

M I N U T E S
LEGISLATIVE COUNCIL

August 13, 1980

The sixteenth meeting of the 1979-1980 Legislative Council was called to order at 10:10 a.m., Wednesday, August 13, 1980 in Committee Room 22 of the State House in Des Moines. Council members attending were:

Speaker William H. Harbor, Chairperson
Senator Calvin O. Hultman, Vice Chairperson
Lt. Governor Terry E. Brandstad
Senator James E. Briles
Senator C. Joseph Coleman
Senator Willard R. Hansen
Senator John S. Murray
Senator William D. Palmer
Senator Richard R. Ramsey
Senator Bob Rush
Representative Robert T. Anderson
Representative John H. Clark
Representative Gregory D. Cusack
Representative Roger A. Halvorson
Representative Ingwer L. Hansen
Representative Delwyn D. Stromer
Representative Richard W. Welden

Other persons present for the meeting were:

Representative Ned Chiodo
Mr. Richard Johnson, Auditor of State
Mr. Joe Thornton, Executive Assistant to the Chief
Justice of the Supreme Court
Mr. Ron Mosher, State Comptroller
Mr. Gerry Rankin, Legislative Fiscal Director
Mr. Serge Garrison, Director of the Legislative Service
Bureau
Ms. Diane Bolender, Senior Research Analyst, Legislative
Service Bureau

Also present were seven members of the Niger State Legislature in Nigeria, a number of other Iowa legislative staff persons, news media representatives, and other interested individuals.

Senator Coleman moved that the minutes be approved as submitted to Council members and the motion was adopted.

Chairperson Harbor called upon Mr. Garrison to introduce guests who were present from Nigeria. Mr. Garrison stated that seven members of the Niger State Legislature in Nigeria were present, in-

cluding the Speaker and Majority Floor Leader. He noted that the legislators have toured the state capitols in Connecticut and Iowa and called upon the legislators to introduce themselves. Chairperson Harbor welcomed the guests on behalf of the Iowa Legislative Council.

Chairperson Harbor called for comments from Representative Chiodo who had asked to address the Council. Representative Chiodo asked for the establishment of an interim study to study utilities and rate increases. He commented that his request was precipitated by a request for a 31 percent rate increase by Iowa Power and Light Company, noting that after January, 1981, Iowa Power will be collecting under bond not only the 31 percent rate increase request, but also a 19 percent rate increase request which has not yet been acted upon by the Iowa State Commerce Commission. He suggested that the study include the following three areas:

1. A study of the extended period of time required by the Commerce Commission to evaluate and act upon requests for rate increases.

2. A proposal to allow the Commerce Commission to set interim rates while a final rate is being negotiated, rather than allowing the utility to collect the rate request under bond.

3. A proposal to grant the Commerce Commission the authority to refund excess profits of utilities to the customers.

Representative Chiodo noted that there is no study of utilities during the present interim and suggested giving a Subcommittee of the Commerce Committees three days to study the issues.

Representative Clark asked what kind of legislation might be anticipated from such a study. Representative Chiodo responded that following discussion of the three areas he deliniated, legislation may be needed to implement the proposals. Representative Welden asked whether Representative Chiodo has discussed his proposal with Senator Holden and Representative Schroeder, the two Commerce Committee chairs. Representative Chiodo responded in the negative. Representative Cusack expressed support for Representative Chiodo's proposal, but also agreed that authorization for the study should not be granted by the Legislative Council without discussing the feasibility of the study with the two chairpersons involved. He further commented that he had visited with Chairperson Varley of the Iowa State Commerce Commission about how the state can accomplish better administration for a fair evaluation of rates and also how those who cannot pay the higher rates can be helped. He suggested that Representative Chiodo's proposal be submitted in written form to the chairs of the Commerce Committees. Representative Halvorson expressed support for Representative

Cusack's suggestion and further commented that the proposal should be presented to the Studies Committee prior to the next Legislative Council meeting.

Representative Anderson stressed that Representative Chiodo's request should be placed on the agenda for the next Council meeting. Chairperson Harbor asked the Studies Committee to follow up on Representative Chiodo's request.

