

Presentation to Legislative Council
Concerning Administrative Rules Process
By Edgar H. Holden, State Senator
June 29, 1983

I am here today to discuss with you some concerns I have about the Administrative Procedure Act, which is set out in Chapter 17A of the Code. There are several purposes of the act as expressed in the first section of 17A, but leading the list is "to provide legislative oversight of powers and duties delegated to administrative agencies." It is to this purpose that my comments are directed. I believe I can be somewhat objective inasmuch as I am no longer serving on the Administrative Rules Review Committee. My concerns stem from serving on this committee as well as last Thursday's ruling by the United States Supreme Court regarding legislative veto of administrative rules by the Congress. There may be some fallout for state legislatures.

First of all, let me express my concern with the apparent low status of the ARRC in the minds of many legislators. I believe most of them are aware of the existence of the committee. It is my opinion, however, that a great many of them fail to attach enough importance to the process of oversight other than the committee's work. Oversight spans from the point where the legislature authorizes specific rule-making duties all the way through to rules review and final legislative action if a rule is objectionable to the legislature.

Most legislators complain that they receive far more complaints from constituents regarding a department's rules than they do about the law itself. Yet we from time to time have specifically directed a department to write rules to carry out a broad and vague legislative statute. Many legislators are unaware of the biweekly Iowa Administrative Bulletin. Few, if any, read it, except the Rules Review Committee. Most legislators pay no attention to the fact that the rules accumulated in the Administrative Code take up five times as much shelf space as the Iowa Code itself. We will never get effective control of bureaucratic law making unless we take more responsibility for legislative oversight as set out in the Administrative Procedures Act.

I would urge the Council to spend some time discussing ways of raising the legislator's awareness of the administrative procedures of agency rule making and the necessity of exercising a greater oversight of the process.

Last week's United States Supreme Court's decision places some urgency to face up to the continuing conflict between the legislative and executive branch of government over law making by rule. While it is true that legislatures can withhold rule-making authority as well as override a rule by the regular law-making process, there needs to be reasonable flexibility for the executive agencies to govern. There must be some procedure devised to constrain the agencies within the bounds of legislative intent and citizen acceptance. One suggestion would be to authorize one year rule-making authority. This would require an agency to come back for re-enactment of their rule-making authority through the legislative process, automatically providing an opportunity for

legislative review.

The legislature has passed SJR 6 and has sent it on for consideration by Iowa voters. If we want to see this resolution approved by the people of Iowa, we need to start planning for the encouragement of our constituents to support it.

The Council has no lack of requests for study committees but I believe a study might be productive in developing desirable legislation to improve Chapter 17A. Bills have been introduced by members of the ARRC as well as other legislators. These have failed to survive through both houses. More often than not this is because they get bogged down with a controversial legislative veto proposal. The Supreme Court's decision may dampen this effort somewhat, but there is a need to respond to the frustration of some legislators regarding restraints on the rule-making process. I'd suggest a committee of legislators from each house, one of whom should be the current chairman of the ARRC. The Rules Coordinator from the Governor's office, the committee's staff counselor, professor Arthur Bonfield from SUI, a representative from the Attorney General's office and private citizens could be called upon for their expertise.

The Model State Administrative Procedure Act of 1981 drafted by the National Conference of Commissioners on Uniform Laws has a wealth of commentary that could be most helpful in improving our act. Suggestions like giving the Governor added veto power of an existing rule, allowing the committee to require an agency to publish notice of the committee's recommendation as a proposed rule of the agency and allow public participation thereon, merit consideration. Also extensive coverage is given to the matter of legislative veto with suggestions on how to utilize it or the alternatives.

