MINUTES
LEGISLATIVE FISCAL COMMITTEE
of the LEGISLATIVE COUNCIL
December 8, 1999

The Legislative Fiscal Committee of the Legislative Council met December 8, 1999, in Room 22 of the State Capitol Building. Co-chairperson, Representative Dave Millage, called the meeting to order at 9:45 a.m. Other members present were:

Senator Derryl McLaren, Co-chairperson
Senator Pat Harper
Representative Libby Jacobs
Representative Pat Murphy
Representative Don Shoultz
Representative James Van Fossen

APPROVAL OF MINUTES

Representative Van Fossen made a motion to approve the minutes of the Legislative Fiscal Committee Meeting held October 27, 1999, (**Attachment A**). The minutes were approved.

REVENUE UPDATE

Dennis Prouty, Director, Legislative Fiscal Bureau (LFB), presented a revenue update. The Revenue Estimating Conference (REC) is scheduled to meet December 9 at which time a refinement for FY 2000 and FY 2001 will be considered. Currently, the LFB staff is working on various projects including a review of the Governor's recommendation for a $30.0 million budget deappropriation for FY 2000.

Representative Shoultz asked if the recommendations require legislative action. Mr. Prouty responded some require legislative action and some do not. The LFB staff is working on this and trying to incorporate the 1%, 3%, and 5% reductions that the departments have submitted to the Governor.

Representative Shoultz asked if this is different than reversions. Mr. Prouty explained reversions normally go back into the General Fund at the end of the fiscal year. Deappropriations recapture the funds at the time of enactment.

Mr. Prouty stated that presently the daily receipts vary between 1.5% and 2.5%. Representative Millage asked if the November receipts were up 5.7% over last year. Mr. Prouty responded yes, for November only. Representative Millage asked if the REC considered the characteristics of the first six months of the base year when making estimates. Mr. Prouty responded yes, there is a flattening and timing effect.

Representative Shoultz asked how much funding is anticipated from the federal government for farm aid and if the estimate was accurate. Mr. Prouty explained that approximately $600 million was anticipated and that is still the amount used in estimates, but the question at that time was how much carryback do the farmers have on their income tax to write it off as a loss.

TOBACCO SETTLEMENT – UPDATE

Deb Anderson, LFB, reviewed **Attachment B**, an update on the tobacco settlement.

Iowa will have an initial payment of $20.9 million, anticipated on December 14. An additional payment of approximately $48.3 million will be made to Iowa in January and April. The Master settlement agreement includes adjustments for inflation and volume decline, which may impact Iowa's recoveries.

Representative Millage asked if it is possible for the $60 million to decrease further. Ms. Anderson answered yes. Representative Millage asked about attorney fees. Ms. Anderson explained attorney fees were originally to be paid by the tobacco industry. Representative Millage responded that in actuality they are not. Ms. Anderson explained according to the agreement with the law firms, Iowa is going to pay part of the accelerated payments so that the law firms will receive their money earlier with funds coming from the State General Fund. The first payment will be $3.0 million from the General Fund.

Senator McLaren stated the settlement was $44.0 million for legal fees over a specified period of time. Ms. Anderson responded the settlement was $44.0 million for legal fees over 4.5 years. Representative Millage commented $3.0 million would be paid this fiscal year that was not in the budget. The Executive Council has approved payment from the standing unlimited appropriation.

Representative Millage asked when the next payment for legal fees is due. Ms. Anderson responded that industry payments to the State are in $800,000 increments paid on a quarterly basis with the next payment in April. According to the agreement the State made with the law firms, the State will pay out another $4.0 million in July 2000.

Representative Millage stated the State pays out $3 million this month, $4.0 million next July, and asked when does the State get paid. Ms. Anderson responded the next payment to the State is April 2002 for $16.0 million.

Auditor Richard Johnson was present and Representative Millage asked him to express his concerns about the attorney fee portion of the tobacco settlement.

Mr. Johnson responded that his concern was primarily that of advancing funds from the General Fund. When reading Chapter 12.65, Code of Iowa, which the Legislature passed two years ago, it specifies that the Attorney General shall submit the cost of litigation to the Legislature for appropriation.

Secondly, the agreement that was approved by the Executive Council yesterday made the settlement amount of $44.0 million payable over four years versus 20 years that was approved by an arbitration panel for the Iowa settlement. A good share of that $44.0 million comes from the State General Fund. Mr. Johnson expressed those concerns to the Executive Council. The Council did take them into consideration, but approved the revised agreement that was presented.

Representative Millage asked Gordon Allen, Attorney General's Office, for his view of Chapter 12.65, Code of Iowa. Mr. Allen explained the contract was negotiated with attorneys in late 1996, and signed by the Attorney General with the approval of the Executive Council. Representative Millage asked if the contract was signed without Legislative approval. Mr. Allen responded it was signed under Chapter 13.7, Code of Iowa, which gives the Attorney General, with the approval of the Executive Council, the authority to negotiate and sign contracts with outside counsel.

