

M I N U T E S  
IOWA LEGISLATIVE COUNCIL  
August 25, 1988

PRELIMINARY BUSINESS

The twelfth meeting of the 1987-1988 Legislative Council was called to order by Speaker Donald D. Avenson, Chairperson, at 1:45 p.m. on Thursday, August 25, 1988, in Committee Room 22 of the State House, Des Moines, Iowa. Members present in addition to the Chairperson were:

Senator Bill Hutchins, Vice Chairperson  
Senator Calvin Hultman  
Senator George Kinley  
Senator Joe Welsh  
Senator Dale Tieden  
Senator C. Joseph Coleman  
Senator Donald Doyle  
Senator Emil Husak  
Senator Lee Holt  
Senator David Readinger  
Representative Robert Arnould  
Representative Florence Buhr  
Representative Dorothy Carpenter  
Representative Kay Chapman  
Representative John Connors  
Representative William Harbor  
Representative Thomas Jochum  
Representative Del Stromer  
Representative Harold Van Maanen

Also present were:

Dr. Edward Stanek, Lottery Commissioner  
Mr. Lynn Barney, Deputy Director, Department of Management  
Ms. Roxanne Conlin, Co-chairperson, Higher Education Task Force  
Mr. Edgar Bittle, Co-chairperson, Higher Education Task Force  
Mr. Joe O'Hern, Chief Clerk of the House  
Mr. Jack Walters, Director, Department of General Services  
Ms. Jean Kaplan, representing the Japanese Tea House and Garden Association  
Donovan Peeters, Director, Legislative Service Bureau  
Dennis Prouty, Director, Legislative Fiscal Bureau  
Bill Angrick, Citizens' Aid/Ombudsman

Sandy Scharf, Director, Computer Support Bureau

Also present were other legislative staff members and interested individuals.

Chairperson Avenson called for approval of the minutes of the July 13 Council meeting. Senator Husak moved that the minutes be approved as mailed to Council members.

DR. ED STANEK'S PRESENTATION

Co-chairperson Avenson announced that Dr. Stanek was present to discuss the operation of the state lottery.

Dr. Stanek expressed the belief that the lottery had done very well in the past year with sales, prizes awarded, and lottery profits all increasing substantially. He stated that profits in the first year of the lottery were approximately \$27,630,000; profits in the second year were \$31,160,000; and profits the past year are expected to exceed \$40,000,000. Even after the distribution of various amounts to mandated programs such as the Gambler's Assistance Program, it is expected that over \$34,000,000 in lottery proceeds will be available for the Iowa fund. In addition, some additional proceeds from the investment of lottery income, perhaps as much as \$1,000,000, will also be available for the Iowa fund. In the past legislative session, the General Assembly appropriated \$32,000,000 from the Iowa fund. Dr. Stanek expects to have a \$3,000,000 surplus in the Iowa fund at the end of the fiscal year due to increased profits and the expected investment income.

Senator Kinley inquired about the announced plans to do away with the weekly lottery drawing. Dr. Stanek explained that by eliminating the jackpot program associated with the sale of lottery rub-off tickets, the payback on the rub-off tickets would be increased initially from 45 percent to 55 percent and then up to 65 percent. He commented that the Lottery Commission markets to several different groups of consumers with its various products and those individuals seeking to win the big jackpot tend to play Lotto or Lotto America, and do not focus on scratch-off tickets. He noted that those consumers interested in smaller instant winnings are attracted by the scratch-off tickets and the new policy will provide more money for instant scratch-off awards.

Senator Kinley also inquired as to plans for video lotteries under the announced research program, and Dr. Stanek explained that the research study would be getting underway about January 1 and last for six months. The study would focus on profits, costs, social consequences, and other aspects of that lottery. Dr. Stanek explained that Montana is the only state with any form of video lottery currently being offered. Illinois previously tested

a video lottery but did not adopt this lottery program. Both Ohio and South Dakota have also considered video lotteries.