I have some specific proposals that I believe would improve the work of the ARRC. These could be considered either by the Council or the study committee if one is authorized. These are:

1. Enlarge the committee to 8 or 10 members. Since the committee members each tend to be more specialized in some fields than others or have more interest in some rules than others, this should bring added expertise to the review process. I would point out that the committee could easily become too large if this theory is pursued too far. The process could be stretched out too much by the legislator's propensity to talk too much.
2. Permit direct introduction of bills by the committee to the calendar without assignment to a standing committee. The committee could be required to have the support of a majority of its members from each house to introduce legislation.
3. Give greater consideration to the problems of scheduling committee time during legislative sessions. Conflicts with standing committees, floor debate, and voting need more attention.

4. There is a need for further staff assistance. A person is needed to conduct fiscal impact analysis. The committee can, and does, call for an agency to prepare an impact statement occasionally. Most of these have not been very satisfactory. Agencies have their own biases and little concern for the impact of their rules. A person could be assigned from the Fiscal Bureau on an as needed basis to determine the fiscal impact of an agency proposal. In my opinion, the committees council should have secretarial assistance. Perhaps this can be worked out with the Service Bureau now that the Code Editor's office will be under their jurisdiction. Additional staff would permit Joe Royce to prepare more commentary on significant rule changes. Something equivalent to the explanation on bills would be helpful.

The time to face up to these problems, is now. The Council should set aside some specific time to discuss how best to deal with them.

R E P O R T
OF THE SPACE COMMITTEE
OF THE LEGISLATIVE COUNCIL

June 29, 1983

The Space Committee of the Legislative Council held its first meeting at 9:00 a.m. on Tuesday, June 28, 1983, in Senate Room 22, State House, Des Moines. The Committee identified three problem areas regarding legislative space needs including inadequate meeting rooms, inadequate facilities for legislative staff and other support equipment, and future space needs for computer hardware and added staff functions. Except for Rooms 116 and 118, the legislative committee rooms have one or more of the following deficiencies: inadequate size, public access difficulties, access obstacles for handicapped persons, fire safety hazards, and acoustical and traffic flow problems. Concerning legislative staff and support problems, there is no permanent location for the Public Information Office; heat and humidity cause mechanical problems for the legislative copy center; Fiscal Bureau staff are housed in three separate locations; and size and safety problems exist for the work areas of legislators and House and Senate staff.

Having identified and discussed the legislative space needs, the Committee agreed to proceed as follows:

1. Request the Department of General Services to provide a current inventory of space available in the Capitol Complex.
2. Request the Department of General Services to prepare a cost estimate of updating the 1977 Capitol Space Study and the 1976 Capitol Heating and Ventilation Study.
3. Request the Department of General Services to study the feasibility of acquiring additional space through lease-purchase arrangements and the phase-in of a long-term capital construction of the Capitol Complex.
4. Establish communication with the Auditor of State, Treasurer of State, and the Governor concerning options for moving all or part of the staffs of the Auditor of State and the Treasurer of State to other office space outside the State House.

Respectfully submitted,

SENATOR LOWELL L. JUNKINS
Chairman

R E P O R T
of the
JOINT ADMINISTRATION AND SERVICE COMMITTEES

June 28 and 29, 1983

The Administration Committee and the Service Committee met jointly on Tuesday, June 28, 1983 and Wednesday, June 29, 1983 to review the computer bid proposals submitted by Sperry-Univac and Honeywell for providing computer service for the legislative branch of government. The Committees allowed each vendor to present their proposals without the other in attendance and each was subjected to many questions. Demonstrations were also made by each company on June 28, 1983.

The Administration Committee and the Service Committee jointly recommended that Honeywell and Sperry-Univac each be allowed thirty days to allow Honeywell to meet fiscal capabilities and allow Sperry-Univac to meet bill drafting and text editing capabilities within the present specifications set out in the request for proposal.