Mr. Allen stated that Chapter 13.7, Code of Iowa, states that when there appears to be a need for outside counsel such as the tobacco case, the Executive Council concurred with Governor Branstad and Attorney General Miller there was a special need, the contract was then negotiated under Chapter 12.65 and passed the following session. Under law which is no longer subject to challenge, the Legislature can effect a contract subsequent to Legislation but cannot impair a contract which has already been entered into pursuant to statutory directive. So Chapter 12.65 can be compared to contractual rights by the attorneys. They pointed this out when they demanded their $100 million rather than $164 million and that is why we went into negotiation to get them out of this arrangement as quickly as possible and they are out in 4.5 years, and to leave our money alone.

Iowa made a deal whereby the attorneys are paid $44.0 million in 4.5 years in exchange of their claim from the tobacco company of $64.0 million. In 2004 the attorneys assign to the State, the remaining 16 years of the tobacco arbitration which accounts for $48.0 million. The State will have paid the attorneys $28 million of General Fund monies but receive an assignment for $48 million. In lieu of that, Iowa gets rid of a claim which is a valid and contractual claim against the State for $164.0 million. Mr. Allen commented that both, the Governor and Attorney General, thought it was a heck of a deal. The numbers made for the State $2,000 million.

Representative Millage requested to know the hourly rate the attorneys were paid as there is a provision in the Iowa Code of Ethics, which requires the fee be reasonable. Mr. Allen responded that with the agreement, the attorneys were not paid an hourly rate. This was agreed upon under a common fund, which is not an hourly fee but is a reasonable fee set by the court and arbitrators, in this particular case it was both. When there is a common fund gained by the plaintiff's attorneys for the benefit of the plaintiff, a reasonable fee is set in relationship to the common fund. In this particular case, the common fund was $2,000 million, so a reasonable fee of $44.0 million is not unethical.

Representative Shoultz asked for the percentage of reduction in cancer and lung disease, etc. He also asked how much is brought in to the State annually from the cigarette and tobacco tax. Representative Millage responded it is approximately $120.0 million.

Representative Jacobs asked what mechanism is in place to require the money be delivered to the states over the next 25 years and if it is reduced by a substantial amount, then did Iowa get such a great deal. Mr. Allen responded there is a mechanism in place as much as there is in any other litigation in the settlement agreement which has been approved by the district courts in the states that filed law suits. It then becomes a judgment against the tobacco companies enforceable through execution by garnishing but also contempt. It is also enforceable with other collateral proceedings. Some are fearful of bankruptcy by the tobacco companies and if they do that, the judgement becomes an enforceable security interest in the bankruptcy.

Senator McLaren asked for the entire repayment schedule. Mr. Allen explained $3.0 million would be paid this month and then quarterly payments of $800,000 every quarter for the next 20 years. Those monies from the tobacco company go to the attorneys for which Iowa receives credit against the obligation. Iowa paid $3.0 million this month to attorneys, with the next payment due July of 2000 which is scheduled to be $4.0 million but because of the credits against that for the arbitration payments it will be $200,000. In July 2002, a payment of $16.0 million is scheduled, but because of the credits from the arbitration, that is $14.0 million. In July 2000, a $4.0 million payment will actually be a $200,000 payment, April 2002 there is a $16.0 million obligation but because of the contributions by the tobacco arbitration award, that will be $10.4 million, April 2003 there is an $18 million obligation will be $14.8 million due to the reduction in credits. The $14.8 million, $10.4 million, $200,000, and $3.0 million total the $28.0 million which is State funds. Sixteen million dollars of the $44.0 million are payable directly by the tobacco industry through year 2004. The balance of $800,000 per quarter for the remaining 16 years totals $48.0 million. Thus, Iowa receives a $48.0 million payment over 16 years in exchange for the payments paid over the next 4.5 years.

REBUILD IOWA INFRASTRUCTURE FUND REPORT

Dave Reynolds, LFB, reported on the Rebuild Iowa Infrastructure Fund. He reviewed the resources and appropriations (**Attachment C**), and the status of appropriations by fiscal year (**Attachment D**).

Attachment C is a review of the resources and appropriations for the Rebuild Iowa Infrastructure Fund (RIIF). Total available resources for FY 2001 is $170.4 million. There has been approximately $85.5 million appropriated from the FY 2001 money leaving a remaining balance of approximately $84.9 million for appropriation this upcoming session.

Representative Millage stated he received a letter from the Iowa Athletic Association stating they no longer are going to proceed with the Hall of Pride and asked if the Department of General Services had received anything officially. Tom Johnson,

Department of General Services, responded the Department had received a letter from the Iowa High School Athletic Association that stated they would no longer have a need for the $1.5 million.

Representative Millage stated that would increase the ending balance $1.5 million making $86.0 million available next year for appropriation. He also stated that it was his understanding that the Judicial Branch has indicated the cost of their building is going to be closer to $30.0 million rather than $20.0 million. Mr. Reynolds responded he has not seen any official notice but has heard rumors.

Representative Millage asked if the Revenue Estimating Conference would be reviewing the RIIF at their meeting. Mr. Prouty stated only the amount of receipts going into the fund. Representative Millage asked if the Osceola gambling boat is in operation. Mr. Reynolds responded the opening will be approximately January 1.

