

M I N U T E S  
IOWA LEGISLATIVE COUNCIL

September 20, 1989

PRELIMINARY BUSINESS

The sixth meeting of the 1989-1990 Legislative Council was called to order by Senator Bill Hutchins, Chairperson, at 2:13 p.m., Wednesday, September 20, 1989, in Senate Room 22, State House, Des Moines, Iowa. Members present in addition to Chairperson Hutchins were:

Speaker Don Avenson, Vice Chairperson  
Lieutenant Governor Joann Zimmerman  
Senator C. Joseph Coleman  
Senator Donald V. Doyle  
Senator Calvin O. Hultman  
Senator John Nystrom  
Senator Julia Gentleman  
Senator Joe Welsh  
Representative Bob Arnould  
Representative Florence Buhr  
Representative John Connors  
Representative Mary Lundby  
Representative Tom Jochum  
Representative Harold Van Maanen

Also present were Ms. Diane Bolender, Acting Director, Legislative Service Bureau; Mr. Dennis Prouty, Director, Legislative Fiscal Bureau; Mr. Bill Angrick, Citizens' Aide/Ombudsman; Mr. Sandy Scharf, Director, Computer Support Bureau; Mr. Thane R. Johnson, Senior Research Analyst, Legislative Service Bureau; other legislative staff members; representatives of the news media; and other interested persons.

MINUTES APPROVED

Senator Coleman moved that the minutes of the Legislative Council meeting of August 16, 1989, be approved as distributed. The motion was adopted.

TELECOMMUNICATIONS NETWORK UPDATE

Chairperson Hutchins recognized Dr. Ed Stanek, Iowa Lottery Commissioner and Chairperson of the Telecommunications and Information Management Council, for an update on the implementation of the statewide telecommunications network

provided for in House File 774. Dr. Stanek reported that a special subcommittee of executive branch department heads has been created to discuss and plan networking issues and resolve which entity or department is responsible for resolving particular problems relating to the establishment of the statewide network. He stated that there appears to be agreement as to the implementation of the network. Dr. Stanek explained that there are three parts to the implementation phase, parts 1 and 2 of which will have Request for Proposals (RFP) issued in December 1989 and hopefully, contracts will be awarded in January 1990. He added that he does expect some appeals of the decisions to be filed concerning the award of contracts because of the complexity of the entire telecommunications network system. He added that approximately \$150,000 to \$200,000 has been set aside for expert assistance in developing and implementing the network.

During a discussion of the state telecommunications network, it was noted that the Chief Clerk of the House and the Secretary of the Senate will serve as liaisons to the executive branch for the project and provide a communications link to the Legislative Council during the development and implementation of the network.

In reply to a question by Speaker Avenson, Dr. Stanek stated that in accordance with the provisions of House File 774, network implementation has proceeded to the point where certification of availability of funding from the Legislative Council is needed. Speaker Avenson moved that the Legislative Council agree to the determination of the availability of funding to begin implementation of the telecommunications network as outlined in House File 774. There being no discussion, the motion was adopted.

#### REDISTRICTING VENDORS

Chairperson Hutchins next recognized Ms. Bolender for a brief review of developments relating to computer programs for redistricting the state legislature. She stated that a letter has been mailed to five vendors who have developed programming for redistricting state legislatures and the United States House of Representatives and that three have indicated their interest in bidding on a proposal for the Iowa General Assembly. She stated that the vendors include the Election Data Services, Inc., Washington, D. C., Public Systems Associates, Inc. of Denver, Colorado, and Sammamish Data Systems, Bellevue, Washington. She added that the vendors expressing an interest in bidding have agreed to visit Des Moines in late October to provide a demonstration of their capabilities.

There being no further comment, Chairperson Hutchins stated that the report was received by the Legislative Council.