Respectfully submitted,

REPRESENTATIVE JOHN CONNORS
Chairman, Administration Committee

SENATOR C. W. BILL HUTCHINS
Chairman, Service Committee

R E P O R T
of the
STUDIES COMMITTEE

June 29, 1983

The Studies Committee met at 11:40 in Committee Room 22 of the State House on Wednesday, June 29, 1983 to review requests for additional studies and submits the following recommendations and report:

1. That HCR 39 be referred to the Fiscal Committee.
2. That a Legislative Procedure Study be authorized to review the joint rules and rules of each house with special emphasis on study bills and the functions of the Finance Committee. The committee shall consist of four members from each house and is authorized two meeting days.
3. That a Federal Depository Institutions Deregulation Act Study be authorized one meeting day to hold a public hearing regarding the effect of the federal deregulation statute. The committee shall consist of five members from each house with members selected from the Small Business and Commerce Committees.
4. That an Economic Development & Jobs Training Study be authorized four meeting days to conduct a comprehensive examination of the entire vocational education, job training, and business assistance systems in the state. The committee shall consist of five members of each house selected from members of the Labor and Industrial Relations, Small Business and Commerce Committees and the Social Services Appropriations Subcommittee.
5. That an Unemployment Compensation Study be authorized two meeting days to study the unemployment compensation laws. The committee shall consist of five members from each house selected from members of the Labor and Industrial Relations Committees.
6. That an Education Study be authorized to review and draft proposed legislation following the delivery of a final report by the Excellence in Education study. The committee is authorized two meeting days and shall consist of seven members from each house selected from the Education Committees.
7. That a Judiciary Subcommittee be authorized to review the work of the Legislative Service Bureau relating to genderizing the Code as specified in chapter 1217 of the 1982 Acts and review a proposed code editor's bill. The Subcommittee is authorized two meeting days and the membership shall consist of the chairman, the vice chairman, and the ranking member of the respective Judiciary Committees.

8. That the leadership, in selecting members for the interim committees and subcommittees, be authorized to designate members who do not serve on particular committees from which the membership is to be selected, where it is necessary to balance workloads or other special circumstances.

9. That the membership of the Tax Study Committee include 1 Democrat and 1 Republican from each house as ex officio nonvoting members.

Respectfully submitted,

SENATOR LOWELL L. JUNKINS
Chairman, Studies Committee

R E P O R T
of the
SERVICE COMMITTEE OF THE LEGISLATIVE COUNCIL

June 29, 1983

The Service Committee met at 1:00 p.m. on Wednesday, June 29, 1983 and makes the following recommendations to the Legislative Council:

1. That the proposed budget allocations for the 1983-1984 fiscal year for the Legislative Service Bureau, the Legislative Fiscal Bureau, the Office of Citizens' Aide, and the Code Consultant's Office be approved as submitted to the Service Committee and the Legislative Council.
2. That the Legislative Service Bureau be allowed to employ a temporary part-time summer tour guide to fill in for vacationing tour guides.

Respectfully submitted,
C. W. HUTCHINS, Chairman

Office of the State Comptroller

State Capitol

Des Moines, Iowa 50319

TERRY E. BRANSTAD
GOVERNOR

WILLIAM KRAHL
ACTING STATE COMPTROLLER

MEMORANDUM

TO: The Honorable Terry E. Branstad
Members of the General Assembly

FROM: William Krahl, Acting State Comptroller *BellKrahl*

DATE: June 23, 1983

General Fund receipts for the eleven month period ending May 31, 1983, were 1.5% below the estimated rate of growth that was projected for the Fiscal Year 1983. Due to the May report we did an indepth analysis of the receipts and expenditures and we are making the necessary adjustments to reflect the results of this analysis.

To date, June has shown improvement and reflects some of the growth which economic indicators have been telling us we should be having. While not dramatic, the upturn is in evidence and we expect it to continue.

Cash receipts for FY 83 are now projected at \$1,896.3 million, an increase of .1% from FY 82. Accrued receipts have been adjusted to include an estimated \$45 million income tax that will be withheld by employers and in their hands at June 30, 1983. This establishes the consistency requirement of generally accepted accounting principles (sales and use taxes, and other miscellaneous taxes having already been accrued). Senate File 540, which was passed by the 1983 Session of the General Assembly, contained criteria dealing with encumbrances over the year end. This is expected to increase reversions by \$5 million. These are the major changes that we have made.