Representative Millage asked the Fiscal Bureau to provide a revision of the cost for the Judicial Building at the next meeting.

Attachment D was a summary of RIIF, showing the status of appropriations by fiscal year. Fiscal years 1996 and 1997 projects are primarily completed, FY 1998 projects are about 85% complete, and FY 1999 projects are still getting started. The appropriation status on the attachment was marked complete if all of the funds had been withdrawn and therefore, should not be confused with construction status.

IOWA AGRICULTURE FINANCE CORPORATION

Daniel Winegarden, President of Iowa Agriculture Finance Corporation, was scheduled to discuss the Iowa Agriculture Finance Corporation with the Committee. However, Mr. Winegarden elected to not attend the meeting. Therefore, the Committee will have a meeting on January 11, 2000, in Room 116 at the State Capitol Building for additional discussion of this topic (**Attachment G**).

Senator McLaren stated he regards this as an absolute snub at this Committee as they have known for a long time when they were to appear. In a letter addressed to Georgia Soliday, Iowa Department of Economic Development, dated December 7, 1999, Mr. Winegarden states, "With short notice I was not able to secure a Board member for the December 8 morning session of the Fiscal Committee." And then to receive a call yesterday or the day before saying "Oh, it's December 8, we had the wrong date". In viewing the short history of this finance corporation, this is a long continuing extended snub of legislators. They are not living up to legislative intent. The information provided as a replacement for the information requested constantly talks about investments. This entity was set up to loan money to farmers to start ventures and should come as a shock that this outfit doesn't even have a loan committee. They have set this up strictly as an investment entity and they're purposely preventing the formation of common shareholders. They have a Board resolution to perpetuate their own existence as Board Members.

Senator McLaren noted that for them to just absolutely ignore Legislators and thumb their nose at us, should be an affront to this Committee. He commented that he did not take it personally, but the Legislature should. He stated that sometimes he thinks people might fit into different categories, those that are very politically astute and those that are politically naïve, those that are politically ignorant, and then those that just haven't got it at all.

Representative Shoultz stated the Iowa Agriculture Finance Corporation was set up as a non-profit corporation, and received a $25.0 million loan from the State. Senator McLaren commented it was set up as a for-profit corporation and a chapter was created in the Code of Iowa describing and establishing this corporation. The Legislature gave them a $25 million interest-free loan for a number of years, whereupon at some point in the future it will be a steady repayment back to the State. He noted that over a very long period of time we set it up as an entity that would loan money to farmers for them to start value-added businesses. It was set up so to affect the agriculture industry in this State to a greater extent.

Representative Shoultz asked if Legislators had to keep at arms length to get around the constitutional prohibition of investing State resources in a for-profit corporation. Senator McLaren responded State money cannot be directly invested in a for-profit entity. Representative Shoultz stated to avoid that, it had to be set up at arms length, similar to the Iowa Finance Authority. Representative Shoultz asked Senator McLaren if the Legislature should take the money back. Senator McLaren responded, yes and stated that one of the members of Congress taught me a real good lesson years ago. It happened to be Senator Harkin, he was a Congressman then and I was lobbying him on domestic farm policy issues, and international trade and I made a mistake of saying to him, well, we can't do that on domestic policy because of this international agreement on trade. He didn't physically do it, but by the way he responded he almost pulled me up right out of my shoes. He said, Mr. McLaren, don't ever say that I can't do something. I am a U. S. Congressman, and between me and my colleagues if we would have the majority vote, we can do anything we want in terms of passing laws. Now we created this corporation and anyone that would suggest that we cannot get our money back or anyone suggest we can influence this corporation, anyone who would suggest that we don't have direct authority in terms of how this outfit conducts itself, operates, and meets legislative intent, would fit at the bottom of the category as I outlined earlier.

Senator McLaren responded the purpose of a corporation which qualifies for a loan was included in the Legislation. If they are not fulfilling the purposes, they are not fulfilling the legislative intent, and then the loan amount is in real question.

Representative Murphy commented that one of the things the Fiscal Committee is very good at is making government accountable when we are not in Session. He cited an incident several years ago with the statewide deer program. Representative Murphy noted the Committee has the ability to make people respond to us and if somebody is refusing to come to the meeting or just chooses not to for one of the four reasons that Senator McLaren mentioned, or I think there is a fifth one, they just don't want to show,

because that may be the case here. This is where you let people know they do answer to us and sometimes people do forget that. Representative Murphy agreed that the Committee should make a statement and noted that since the next meeting will be after Session starts, instead of ten Legislators attending the meeting, there will probably be many more. He noted that his caucus is very interested in this program.

Senator McLaren made a motion that the Fiscal Bureau be directed to issue a subpoena in the name of the Fiscal Committee to Dan Winegarden to show up at a meeting that will be held on January 11, probably around 2:00 p.m. The motion carried unanimously.