Senator Hultman moved acceptance of the Educational Leave report. The motion was adopted. Representative Welden noted that the number of persons receiving educational leave has been decreasing and suggested that one reason for the decrease is that the cost of educational leave must come from funds appropriated to the employee's department.

Mr. Garrison noted that Council members have received copies of letters from Senator DeKoster and Representative Shimanek, Chairpersons of the Judiciary Committees, urging the Legislative Council to accept the report of the Resource Planning Corporation, which is the result of a study recommended by the Court Study Subcommittee and authorized by the Legislative Council. Mr. Garrison noted that final payment of the consultants for the report will not be made until the report has been accepted by the Council. He stated that a summary of the report will be sent to every member of the General Assembly and the complete report will be distributed to legislators involved in the study and other legislators upon request. The cost of publishing the report has been paid by a grant received from the federal government. In response to a question from Senator Hultman, Mr. Thornton responded that the report contains information about the cost of funding the trial court structure in Iowa and includes recommendations describing a model plan. Senator Hultman moved the acceptance of the report of the Resource Planning Corporation. Senator Coleman seconded the motion and it carried.

Senator Hultman moved that Senator Gratias be substituted for Senator Carney as temporary Senate chairperson of the Education Study. Senator Briles seconded the motion and it carried.

Chairperson Harbor called upon Mr. Garrison for miscellaneous business relating to the Legislative Service Bureau or the Legislative Council. Mr. Garrison commented that at the September meeting of the Administration Committee planning can begin for the Orientation Conference for new legislators which will take place prior to the next legislative session. He also announced that the agenda for the September meeting for the Service Committee will include discussion of revisions to the Bill Drafting Guide. He stated that he will be seeking a new employee since Marsha Szymczuk has resigned effective August 22.

Mr. Garrison commented that the Legislative Service Bureau will be able to comply with the 3.6 percent reduction in allocations ordered by Governor Ray for executive branch agencies. Senator Hultman responded that the Administration Committee will meet to discuss compliance by legislative agencies with Governor Ray's allocation reductions.

Mr. Garrison noted that adoption of the Service Committee's report to the Legislative Council in July was deferred pending notification of the directors of the legislative agencies of a proposed rule applicable to employees of legislative agencies which would define the term "occurrence" as it appears in the gift law. He stated that directors were in agreement that the proposed rule was satisfactory. Representative Stromer moved adoption of the Service Committee report of July 16, 1980, attached to the July 16 Legislative Council Minutes. Representative Hansen seconded the motion, and it carried.

Senator Murray reviewed the Fiscal Committee report, a copy of which is attached to and by this reference made a part of these minutes. He moved acceptance of the report and the motion was seconded by Senator Hultman and carried.

Chairperson Harbor recognized Auditor of State Johnson for a presentation to the Council. Auditor Johnson distributed copies of a statistical report containing financial statements and supplemental data for the Legislative Council, Legislative Fiscal Bureau, Legislative Service Bureau, Fiscal Committee, and Iowa Legislative Code Editor for the fiscal year ending June 30, 1979. Auditor Johnson stated that the Legislative Council and some legislative agencies are the only agencies receiving public funds which are not audited and he suggested that the Legislative Council either authorize the Office of Auditor of State or an outside auditor to perform an annual audit of financial transactions. Auditor Johnson referred to a previous report which had been issued by his office which listed the daily costs of the General Assembly and was the subject of misinformation. Senator Hansen stated that he has been visiting with Auditor Johnson about problems related to statistical information about costs of the operation of the General Assembly. He noted that in studying reports about the General Assembly, the costs were calculated in 1971 and 1972 using actual session days, and for the years 1973 through 1979 calendar days were used. Senator Hansen distributed copies of information comparing costs per calendar day and costs per session day, interim costs, and session days related to numbers of new laws. Copies of these pages are attached to and by this reference made a part of these minutes. Senator Hansen stated that interim costs have increased from \$60,000 in 1967 to \$1,600,000 in 1977 and 1978. Senator Hansen noted that in 1979 the cost of the legislative ses-

sion returned to its previous relative cost in 1967 of one-fourth of one percent of the total state budget.