RECODIFICATION OF DRAINAGE LAWS

Chairperson Hutchins next recognized Ms. Bolender for a brief explanation of the Report of the Recodification of Drainage Laws. Ms. Bolender briefly reviewed a memorandum from Jo Ann Brown, Iowa Code Editor, relating to Senate File 479 (89 Acts, chapter 126, section 2) which directs the Code Editor to report to the Legislative Council by September 15, 1989. In the memorandum, Ms. Brown reported that the work of preparing the copy to recodify drainage laws is nearly complete and that the Code Office has not encountered any serious difficulty in transferring the sections to new chapter 468 in the 1989 Code Supplement. There being no discussion, Chairperson Hutchins stated that the report was received.

REPORT FROM BRENT APPEL, ATTORNEY AT LAW

Chairperson Hutchins recognized Mr. Brent Appel, Attorney at Law, who was employed by the Legislative Council to review legislation passed by the General Assembly in 1989 which was item vetoed by Governor Terry E. Branstad and to identify particular item vetoes which might be challenged by the legislative branch. Mr. Appel stated that recent Iowa State Supreme Court cases will be used as benchmarks to determine which item vetoes appear to be unconstitutional. He added that he has found six item vetoes which he believes are worthy of challenge. The six items are as follows:

1. The item vetoes in House File 772 relating to minimum security correctional facilities. He noted that a suit has been filed by a private party challenging the item veto of the words "minimum security" and that he has reviewed the briefs which have been filed and noted that he believes the specific issues to be challenged are covered in the briefs.
2. The item vetoes in House File 774 relating to additional funds for faculty salaries at institutions under the control of the State Board of Regents.
3. The item vetoes in Senate File 363 which strike anti-reversion appropriations language relating to section 8.33 of the Code.
4. The item vetoes of Senate File 520 which strike the requirement for bipartisan representation on foreign trade missions taken by state officials.
5. The item vetoes of Senate File 541 relating to the administration of programs by the Department of Human Services.
6. The item vetoes of Senate File 546 relating to the Iowa leasing program which raises the question of whether or not the bill itself is an appropriations bill.

Mr. Appel continued by stating that he has not completed his review of all item vetoes and is waiting for the court to issue its opinion which is expected within a few weeks, on the case of Junkins v. Branstad relating to an item veto issue from the 1985 legislation session.

Chairperson Hutchins commented that the Legislative Council is not withdrawing from the potential challenge of the item vetoes but Mr. Appel is recommending that the potential challenges be temporarily deferred until the Iowa Supreme Court issues its opinion on the Junkins v. Branstad case.

In reply to a question by Representative Connors, Mr. Appel stated that he will have a better understanding of the prospects for the potential challenges of the item vetoes after the Junkins v. Branstad decision is handed down.

In reply to a question by Representative Lundby, Speaker Avenson stated that the Legislative Council voted on July 19, 1989, to retain Mr. Brent Appel on an hourly fee basis to review for the legislative branch the 1989 item vetoes of Governor Branstad. Chairperson Hutchins noted that the issues in the item vetoes are separation-of-power issues and not partisan issues. He noted that previous challenges by former Representative Richard Welden and others have been handled in a bipartisan manner. Senator Hultman commented that the Legislative Council retains the option of hiring the same or different legal counsel for any actual litigation.

#### LEASE-PURCHASE REQUEST

Chairperson Hutchins noted that correspondence has been received from the Department of General Services and the Department of Corrections relating to a lease-purchase agreement request for the Iowa State Penitentiary at Fort Madison to lease computer hardware. Representative Jochum noted that he believes the Governor's office appears to be backing away from its position of approving lease-purchases in general. He added that this request is not specifically related to the overall prison funding issue but only to computer hardware at the penitentiary.

There being no further comment, Senator Coleman moved that the authorization for a lease-purchase agreement for the Iowa State Penitentiary at Fort Madison to lease computer hardware be approved. The motion was adopted. A copy of the letter and supporting documentation is attached to and by this reference made a part of these minutes.

#### REPORT OF THE SERVICE COMMITTEE

Representative Connors reviewed the recommendations of the Service Committee in its report item by item.