Senator McLaren asked Jeff Robinson, LFB, to respond to a couple of questions. The Fiscal Bureau, on behalf of this Committee, requested a number of documents from the Iowa Agriculture Finance Corporation. How did they respond to this request; have the documents been received; and did they fulfill the request? Mr. Robinson responded that the Department of Economic Development (DED) delivered today some of the information requested. It does appear that some of the minutes were "cleansed". Mr. Robinson stated that was the way it was described.

Senator McLaren's second question was regarding the request made for copies of any contracts that were completed or outstanding. Mr. Robinson replied he does have a copy of a tecTERRA agreement that they entered into and there is also a private placement agreement that was available. There are two contracts. There should be other information available, specifically there should be quarterly reports such as quarterly financial reports under the loan agreement with DED are supposed to go to DED within 60 days of the report. This last quarter ended September 30, 60 days is the end of November. When DED was asked for a copy of the quarterly report, they still had not received that from the Corporation.

Senator McLaren commented they are not making, as required by law, their reports in a timely manner. They also have a full report they are to give to the Legislature in terms of their activity but that date has not come and passed yet.

Mr. Robinson stated that last year's report arrived in January. The loan agreement with DED requires all the information the law requires plus some other information. Mr. Robinson has requested information from DED, they are supposed to collect it and send to him. That has not been easy to get in the past.

Senator McLaren asked why this entity has been responding to the Department of Economic Development rather than to the Legislature. Mr. Robinson stated he always requested information through DED because of the loan agreement that requires all this information be submitted to DED.

Senator McLaren requested that if any Committee members have additional questions they would like to ask, to give them to the LFB before the next Fiscal Committee meeting. The Fiscal Bureau will request the information so it is available in January.

Representative Millage asked Dave Lyons, Director, Department of Economic Development, if he had any comments with respect to this issue. Mr. Lyons responded that in relationship to the issuance of a subpoena, the Committee members might want to look at the contract because the following through of the contract process may be more to your point. Representative Shoultz asked if everything that was in the legislation is included in the contract, and the answer is yes, so the argument is that we are not in part following the legislative intent issues because we are following what the contract states. That is an important issue that you want to review. Number two, in relationship to these issues, Mr. Lyons offered his apology that these have not come with the required speed, and noted confidentiality issues.

Representative Murphy asked if the President of the association has any relationship with State government at this time. Mr. Lyons responded that he is a full time employee of the Iowa Agriculture Finance Corporation.

SUMMARY REPORT ON STATE IN DEBTEDNESS

Dave Reynolds, LFB, presented a Summary Report on State Indebtedness (**Attachment E**) as of June 30, 1999.

Based on the information collected, the total outstanding debt as of June 30, 1999, was $2.298 billion, an increase of $18.1 million in outstanding debt compared to June 30, 1998. This includes debt incurred by all State agencies and authorities affiliated with the State. Of the total outstanding debt, 61.6% is principal and 38.4 % is interest. The Iowa Finance Authority and the Board of Regents together comprise 79.4% of the total State debt. All other entities make up the remaining 20.6%.

Mr. Reynolds also reviewed the total annual debt payments from FY 2000 through FY 2004. The debt from all entities is scheduled to be retired by FY 2031, whereas the State liability debt will be retired by FY 2016.

Of the total $2.139 billion of bond debt, $266.5 million is considered a liability of the State. Bonds are issued for a variety of purposes. Certificates of participation (COPs) are different from bonds in that the title of ownership of the capital purchase is transferred upon final payment of the debt. All of the $117.3 million of current certificate of participation debt is considered a liability of the State.

Other financing arrangements include capital leases (lease purchase arrangements), installment purchases, and other arrangements used by State agencies.

Representative Millage asked when was the last time the Board of Regents bonded for a building. Mr. Reynolds stated it was 1995. Representative Millage stated he did not understand why the debt payments are not going down when we have not bonded in four years, and have been funding a pay-as-you-go infrastructure. The academic revenue bonds and payment on debt does not appear to be going down. It has actually gone up a little bit. His understanding last year was that it would start going down this fiscal year

or next year. He asked if the Regents have been refinancing their debt and extending the payments so there is no reduction. Representative Millage commented that there was a meeting in the Speaker's Office last year when Regents thought if the total State indebtedness went down, they could keep that money and use it for something else. They were told "no" so now it is not even going down. He asked that this topic be included on the agenda for the next meeting. He also requested to see a chart that was prepared two years ago on what the anticipated cost of retiring or paying the interest would be.

Representative Millage asked when the ICN debt would be paid. Mr. Reynolds stated at the end of FY 2003 the remaining debt will be $53.4 million. Representative Millage commented that he thought the State was paying $100 million over 10 years ago.

Representative Jacobs responded that approximately $13.5 million a year was being repaid. Representative Millage commented he thought that it was for 10 years. Representative Jacobs explained that was for Part III. Representative Millage stated that Part III was paid by the Infrastructure Fund. That was not part of the certificates of participation. Certificates of participation which were sold in December 1991 would be paid over 10 fiscal years, starting in FY 1993, and ending in FY 2002. It appears that after the FY 2003 payment of $13.4 million there will be a remaining balance of $53.4 million. Representative Millage asked for more information at the next meeting.