Representative Welden expressed a concern that the General Assembly has had preferential status relating to the auditing of its funds and it has been difficult to determine what the legislature has spent. He stated that for the first time this biennium the House of Representatives has developed a budget for itself and has tried to live within that budget even though it is funded under a standing unlimited appropriation. Representative Anderson concurred that an audit is needed and suggested an outside audit.

Auditor Johnson stressed the importance of cooperation and communication between the General Assembly and the Office of Auditor of State. He described a problem which developed last session. At the time the Office of Auditor of State was investigating the expenditure of funds by a political subdivision but had not issued a report, the General Assembly enacted a legalizing act relating to the expenditure of the funds. Lt. Governor Brandstad suggested that the presiding officers send a copy of all legalizing acts as they are introduced to the Auditor of State. Auditor Johnson stated that this appears to be a good solution.

Chairperson Harbor thanked Auditor Johnson for his appearance before the Legislative Council and called upon Mr. Mosher to make a presentation relating to actions taken by Governor Ray on the 1981 state budget because of projected revenue shortages. Mr. Mosher asked members to review copies of estimates of the general fund which had been distributed to Council members and are attached to and by this reference made a part of these minutes. He stated that the state general fund at the close of the last fiscal year had an unobligated fund balance of \$23,500,000, but the cash balance on hand at the end of the fiscal year was \$85,700,000. He explained that the law which provides indexing for state income taxes uses the unobligated general fund balance. Mr. Mosher continued by explaining that the current revenue estimate is a 5 percent growth rate in total receipts to the general fund with total taxes increasing at a rate of about 6.9 percent, which is about the same as the last fiscal year. He added that during the last fiscal year, the first two quarters growth rate was extremely good (18.8 percent during the first quarter), but the last quarters were poor (1.8 percent for the fourth quarter). He continued that the estimates for the current fiscal year see a reversal of that trend and a prediction is made that the growth rate will improve during the third and fourth quarters, which means that the revenue will not begin increasing until the end of the fiscal year.

Mr. Mosher stated that current revenue estimates for the fiscal year predict a deficit of \$40,900,000 which includes a reversion of \$22,100,000 or a total deficit of \$63,000,000. Mr. Mosher stated

that the Governor will use the provisions of section 8.31 of the Code which will allow him to reduce allocations 3.6 percent on a uniform basis. He noted that section 8.31 requires concurrence of the Governor's action by the Executive Council and at a special meeting held just previous to the Legislative Council meeting, the Executive Council adopted a resolution concurring with the Governor's action.

Chairperson Harbor asked for comments from Mr. Rankin. Mr. Rankin stated that the Legislative Fiscal Bureau monitors state receipts closely. He explained that the standing unlimited appropriations for last year exceeded estimates by more than \$5,100,000, reversions were only \$7,000,000 rather than the \$12,000,000 that was anticipated, and revenue estimates were short \$25,000,000. In addition he noted that interest receipts will drop dramatically and \$14,000,000 in revenue-sharing funds will not be available. He indicated that the Legislative Fiscal Bureau is estimating a \$40,000,000 deficit for the current fiscal year.

Representative Stromer asked how Mr. Mosher interprets payments for tuition grants, aid to dependent children, and Title XIX. Mr. Mosher responded that section 8.31 of the Code provides authority to the Governor to adjust appropriation allotments, but does not allow the Governor to rescind or not honor legal commitments the state has undertaken. He added that the law provides for a tuition grant of a specified amount, but does not specify the number of tuition grants to be approved, so that fewer tuition grants could be given in order to meet the allotment reduction. With regard to aid to dependent children, Mr. Mosher stated that the benefit levels are governed by a combination of federal and state law. He agreed that federal law cannot be affected, but there is some discretion in state law as to eligibility levels in maintenance programs. He noted that for Title XIX there are optional services that can be reduced.