Concerning item 2 which recommends that Ms. Diane Bolender be employed as Director of the Legislative Service Bureau, Representative Van Maanen stated that he was very pleased with the recommendation of the Service Committee and would like to give special recognition to the appointment by proposing a separate motion. Representative Connors thanked Representative Van Maanen for his request and comments relating to the Committee's recommendation but stated that he believes the recommendation should remain a part of the full report. Representative Van Maanen declined to move his proposal.

After discussion, Senator Hultman moved to defer action on the proposal relating to family death leave. There being no objection, the recommendation was deferred.

As a point of clarification, Representative Buhr expressed an understanding that under the parental and family leave policies, if both parents are legislative employees, they cannot take parental or family leave at the same time. (This statement is corrected on page 6 of these minutes.)

There being no further comments, Representative Connors moved adoption of the report as amended. The motion was adopted. A copy of the Report of the Service Committee is attached to and by this reference made a part of these minutes.

Representative Connors introduced new employees of the central legislative agencies, under the direction of the Legislative Council, who were present at the meeting.

#### REPORT OF THE FISCAL COMMITTEE

Representative Jochum reviewed the Report of the Fiscal Committee. Concerning the recommendation that the Legislative Council express legislative intent regarding the expenditure of funds for prison expansion, Representative Jochum stated that as far as he is concerned, the Council has no authority to delay or defer the expenditure of funds for the prison system and no independent prison expansion authority. Speaker Avenson expressed his support of Representative Jochum's opinion that the Legislative Council cannot delay or change the provisions of the enacted appropriation bills. He stated that the General Assembly provided the Governor's office with the exact authority that the Governor's office wanted with regard to the expansion of the prison system through the lease-purchase approach. Speaker Avenson further stated that it appears that Governor Branstad has changed his position since the close of the session and wants to move from a lease-purchase to a pay-by-cash approach to prison expansion.

Representative Van Maanen stated that he does not share Speaker Avenson's view of how the prison expansion legislation was developed and further, that there are problems relating to bonding and leasing of facilities. He added that these problems should be reviewed and corrected during the next legislative session.

Chairperson Hutchins stated that the language in the appropriation bill for prison expansion is what the Governor's office recommended and if there are problem areas in the legislation, it will have to be reviewed in January when the General Assembly reconvenes. However, he added, the Legislative Council has no authority to delay or change the language in the enacted appropriation legislation.

Representative Jochum stated that construction is ready to commence at the Oakdale facility in October and it will be difficult to explain why construction is delayed until January for clarification or changes in appropriation language. He added that delaying construction until January, during the coldest part of the winter, will effectively delay the commencement of construction until April or later.

Chairperson Hutchins stated that item 6 in the Report of the Fiscal Committee will be overruled by a recommendation of the Studies Committee. He added that the item relates to meeting days and membership for the sponsorship committees for the Performance Evaluation of the Jobs Training Programs and the Chronic Renal Disease Programs. After further discussion, Senator Hultman moved to defer on item 6. There being no objections, the item was deferred.

There being no further comments, Representative Jochum moved the adoption of the Report of the Fiscal Committee as amended. The motion was adopted. A copy of the Report of the Fiscal Committee is attached to and by this reference made a part of these minutes.

#### REPORT OF THE STUDIES COMMITTEE

Chairperson Hutchins recognized Speaker Avenson for the Report of the Studies Committee. Speaker Avenson reviewed recommendations of the Studies Committee and moved its adoption. There being no comments, the motion was adopted. A copy of the Report of the Studies Committee is attached to and by this reference made a part of these minutes.

#### CORRECTION OF INTERPRETATION

Representative Connors clarified that with regard to the employees of the central legislative staff agencies taking parental or family leave and death leave authorizations, Representative Connors stated that the policy intent is that both parents can be absent simultaneously in the case of a birth or adoption or a serious illness or death within the immediate family.

ADJOURNMENT

Chairperson Hutchins announced that the next meeting of the Legislative Council is tentatively scheduled for October 18, 1989.

There being no further business to come before the Council, the meeting was adjourned at 3:08 p.m.

Respectfully submitted,

THANE R. JOHNSON  
Senior Research Analyst

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