Mr. Reynolds also reviewed a summary table of total State debt including bonds, certificates of participation and other financing, showing total liability, non-state liability and state liability. The certificates of participation state liability is all ICN debt. He also noted that the liability debt does not include academic bonds.

Representative Shoultz asked how much was appropriated for tuition replacement. Representative Millage stated about $30 million.

LEASE PURCHASE NOTIFICATIONS

Dave Reynolds, LFB, reviewed the Lease Purchase Notification for the University of Iowa. This is to purchase equipment and furnishings for the University Services Building. Total cost of the project is estimated to be $2,085,000 and includes $1,800,000 in principal and $285,000 in interest at an estimated rate of 5.63% (**Attachment F**).

Representative Millage asked if this were a lease purchase from any one other than Regents, the Committee would have to approve it. Mr. Reynolds replied that was correct.

SENTENCING COMMISSION UPDATE

Joe McEniry, Legislative Service Bureau , presented an update on the Sentencing Commission (**Attachment H**).

He reviewed the background information, a bill draft for consolidation of criminal offenses concerning computer access, damage, or theft; video rental theft; election bribery; and voting duress. The bill was adopted and will be referred to the General

Assembly for consideration. He also reviewed proposals concerning robbery and burglary, simple misdeameanor crimes to scheduled violations, credit for time served in another jurisdiction and a comprehensive proposal by the Sentencing Commission.

The Sentencing Commission will hold one more meeting on December 31, and will review the comprehensive proposal at that time. Representative Millage stated that the comprehensive propsal was not adopted by the Committee. Mr. McEniry stated that was correct. The House and Senate have different views on this.

Senator Harper asked if the Commission was advocating building more prisons. Mr. McEniry replied that if it takes more prisons, they will recommend building more. The prison population has not increased in the past year.

A 200 bed unit is being constructed in Mt. Pleasant including a special needs unit and should open in July. Two hundred new beds should open at Mitchellville in January or February and two new buildings are being constructed in Fort Dodge.

FEDERAL FUNDS UPDATE

Doug Wulf, LFB, and Phil Buchan, Director, Office for State Federal Relations in Washington, D.C., presented a Federal Funds Update (**Attachment I**).

Mr. Wulf reviewed **Attachment 4**. Current estimates are that in state FY 2000, the State of Iowa will receive approximately $2.760 billion in federal funding. This is an increase of $277.8 million compared to actual FY 1999 receipts. Over $1.328 billion of this amount will be received by the Department of Human Services. For state FY 2001, the State of Iowa anticipates receiving $2.801 billion in federal funding, an increase of $40.8 million compared to estimated state FY 2000. Over $1.467 billion of this will be received by the Department of Human Services.

He also reviewed the Federal Grant Programs in Iowa and potential issues related to federal funding that will face the General Assembly during the 2000 Legislative Session.

Phil Buchan, Director of the Office for State Federal Relations in Washington, D.C. , reviewed **Attachment I**, FFIS – Major Discretionary and Mandatory Program Funding.

GOVERNOR'S FY 2001 BUDGET PRIORITIES

Cynthia Eisenhauer, Director, Department of Management, presented the Governor's FY 2001 Budget Priorities. She introduced Randy Bauer and John Cacciatore.

The Governor's budget priorities include promoting fiscal stability, the budget process, act on current year cuts early and the Governor's Budget for 2001.

The State has spent more than it has received in revenues recently. The Governor's budget will more closely align receipts and expenditures. Ms. Eisenhauer reviewed the

FY 2000 Governor's Budget Revision Recommendations including those that require legislative action and those that do not require legislative action.

She also presented the dates and locations of the Governor's Budget Priority Public Hearings. These meetings are being held across the State rather than in Des Moines, as has been done in the past.

On January 11, 2000, the Governor will present his Budget Message to the General Assembly including the proposed budget cuts.

Senator Harper asked about the $1.4 million to return women to Mitchellville and how this reduces costs. Randy Bauer, DOM, stated that is one of the items that does not require legislative approval. This will be a real savings and the women have already been returned to Mitchellville.

Representative Shoultz asked for an explanation on the amount taken out of peace officers retirement savings, $6.0 million. Ms. Eisenhauer stated the proposal is to obtain some savings and DOM is currently in discussion with the State Police Officers Council (SPOC) bargaining unit.

Representative Shoultz asked who contributes the money to the fund. Ms. Eisenhauer replied the fund itself is to be used only for the benefit of members. Representative Millage asked if the money is from the General Fund appropriation to the retirement fund. Ms. Eisenhauer answered yes, the employer makes the contribution.

WORKING LUNCH

The Committee recessed at 12:00, resuming at 12:15 for a working lunch.

REINVENTING IOWA GOVERNMENT LEADERSHIP TEAM AND THE GOVERNOR'S STRATEGIC PLANNING COUNCIL

Valerie Thacker, LFB, reviewed **Attachment J**, a memo on Reinventing Iowa Government Leadership Team and the Governor's Strategic Planning Council. The purpose of the memo was to provide information on and delineate between the three components of the Reinventing Iowa Government Leadership Team and the Governor's Strategic Planning Council.