The attached Cash Receipts and General Fund Statements report the results of our analysis and show an estimated General Fund balance of approximately \$1 million at June 30, 1983.

I would like to point out that Iowa's revenue picture is not unique. Most of the states are having their problems. In fact, many of the states surrounding Iowa are reporting shortfalls from their estimates much larger than Iowa's. We are anticipating that economic trends reported recently will be reflected in our receipts over the next several months, however, we will still continue to monitor them closely each month.

drj

Attachments

STATE OF IOWA
ESTIMATED GENERAL FUND BALANCE
FOR THE FISCAL YEAR ENDING JUNE 30, 1983

Comptroller Cash Balance June 9, 1983		\$ 35,417,794
Add - Revenue Projections:		
Cash Receipts (Estimated June 10-30, 1983)		\$142,015,991
Transfers:		
Old Age Revolving	\$ 186,000	
Child Support Recovery	<u>2,800,000</u>	2,986,000
Accruals:		
April 4, 1983 Estimate	60,400,000	
Less - Adjustment of Franchise Tax	(2,100,000)	
	<u>58,300,000</u>	
Individual Withholding Tax	<u>45,000,000</u>	<u>103,300,000</u>
		<u>248,301,991</u>
Total Resources Available		\$283,719,785
Less - Appropriation Liabilities June 9, 1983		\$325,092,607
Less - Reversions:		
Regular (Estimated)	\$ 8,000,000	
SF 540 Implementation (Estimate)	5,000,000	
Savings Goal Set Asides	19,249,341	
Salary Adjustment Fund	2,441,410	
Glenwood-Woodward Revolving	6,000,000	
Dept. Social Services-Energy Block Grant	<u>1,655,000</u>	<u>42,345,751</u>
Estimated Balance June 30, 1983		<u>\$ 972,929</u>

Office of the State Comptroller
June 23, 1983

STATE OF IOWA
 GENERAL FUND APPROPRIABLE CASH RECEIPTS
 FISCAL YEAR 1982 ACTUAL AND FISCAL YEAR 1983 ESTIMATED
 June 23, 1983
 (Dollars in Millions)

	Fiscal Year		FY 83 Annual Estimated Percentage
	Actual 1982	Estimated 1983	
Personal Income Tax	\$ 837.2	\$ 854.3	2.0%
Sales Tax	405.6	419.5	3.4
Use Tax	76.0	60.5	(20.4)
Corporation Income Tax	170.0	167.1	(1.7)
Inheritance Tax	79.9	65.6	(17.9)
Insurance Premium Tax	71.4	49.2	(31.1)
Cigarette and Tobacco Taxes	61.1	60.5	(1.0)
Beer and Liquor Tax	16.9	16.8	.6
Franchise Tax	8.2	6.6	(19.5)
Miscellaneous Taxes	1.4	1.2	(14.3)
Total Special Taxes	\$1,727.7	\$1,701.3	(1.5)%
County Reimbursements	\$ 39.2	\$ 37.0	(5.6)%
Liquor Transfer - Profits	40.0	41.0	2.5
Liquor Transfer - Military Tax Credit	6.8	-	(100.0)
Interest	38.6	29.2	(24.4)
Fees	25.7	28.0	8.9
Miscellaneous Receipts	16.7	22.0	31.7
Total Non-Tax Receipts	\$ 167.0	\$ 157.2	(5.9)%
Total Tax and Non-Tax Receipts	\$1,894.7	\$1,858.5	(1.9)%
Sales and Use Tax Rate Changes	-	37.8	
Total Cash Receipts	\$1,894.7	\$1,896.3	.1%

Office of the State Comptroller
 June 23, 1983