Representative Anderson stated that the budget estimates made by the State Comptroller and Legislative Fiscal Bureau a year ago appear to be more accurate than revisions of those estimates which were closer to the end of the fiscal year. He asked why the long-term projections were more accurate. Mr. Mosher stated that it is difficult to adjust estimates frequently on the basis of events. Mr. Rankin added that the estimate of the Legislative Fiscal Bureau does not vary materially from its estimate made on June 30, 1979 for the 1980 fiscal year. He noted that the Legislative Fiscal Bureau's estimate exceeded the actual figure for the end of the fiscal year by only \$25,000,000 or 1.5 percent. Mr. Mosher agreed that normally estimates made closer to the end of a fiscal year are more accurate and it is uncommon that the advance forecasts were more accurate.

Representative Anderson asked whether Mr. Mosher's comments to Representative Stromer could be restated to mean that where there is a legal contract or legislative commitment to make a payment to individuals, those payments will be made. Mr. Mosher responded in the affirmative. Representative Anderson asked whether this means that the level of payment specified by the General Assembly for persons in residential care must be paid. Mr. Mosher agreed that obligations of cities and counties to pay for programs mandated by the state remain, even though the levels of funding paid by the state for the programs are reduced. Representative Anderson asked about the costs of payment of homestead tax credits by counties when the amount of state funds paid for covering the homestead credit will not be adequate. Mr. Mosher responded that all allotments will be reduced, including the allotment for the homestead tax credit, and the counties will have to deal with this problem in their budget priorities.

Representative Halvorson noted that the action taken under section 8.31 of the Code only brings the state general fund to a zero balance and does not provide any cushion for more unforeseen circumstances. Mr. Mosher agreed, commenting that section 8.31 does not allow the Governor to reduce allotments in order to provide a surplus in the general fund. Representative Halvorson expressed concern that the revenue of the state will be reduced if there are no funds in the general fund to earn interest. Mr. Mosher commented that the interest return will be lower during the present fiscal year, but the cash balance versus unobligated fund balance means that there will be some cash on hand to earn interest. Mr. Mosher expanded upon his comments about revenue in the general fund and said that in some months it will not be possible to make all of the payments when they are required to be made and the Governor's office is trying to find ways in which large payments to local governments can be deferred until there is sufficient money in the general fund to make the payments. He noted that the way in which the law requiring payments to school districts is written, there is discretion about payment of the funds.

Senator Rush asked why the Governor has not called a special session of the General Assembly to make selective cuts in agency budgets. Mr. Mosher responded that the explanation should come from Governor Ray, but he believed there were very few choices for selective cuts and it appears that the Governor felt that it was more practical to have the broadest base in reducing the allotments.

Senator Rush asked whether Governor Ray has received legal advice from attorneys other than those employed by the Attorney General. Mr. Mosher responded in the negative. Senator Rush asked

what will be done if section 8.31 is declared unconstitutional. Mr. Mosher responded that the General Assembly would have to call itself into special session if that were the case, but the Governor's office is not planning on section 8.31 of the Code being declared unconstitutional.

Senator Rush asked about whether section 8.39, allowing the Governor to transfer funds between and within agencies, will be used. Mr. Mosher responded that if every line item appropriation is reduced, there will be created pockets of deficits and surpluses, and it may be necessary to use section 8.39 more extensively than it has been used in the past few years. He suggested that section 8.31 is not clear as to whether the reductions must be applied to every line item appropriated or whether the reduction can apply to the total funds appropriated to an agency. He stated that the Governor's plan is to assume that it will be necessary to reduce every line item, and if the Attorney General determines that that is not necessary, the reductions will be made by agency.

Senator Rush expressed the belief that the burden to be assumed by local governments will equal about half of the state's savings. Mr. Mosher stated that he is not aware of the total which must be assumed by local governments. Mr. Mosher reiterated that according to the opinion of the Attorney General, the Governor has no authority to selectively cut appropriations.