Ms. Thacker also reviewed **Attachment 3**, Reconnecting Iowans with their Government Homepage. This is on the Internet and provides information on how State employees are contributing to the new Iowa and providing Iowans with satisfaction guaranteed.

LINKED INVESTMENT PROGRAM (HF 779, 1999 SESSION)

Ron Robinson, LFB, presented an ***Issue Review***, "Linked Investment Program" (**Attachment M**). This ***Issue Review*** provides an overview of the Linked Investments for Tomorrow Program in the State Treasurer's Office.

The Linked Investments for Tomorrow (LIFT) Program began in 1986 as part of a State government initiative to diversify Iowa's agricultural industry, with other perceived needs addressed in subsequent years.

FOLLOW-UP ON SCHOOL FINANCE QUESTIONS FROM LAST MEETING

Mike Lipsman, LFB, presented a follow-up on school finance questions from the last Committee meeting, including Physical Plant and Equipment Levy (PPEL) and federal funding data (**Attachments 6 and 7**).

Committee members had asked for more recent information in terms of federal education funds coming into Iowa. Mr. Lipsman indicated there are a number of new programs that received funds in FY 2000 that were not included in FY 1999. Overall, there was about $40.0 million more from federal sources for FY 2000, $263.6 million compared to last year's $220.8 million. The majority of that increase comes in three areas, an additional $10 million in the Iowa Construction Grant which is to overcome fire and safety problems; $9.5 million for the federal class size reduction initiative for grades K-3; and another $10 million for the Reading Excellence Program, which requires that each district have at least one school that qualifies for Title I. Also, several other smaller programs received increases.

The other issue raised is relative to school infrastructure, what funds are available for school infrastructure. Those primarily come through the physical plant and equipment levy (PPEL) and local efforts through bond issues. In terms of the physical plant and equipment levy, there are three components, the voted levy, the levy approved by the board, and the income surtax component. For the current school year, there are $74.3 million from all sources for the PPEL. About 50% of the school districts have a voted levy, 137 schools out of 375. All except nine school districts have the levy component approved by the school board. There are 64 districts that have an income surtax. The final component is the debt service levy. There are 216 districts that levy property taxes for debt service.

Representative Shoultz stated that during the last Legislative Session, some action was taken to equalize the amount of property tax valuation per student in each school district. Does this reflect what we did last year? Mr. Lipsman responded that does not affect the physical plant and equipment levy. Other spread sheets that show how property taxes were affected by increasing the foundation level for the special education component from 79.0% to 87.5% are available. Also, talented and gifted program funding was moved under the formula whereas it used to be all property tax.

The School Finance Working Committee and the School Facilities Interim Committee will soon be completing their recommendations. The School Facilities Interim Committee recommends appropriating $20 million a year for ten years from the tobacco settlement funds for school infrastructure.

NURSING FACILITY DIRECT CARE STAFF TURNOVER

Deb Anderson, LFB, presented an ***Issue Review***, "Nursing Facility Direct Care Staff Turnover" (**Attachment K**). This ***Issue Review*** provides information regarding the high turnover rate among nursing home direct care staff. Also reviewed are efforts undertaken by Iowa to address the turnover issue and recent approaches utilized by other states to foster direct care staff retention.

Representative Murphy stated he knew Minnesota has an acuity-base plan, plus dollars follow the patients that require more care.

Jerry Nicholls, an Iowa City owner/administrator of a health care facility and also representing the Iowa Health Care Association, reviewed the Staffing crisis in Long Term Care (**Attachment L**).

There is a staffing crisis. Part of the problem is due to the low unemployment rate, and the impact is more than with direct care staff, but extends also to administration, professional nurses, dietary people, all through the facilities. Caring for the elderly and disabled is a necessary, but difficult job; and current Medicaid cost-based reimbursement system for nursing facilities does not allow providers to react to changing employee market conditions. Mr. Nicholls reviewed the growth in numbers of staff for the Iowa Nursing Facilities, the growth in wages for all nursing and for non-nursing positions. By adopting an acuity-based reimbursement system, it would allow providers to hire and retain staff to deliver the necessary amount of nursing services; support staffing specific to resident needs; and adopt a federal system already in place, allowing the transition to be fairly quick and simple.

Over one half of the residents in long term facilities are Medicaid residents which presents a delay in receiving revenue and is a stumbling block for a smooth operation.

WORKFORCE SHORTAGE IN IOWA

Judy Erickson, Workforce Development, gave a brief presentation on Iowa's workforce trends. Included in the presentation was Iowa and U.S. Unemployment rates, 1976 – 1999; a sixteen-year employment trend, a comparison of Iowa nonfarm employment and population from 1950 through 1998; Iowa's labor force; changes in Iowa's labor force; the employment participation rate, 1998; the Iowa median age and unemployment rates underutilized workforce. Ms. Erickson stated that in 1950, there was less than one nonfarm job for every four Iowans and by 1998, employment had climbed to one nonfarm job for every two Iowans.