Representative Harbor inquired how much of a demand for services there has been for the Gambler's Assistance Fund which under the formula receives one-half of one percent of lottery proceeds. Dr. Stanek responded that in the past year approximately \$650,000 was made available to the Department of Human Services for treatment centers, the Gambler's Assistance Hotline, and other gambling assistance programs. Dr. Stanek explained that research has shown the lottery is still not the game of choice for compulsive gamblers. The compulsive gamblers appear to prefer forms of gambling with some semblance of skill. The Lottery Commission continues to study the impact of the lottery upon compulsive gamblers with the Department of Human Services.

Chairperson Avenson inquired how the expected surplus would be spent. Dr. Stanek summarized the new formula adopted by the General Assembly during the 1988 Session: one-half of the surplus would be distributed to community colleges and one-half to the Community Economic Betterment Account. Chairperson Avenson asked what would have happened if the General Assembly had appropriated moneys in excess of actual lottery revenues. Dr. Stanek explained that the Department of Economic Development is required to submit a plan to the Governor for reallocation of available funds.

Chairperson Avenson thanked Dr. Stanek for his presentation.

#### LYNN BARNEY, DEPARTMENT OF MANAGEMENT, PRESENTATION

Chairperson Avenson noted that at its July meeting the Legislative Council had asked that a representative from the Department of Management be invited to the August meeting to explain the differences between the Department's projected reversions of state general fund moneys for the fiscal year ending June 30, 1988, and the estimated actual reversions. He called for comments from Mr. Barney, Deputy Director. Mr. Barney distributed copies of a listing comparing projected general fund reversions to the estimated actual reversions. A copy of the listing is attached to and by this reference made a part of these minutes.

Mr. Barney stated that the Department's estimates of reversions as submitted to the General Assembly at the end of the legislative session differed by almost \$10,000,000 from the actual reversions received from departments at the end of the fiscal year. He explained that the reduction in reversions consumed most of the year-end surplus which had been anticipated so that only \$13,000,000 in reversions remained of the expected \$23,000,000. Mr. Barney explained that the two major sources of deviations between the projected reversions and estimated actual reversions

were higher than expected costs for the Department of Human Services for the Medical Assistance Program under Title XIX, Medicaid, and the Foster Care Program. He stated that in order to complete the 1988 fiscal year, \$7,000,000 was transferred to the Department of Human Services from other departments to make up for deficiencies in funding. He also stated that another contributing factor was staffing problems at the state hospital-schools.

Senator Welsh inquired whether caseload was increasing for programs provided by the Department of Human Services. Mr. Barney responded that utilization of Aid to Dependent Children (ADC) has declined so that actual reversions for ADC were \$1,400,000 more than end-of-session estimates, but those additional dollars were transferred to other programs in need within the Department of Human Services, particularly the Title XIX, Medicaid, and Medical Assistance Programs.

Senator Hutchins noted that the difference between projected estimates of end of the fiscal year reversions made in April and actual estimated reversions on June 30 made by the Department of Management and the Department of Human Services differed by \$7,000,000. He asked what the amount of reversion of appropriations made to the Department of Human Services could be anticipated on June 30, 1989. Co-chairperson Avenson emphasized the need for the Legislative Council to know how the Department of Management's estimates could have been as inaccurate as they were. Mr. Barney responded that the error in estimates was not entirely attributable to the additional needs of the Department of Human Services, and he could not predict whether the additional needs of the Department of Human Services would continue in the future. Senator Hutchins emphasized the need for the General Assembly to be informed about expected deviations in program costs that are anticipated to be experienced by the Department of Human Services during fiscal year 1989. He instructed Mr. Barney to come back to the next Legislative Council at its next meeting with update figures.

Senator Hultman and Chairperson Avenson observed that the listing of reversions provided by the Department of Management did not reflect the transfers between divisions of the Department of Human Services described by Mr. Barney. Mr. Barney explained that the entire surpluses in some programs of the Department were not transferred. For instance, in the case of Aid to Dependent Children, a reversion of \$5,600,000 was attributed to the item veto, and added to the \$5,900,000 reversion from declining caseload, yielded a total reversion of \$11,500,000 attributable to ADC. The Department of Management and Department of Human Services then transferred \$4,500,000 to other areas, still yielding \$7,000,000 in total reversion for ADC programs.

