. Eleena Mitchell-Sadler, from Assistant Ombudsman 2, grade 32, step 7, to Assistant Ombudsman 3, grade 35, step 5.
- Ms. Elizabeth Hart, from Assistant Ombudsman 2, grade 32, step 7, to Assistant Ombudsman 3, grade 35, step 5.

II. CENTRAL STAFF AGENCY FY 2013 BUDGETS

The Service Committee recommends that the Legislative Council approve the proposed budgets for the fiscal year beginning July 1, 2012, pursuant to Code section 2.12, as submitted by the following agencies:

- Legislative Services Agency
- Office of the Citizens' Aide/Ombudsman

Respectfully submitted,

Senator Michael E. Gronstal
Chairperson