Senator McLaren asked if the available workforce has declined over the last three years. Ms. Erickson stated only a slight decline from last year. Senator McLaren asked if any trends in the number of people in the workforce in 2005 or projections for 2010 has been done. Ms. Erickson replied some research has been done in the area of employment

levels in 2008. The information will be developed. Projections for 2010 have been done but will likely be revised.

Representative Jacobs asked if when computing the unemployment rate starting at the age of 16, do you cut off the age at 65. Ms. Erickson answered 16 and over which is standard in all states.

Representative Murphy asked about those over 62 wanting to work. Ms. Erickson replied that when the national statistics are gathered, they do ask questions like if you are not working, would you like to or why are you not working. Unfortunately, there is not much of that information available on the State level.

IOWA FINANCE AUTHORITY LOW-INCOME HOUSING TAX CREDITS

Jeff Robinson, LFB, reviewed an ***Issue Review***, "Iowa Finance Authority Low-Income Housing tax Credits" **(Attachment M)**. Jim Balmer, Iowa Finance Authority Board member, Bob Burns, Project Developer, and Darlene Jeris, Executive Director for the Iowa Finance Authority, were also present.

Mr. Robinson stated that the Iowa Finance Authority annually accepts applications from developers proposing construction of multi-family low-income housing projects in Iowa. Each year applications exceed available funding. The 1999 round of federal low-income tax credit awards were controversial, with the original awards withdrawn. A new list of projects was approved in November.

In March 1999, awards were made to 19 projects. Three individuals who did not receive tax credits objected to the 1999 awards, alleging the Authority did not have sufficient rules in place to make the awards as required by statute. In July 1999, the Authority concluded the rules were not sufficient, withdrew the original 19 awards, and began developing new rules with which to award the 1999 tax credits. In the Fall of 1999, new rules became effective and developers were allowed to make amended proposals. On November 10, the Authority Board awarded 1999 tax credits to 19 projects. Of those 19 projects, 14 were in the original list selected in March, five projects were not in the original list and five projects selected in March were not selected in November.

Representative Millage asked if the rules had changed prior to making these awards. Mr. Robinson responded that was a good question. Representative Millage asked if these rules had been in effect since April 3, 1991. Mr. Robinson answered yes. The one and one-half pages of rules only address the submission of applications. It says "we will accept applications and put it through some processing and will turn out the awards". The Iowa Finance Authority admitted in the summer that the rules were not sufficient according to the Code of Iowa. It was determined that a new process was needed so they went through an emergency process procedure to adopt twenty-eight pages of rules and allowed people to reapply or amend their applications. They again awarded 19 projects, 14 of them the same as in March, five fell off the list and five came on the list.

Representative Murphy asked if the list of 19 in the ***Issue Review*** were the 19 receiving the awards in November. Mr. Robinson stated yes.

Representative Millage asked about the Conlin development. They did not receive an award in March, however, in November, 18% of the available funds went to Conlin and it was Conlins that objected to the original rules.

Representative Jacobs asked about those awards received in November but not in March, if objecting parties included the Conlins and Larry Tuel. She asked if there was anybody else awarded in November but not in March? Mr. Robinson stated the other objector was the Warrior Hotel in Sioux City and they did not receive an award either time.

Representative Jacobs asked about the rules that were in effect for many years, were obviously under a different executive director, and some changes have been made, what are the implications of the new rules on those projects that were funded between 1991 and 1999. The objections were raised this year on funding. Has that impacted any of the others? Mr. Robinson replied it would probably not jeopardize their tax credits.

Representative Shoultz asked if a percentage of the awards could be used as a developer's fee. Mr. Robinson replied up to 15% of the project cost can be a developer fee. The ***Issue Review*** states that this year 10.9% of the money in the budgets for the total project costs $5.2 million were categorized as the developer's fee.

Jim Balmer, IFA board member, commented he has been on the IFA board since 1983 and the Board has always had the philosophy that the least amount of rules works best.

Representative Millage asked Mr. Balmer if he voted against the awarding of the tax credits and the entire package. Mr. Balmer responded yes. Representative Millage asked if his voting against the package was based on the philosophy that the rules did not need to be changed. Mr. Balmer answered that was correct.

Representative Millage asked why, in his opinion, were the new rules adopted? Mr. Balmer felt that some individuals in the Executive Branch were not up to standard necessary ruling wise, and felt there was a need for more comprehensive rules, the rules were to lax.

Representative Millage stated that in an earlier presentation today, members of the Governor's staff stated they are looking at reducing the number of administrative rules in State government. This seems to be contrary to the Governor's own initiative. Mr. Balmer agreed.

Representative Millage asked if Mr. Balmer felt these rules were adopted as a response to a threatened lawsuit by Mr. Conlin. Mr. Balmer responded that the fact they were contested forced authorities to make a decision.

Representative Millage commented it certainly does not say much for the integrity of an agency when a politically powerful person is denied credits, a lawsuit is threatened by a

former candidate for governor, who was also chairperson of the Iowa Democratic party. And all of a sudden rules are adopted and the awards are thrown out. Mr. Balmer stated he felt bad about this, with four new board members and a new executive director.