Representative Chapman requested of Mr. Barney that subsequent handouts should indicate transfers within the Department of Human

Services. Senator Hultman requested that members of the Council receive a revised, more comprehensive and more understandable description of the estimated reversions and the actual reversions at or prior to the next Legislative Council meeting.

Representative Carpenter inquired whether the large surplus in Title XIX funding could be attributable to the payment procedure required by the federal government and she commented that she suspected that the surpluses were not necessarily due to any large increase in services delivered under Title XIX. She suggested that the Departments of Management and Human Services give close scrutiny to the Medicaid reimbursement methods. Representative Carpenter expressed the belief that the Diagnostic Related Group (DRG) method for reimbursement previously used worked poorly because it allowed more than adequate reimbursement for capital expenses.

Chairperson Avenson inquired whether it will require legislative action to correct the budget problems being experienced by the Department of Human Services. He commented that it is not possible for the state to absorb unexpected expenditures of such magnitude.

After extensive discussion, it was discovered that one source of confusion of Council members over the Department of Management's reversion listing was that the Department of Human Service's reversions in the first subsection were also reflected in the third subsection labeled "Other Programs".

Chairperson Avenson asked whether the Department of Management was aware in April that the reversion estimates would be so far off. Mr. Barney responded in the negative. Chairperson Avenson expressed the belief that Senator Welsh and Representative Jochum, Chairpersons of the Senate and House Appropriations Committees, should be concerned about the magnitude of the Department of Management's inaccurate estimates. Mr. Barney responded that he simply didn't know in April that the Department of Human Services would need another \$10,000,000 by June 30. Senator Tieden observed that the Governor's initial budget included an estimate of \$24,000,000 in reversions, and he inquired whether the increase in spending for Title XIX and foster care was due to increased costs per case or an increase in the number of cases. Mr. Barney responded that he believed that eligibility for participation in the state was declining and that most of the increases were attributable to increased utilization. Chairperson Avenson expressed the belief that it was significant that the General Assembly is charged by law with the development of the budget. He noted that the General Assembly's task is made difficult when the Department of Management changes its estimates of spending by \$10,000,000 in a three-week period. He commented that the shortfall would have been even more serious if the state had not experienced a windfall in tax revenues. He asked the Fiscal

Committee to examine the implications of the reversion errors for the development of the next fiscal year's budget.

Representative Harbor observed that one cost unknown until after the General Assembly adjourned was the increases required for the state hospital-schools.

Representative Van Maanen inquired whether the state/federal division of moneys for Title XIX programs had changed and Mr. Barney responded there had been no impact on the state obligations.

Senator Husak observed that in January the General Assembly did not anticipate the reversion of general fund moneys at the close of the fiscal year, but by April an influx of tax revenues allowed the General Assembly to spend more. He expressed the belief that in comparison to the changes in the revenue estimates, the \$10,000,000 change in the reversion estimates was comparatively small. Senator Husak expressed the belief that the General Assembly needs accurate projections of spending in order to appropriate moneys for the next fiscal year, and the Department of Management with all its computers should be able to project revenue and spending more accurately. The additional revenue projected in April was more disturbing, Senator Husak observed, even though the \$10,000,000 reversion error was also disturbing.

Chairperson Avenson agreed with Senator Husak, noting that it is not a desirable procedure to ask majority party members to vote for a tax increase on cigarettes because of projected budget shortfalls only to discover in April that the tax increase would not have been necessary since revenue estimates suddenly show a windfall. Chairperson Avenson asked whether executive manipulation of the budget process could have occurred by withholding critical and accurate information. He stated that the General Assembly is currently dependent upon the executive branch for certain budget-related figures, and it is absolutely critical that the numbers be accurate. Chairperson Avenson asked whether the revenue figures were manipulated to avoid needed spending for fire safety deficiencies and Capitol restoration needs.

He suggested that if the Department of Management cannot provide accurate data, the General Assembly may have to find another way to obtain the information needed.