Representative Cusack expressed the belief that if both sections 8.31 and 8.39 of the Code are utilized by the Governor, the effect is that selective cuts will be made in allocations. Mr. Mosher expressed disagreement with Representative Cusack's conclusions and noted that at this point both sections 8.31 and 8.39 are constitutional and the use of section 8.39 of the Code involves notification of the chairpersons of the standing Committees on Appropriations and the chairpersons of the appropriate subcommittees of those committees. Representative Cusack asked when the decision will be made as to whether the reductions will be on a line item basis. Mr. Mosher stated that the Governor's office has not requested a formal opinion from the Attorney General, but the Attorney General's office is working closely with employees of the Governor's office and it is expected that legal questions will be resolved by early September. Representative Cusack asked about a court challenge. Mr. Mosher responded that a court challenge is an available avenue, but the Governor's office is hopeful that the use of section 8.31 will not be challenged in court.

Representative Cusack asked about the role of the Legislative Council. He inquired about further research into the actions of the Governor. Chairperson Harbor responded that such an activity could be of help to the Legislative Council. Representative Cusack

noted that the Legislative Fiscal Committee has directed the Legislative Fiscal Bureau to review the actions of the Governor. Chairperson Harbor stated that if the Council stays silent, the actions of the Legislative Fiscal Committee will remain intact.

Senator Coleman expressed the belief that the farm economy is improving and expressed confidence that the second half of the fiscal year will result in a positive economic situation. He asked whether improvement in the economy will enable the Governor to rescind his reductions. Mr. Mosher responded that section 8.31 provides for reductions of allotments which are quarterly payments made on the basis of annual appropriations and the allotments can be changed quarterly as conditions warrant.

Representative Welden noted that section 8.39 which allows transfers between and within agencies has not been mentioned in relationship to the Executive Order of the Governor and he asked whether he is right in assuming there will probably not be any transfers of funds between state agencies before January when the General Assembly reconvenes. Mr. Mosher responded that the Governor anticipates avoiding transfers if at all possible and will certainly avoid transfers between agencies wherever possible. Representative Welden suggested that even transfers within agencies can be handled by the legislature since they probably will not take place until later in the fiscal year.

Senator Ramsey asked for further information about transfers under section 8.39. Mr. Mosher commented that the transfers can be both within an agency and between agencies and he had merely been suggesting that when all allocations have been reduced by 3.6 percent, there will be pockets of deficits and pockets of surpluses.

Senator Ramsey asked how local governments can adjust to cuts in revenues when they have to meet their legal obligations. Mr. Mosher responded that the problems of local governments are much the same as the problems faced by state agencies and spending levels must be adjusted by reducing levels of service, eliminating programs, and finding more efficient ways of accomplishing tasks. Representative Anderson asked whether Mr. Mosher is expecting supplemental appropriations. Mr. Mosher responded that the current plan calls for no supplementals since any supplemental appropriations will require additional revenue.

Representative Anderson expressed amazement that the Legislative Council does not plan taking further action or investigation. He moved that the Legislative Council appoint a study committee to meet for five days next week to provide the Legislative Council with more accurate and complete information about the Executive Order of the Governor and that the Legislative Council meet the following week to hear a report on the study.

Chairperson Harbor expressed the belief that the Legislative Fiscal Committee is already initiating such activity and the Legislative Fiscal Bureau will be doing research to be presented to the Legislative Fiscal Committee. Senator Murray concurred with Chairperson Harbor's statements about the Legislative Fiscal Committee and stated that the Fiscal Bureau was charged to analyze areas of appropriations and delineate various alternatives for legislative input. He stated that the Legislative Fiscal Bureau is charged to report in approximately two weeks and then the decision will be made whether to call a meeting of the Legislative Fiscal Committee immediately or wait for its regular meeting during September. Representative Anderson's motion failed with four affirmative votes by Senators Palmer and Rush and Representatives Anderson and Cusack; and nine negative votes by Chairperson Harbor, Senators Briles, Hansen, Murray and Ramsey and Representatives Clark, Halvorson, Hansen and Welden.

Representative Cusack expressed hope that research on the Governor's Executive Order will be conducted immediately by the Fiscal Bureau. He asked whether it would be possible for the Legislative Council to meet in advance of its next regularly scheduled meeting if such a meeting appears warranted. Chairperson Harbor called for objections, and there were none.

Representative Halvorson moved that the Legislative Council adjourn at 12:33 p.m.

Respectfully submitted,

SERGE GARRISON
Director

DIANE BOLENDER
Senior Research Analyst