Bob Burns, an architect and developer from Iowa City, addressed the tax credit program. This is a federal program and combines with other sources of financing. Of the 70 plus applications, none would go ahead without the tax credit program, the key source of the projects. There were 19 projects awarded in November, they are the successful ones. We should try to figure out a way to provide financing so that others can go ahead. The need for housing is evident in all 70 of those applications.

Regarding the March awards, Mr. Burns received tax credit awards for two projects. He has been working under this program since its inception in 1987 and developed the first project in Iowa. The March award was the last piece of financing before moving ahead with construction. The project had funding from USDA and IDED, so following normal procedures moved ahead and committed to purchase the land in both communities. He stated that when he began to see what was happening with the contested case brought by the three contestants, it became very disruptive to our business. Mr. Burns said he couldn't describe the anxiety felt personally and the sleepless nights over the last year until having finally resolved those two projects as recently as today. Because one of the projects awarded in March was not awarded in November, he went back to the finance authority and contested the case through normal procedures with new rules and has been able to work out a settlement.

He stated that with the contested case and the legal proceedings he understood the State had to move forward and adopt the new rules and go through the process again. It still made it much more difficult for him personally and for his company.

The developer fees, 10% average, can be up to 15% on any individual project. That standard has been set nationwide by the Council of State Housing Agencies. It is with the full knowledge of the agencies that enabled this legislation, the Internal Revenue Service, Congress, and the President. Mr. Burns explained that the developer's fee is his company's only source of revenue.

Representative Shoultz asked Mr. Burns if he felt the newly adopted rules were adequate and good. Mr. Burns answered the 1999 rules were developed to reflect what the previous practice had been in the agency as best as could be determined by the staff at the time. The FY 2000 rules are not out yet. Representative Shoultz asked if they caused him to do more paper work. Mr. Burns stated no, other than to go back through the process again.

Representative Murphy asked why the rules should be changed again for FY 2000. He asked Mr. Burns about his projects. He had a project in Maquoketa that was awarded in March but not in the Fall and another project in Carroll that was supported now but not in the Spring. Mr. Burns stated that as part of the settlement, the Maquoketa project was swapped for the Carroll project.

Darlene Jeris, Executive Director, Iowa Finance Authority (IFA), was introduced. She stated there was miscommunication in this area. The old set of rules only stated how to obtain and submit an application. The rules did not state the selection criteria nor what the evaluation would be. There were many errors in the selection process. The Agency had failed to adopt adequate rules and failed to follow Iowa law. She emphasized the need for the new rules for the Agency to more adequately score the project applications. Ms. Jeris also stated that after FY 2000, no single developer will receive 10% or more of the total allocations.

Ms. Jeris stated the IFA has funded over 320 projects in the State. This is the first time in 10 years that anyone had checked a project on-site. As an Agency, they are responsible to follow-up on these projects.

Representative Millage asked why the IFA withdrew the FY 1999 rule that said no one developer could receive 10% of the total allocations. Ms. Jeris responded she had proposed and endorsed but it was accused of being unconstitutional. As a staff, they felt it was appropriate but the Board had to approve the rules, and this rule would not meet approval.

Representative Millage asked how the rule could be unconsitutional? Libby Nelson, Attorney General's Office, stated the issue that was raised when the 1999 rules were implemented, what the Board told us to do was to implement the 1999 plan into rule form. As a result of that order, the staff was told to write the rules. The difficulty was that the staff had informally imposed caps for years. They went to developers and negotiated deals. When the new rules were written, they included a phasing provision so IFA staff could negotiate with developers to phase their projects; put in caps, and initially included a square footage requirement. All of those issues were objected to on the grounds they were not in the 1999 plan and the financing package was based on that information. The challenge that would have arisen would have been to the process challenge to that rule. One of the contestors had already raised the constitutional issues. The contestors had offered to contingently withdraw the rule challenge if the IFA considered the scoring challenge first. Chapter 16.52, Code of Iowa, says in two places the Legislature has directed that rules must be made.

Representative Millage stated he could appreciate the matching funds, and applauded the IFA staff for their efforts in trying to make some sense of this entire program. However, he felt that he still could not abide in the preferential treatment that seems to be given or this change in policy that results in one application being denied and then in the next go round receives $4.0 million of $26.0 million in tax credits. He asked how the public will perceive that? Ms. Jeris responded that how the project scores is the basis for awarding the projects along with whether or nor the local community approves the project.

OTHER BUSINESS

The next meeting is tentatively scheduled for January 11, 2000, in the Capitol Building in Des Moines. Agenda items include: Iowa Agriculture Finance Corporation, State

Indebtedness, ICN debt payment schedule for Phase I and Phase II, and Revenue Update. The Committee members were requested to give Holly Lyons, LFB, any questions they might have regarding the Iowa Agriculture Finance Corporation as soon as possible. For any other items that the members would like on the agenda, they are to notify Ms. Lyons.

ADJOURNMENT

Representative Jacobs made a motion to adjourn the meeting at 2:00 p.m.