Representative Carpenter inquired whether manipulation of Title XIX billings by hospitals for Medicaid reimbursement moneys was a more likely explanation of the reversion error, noting that in her opinion, Mr. Don Herman of the Department of Human Services is a person of integrity. Chairperson Avenson responded that the General Assembly should serve as a check on the executive branch under the separation of powers doctrine. Mr. Barney was instructed to return to the next Legislative Council meeting and

present final, more comprehensive, and more understandable explanations of the sources of errors in making the earlier reversion estimates.

#### REPORT OF THE HIGHER EDUCATION TASK FORCE

Mr. Ed Bittle and Ms. Roxanne Conlin, Co-chairpersons, presented the report of the Higher Education Task Force. Ms. Conlin reported that the preliminary organization plan for the work of the Higher Education Task Force was prepared and included in materials distributed to the Council. Ms. Conlin requested that the Council accept the document as a preliminary report of the Task Force. Representative Connors so moved. The Council unanimously approved accepting the document as the preliminary report and it is attached hereto.

Ms. Conlin requested authorization to appoint an executive director prior to the original planned appointment date of January 1, 1989. She stated that the Co-chairpersons intend to recommend the employment of Mr. John Schmidt, formerly of the Des Moines Register, as its Executive Director based upon resumes received and interviews previously conducted. Senator Hutchins moved to authorize the early appointment of an executive director. Representative Stromer recommended amending the motion to specifically recognize that the authorization is under the authority of section 2.12 of the Iowa Code. As so amended, the motion carried.

Ms. Conlin requested that the Legislative Council approve the proposed budget as guidelines for expenditures. Senator Hultman so moved. Senator Readinger noted that while he appreciated the need for flexibility in the budget authorization, he asked whether circumstances might call for a rearrangement of the authorized dollars to categories other than those indicated in the report. Ms. Conlin responded that the Task Force had no desire to return to the Council for minor spending changes such as exceeding the travel budget by \$200. She deems such matters not worth the Council's time, but also does not wish to violate Council rules. Mr. Bittle noted that other circumstances included the possibility that the Task Force might use a staff person to perform certain work currently planned for consultant. Chairperson Avenson expressed the belief that it would be inappropriate for the Task Force to budget specifically what it will pay for a consultant when it might be beneficial to negotiate such payment.

Chairperson Avenson also noted the Task Force's duties were modified by requiring an early report on its charge to study vocational education, thus adding complexities to the original charge and justifying the request of flexibility and early hiring of the executive director so that recommendations in this area could be considered by the General Assembly in 1989. Senator Welsh inquired who the support staff would be and he was told that

the Legislative Service Bureau would assist the Task Force. Senator Welsh suggested that an office be found within the Capitol or the state complex for use by Task Force personnel. The motion to accept the budget carried.

PRESENTATION OF REQUEST FOR APPROVAL OF NEW ADMINISTRATIVE CODE PUBLICATION PRICING

Mr. Donovan Peeters submitted a letter from Ms. Kristi Little, Superintendent of Printing, to the Legislative Council requesting that the Council establish prices of the Iowa Administrative Bulletin, Iowa Administrative Code Supplements, and Court Rules at the following rates: The Bulletin, \$160; a Supplement, \$255; and the Rules, \$45; reflecting a 10 percent increase over current prices. Superintendent Little's letter noted that increased costs due to reorganization were still being experienced as the Code Bulletin and Supplement contain printed rules under a department's and division's new names. Senator Hultman moved to adopt the recommended pricing schedule and the Council approved the motion on a voice vote.

PROPOSAL FOR JAPANESE GARDEN ON CAPITOL GROUNDS

Senator Readinger, as a member of the Capitol Planning Commission, submitted informational materials for which no Legislative Council action was required regarding a proposal to develop a Japanese Tea House and Garden south of the Capitol in the vicinity of the Japanese Bell. Mr. Walters, Director of General Services, introduced Ms. Jean Kaplan as the representative of the Japanese Tea House Garden Association, which is recommending the proposal as approved by the Capitol Planning Commission. Ms. Kaplan requested the Legislative Council's endorsement for a five acre garden in the vicinity of the Japanese Bell on the south grounds of the Capitol which under a proposed chapter 28E agreement would be installed with no charge to the state. The \$1,000,000 cost would be raised privately.

Ms. Kaplan explained that the Japanese Garden is intended as a living memorial to peace and friendship and to cement the 20-year sister state and sister city relationship between Iowa and Yamanaishi Prefecture, and the cities of Koufo and Des Moines. The Japanese Tea House and Garden Association was originally formed six years ago and recently adopted a plan to raise \$1,000,000 from private sources to develop the site. The group has hired Landscape Architect, Dr. Kuwana of the University of Southern California, a premier landscape architect specializing in Japanese gardens, to assist in the garden's design. As discussed by the capitol Planning Commission and approved by Mr. Walters, as Director of General Services, it is estimated that maintenance can be performed within the Department of General Services' current



budget. She indicated that a \$100,000 trust will be established yielding approximately \$10,000 in annual income to replace plant materials and maintain the garden.

Senator Kinley sought assurances from Mr. Walters that the Department of General Services could maintain the garden under the current budget once it was installed. Mr. Walters answered that with volunteer staff and youth volunteers supplied by various agencies during the summer and existing staff it would not be a problem. Ms. Kaplan noted that there would not be a lot to maintain.

In response to a question from Senator Kinley, Ms. Kaplan said that the group would raise all the necessary dollars before any work on the garden would begin and no state funds would be involved. Representative Harbor inquired what response the Capitol Planning Commission believes the Council should have to the next ethnic group that requests permission to place a garden on the Capitol grounds. Ms. Kaplan responded that the Japanese gardens are unique and are a distinct category of landscape architecture. Senator Hultman expressed his view that the enhancement to be provided by the Japanese Gardens to the Capitol grounds is a good idea. Representative Carpenter inquired about security on the Capitol grounds and was informed by Ms. Kaplan that security was addressed in the feasibility study and would remain under the Department of General Services' responsibility. Mr. Walters added that an alarm system could be added as the next step if routine patrols by existing personnel do not prove sufficient.

Mr. Walters explained that the proposal does not require Legislative Council approval, but that the Council's endorsement and input was desired. No motion to disapprove the Japanese garden proposal was advanced.

#### PREFILING RULES FOR LEGISLATIVE BILLS

Mr. Peeters submitted proposed rules for Council approval on prefiling of bill requests. Changes from prior years include the requirement that departmental bill requests include the required background statement when first submitted in order to have the request accepted. Representative Arnould inquired what could be done to the rules to assure that departmental prefiles are submitted to the General Assembly during January and February. Senator Hultman noted that the Legislative Procedures Committee is looking at the issue. Mr. Peeters expressed the belief that departments sometimes submit bill requests in conceptual form with little guidance on the actual desired contents or they submit requests merely to preserve bill numbers in case a bill is later desired. Chairperson Avenson noted that the consensus of the Council is that the Legislative Procedures Committee should

present to the Legislative Council at its next meeting date recommendations for deadlines for various aspects of departmental profiles.

#### PRESENTATION OR VOTING MACHINES

Chief Clerk Joe O'Hern described discussions of the past several months to replace or upgrade voting machines installed in the early 1970s in both the Senate and the House. Major focus of discussion was the advisability or necessity of upgrading or maintaining the voting machines currently used. Current voting machines are hard wired; that is, their functions are limited by the physical architecture of the wiring. More modern voting machines are controlled by software allowing changes and upgrades to be added by changing the software and not the physical equipment. Mr. O'Hern noted that the situation is more serious in the Senate where its voting machines experienced repeated problems in the last session when votes disappeared off the board. Mr. O'Hern stated that substantial savings are available if the contract includes work on the voting machines for both houses. Mr. O'Hern commented that the proposal would involve the installation of LCD display ability on both boards in both chambers to add more flexibility in the messages or information posted. Mr. O'Hern sought Legislative Council approval for the contract.

Senator Hutchins observed that the current voting system is wearing out and the Legislative Council needs to take action to be ready by the 1989 Session. Representative Harbor inquired about the cost of the project. Mr. O'Hern noted that the proposal currently under consideration would cost \$57,000 for software and \$40,000 for the LCD displays. Representative Stromer observed that the House voting system would require updates and improvements eventually, and he recommended that both systems be updated at the same time. Senator Hultman noted that the proposed system would also automatically send votes to the journal room for compilation.

Senator Welsh suggested investigating whether another feature could be incorporated in the voting system so that a light system or other alarm system could be installed in common meeting rooms around the Capitol to inform representatives and senators when a vote was being taken. Chairperson Avenson instructed Mr. O'Hern to investigate the possibility of such a voting notification system.

Senator Husak inquired whether bids would be taken for this work. Senator Hutchins answered that no bids would be taken because only one manufacturer, Dactronics from Sioux Falls, South Dakota, makes and services systems like those being considered and that manufacturer is also the leader in the industry. Senator

Hutchins moved that the legislative leadership be authorized to enter into a contract for voting equipment improvements, taking into consideration Senator Welsh's proposal and including the anticipated rewiring, software, and new display boards for both chambers. Representative Stromer recommended amending the motion to note the authorization would provide funding under section 2.12 of the Code. The motion, as amended, carried.

#### REPORT OF THE FISCAL COMMITTEE

Representative Jochum submitted the Report of the Fiscal Committee and offered to answer questions. A copy of the Fiscal Committee Report is attached and by this reference made a part of these minutes. Senator Hultman asked about Representative Jochum's views on the previous Legislative Council discussion with the Department of Management representatives. Representative Jochum responded that the Fiscal Committee is having continuing talks with both the Department of Human Services and the Department of Management concerning the situation. Senator Hultman again stressed that the Department of Management should submit its next report in more understandable form. The Fiscal Committee Report was adopted.

#### REPORT OF THE CAPITOL SPACE ALLOCATION COMMITTEE

Chairperson Avenson and Mr. Walters explained that the cost of renovating the Capitol stonework is currently estimated to require \$26,000,000 additional to complete all of the work. They stated that a Request for Proposal is currently being developed to contract with a consultant to study legislative, executive, judicial, and other statewide office space needs within the Capitol and Capitol Complex. In regard to stonework renovations, Chairperson Avenson observed that unless spending is increased over the spending of the last few years, the \$26,000,000 would be insufficient to complete the stonework because of inflation. Senator Welsh inquired how much had been spent to date on stonework and Chairperson Avenson responded that \$5,000,000 to \$6,000,000 had been spent so far. Senator Welsh asked whether the lack of progress is due to inadequate funding or to the time required to perform the work. He stated that he understood that only so much could be done at one time. Mr. Walters explained that the Indiana stone used in the capitol requires a long lead time for ordering and that next year's stone has already been ordered under legislative leadership authority to make sure it will be available during the construction season.

Senator Welsh suggested that to resolve Capitol space allocation matters the Committee should move the Department of Management out of the ground floor of the Capitol. Chairperson Avenson responded that current negotiations concerning Capitol

space are proceeding successfully as all branches of government are now communicating with each other, not just protecting their own interests. Representative Connors moved to accept the Capitol Space Allocation Report, and the motion carried. A copy of the Report is attached and by this reference made a part of these minutes.

#### REPORT OF THE SERVICE COMMITTEE

Senator Welsh submitted the Report of the Service Committee along with the Citizens Aide/Ombudsman's proposed rules to be published. A copy of the Service Committee Report is attached and by this reference made a part of these minutes. Senator Welsh also requested unanimous consent to add one additional item of comment to the Report concerning maintenance in the Capitol. Senator Welsh observed that several employees in the Capitol have been required to work in 90 degree heat at various times during the last couple of warm months and suggested that the Department of General Services make a regular practice of checking for problems with the air conditioning and heating system even in little used areas of the building. Senator Welsh's item was added and the Service Committee Report was adopted.

#### REPORT OF THE STUDIES COMMITTEE

The Studies Committee Report was submitted by Senator Hutchins for approval by the Council. Senator Hutchins explained the Report. A copy of the Report is attached and by this reference made a part of these minutes. The Studies Committee Report was adopted.

#### ADJOURNMENT

The Council adjourned at 3:50 p.m.

Respectfully submitted,

DONOVAN PEETERS  
Secretary to the Legislative Council

DAN WINEGARDEN  
Legal Counsel