

M I N U T E S
IOWA LEGISLATIVE COUNCIL

September 18, 1984

The seventeenth meeting of the 1983-1984 Iowa Legislative Council was called to order at 9:40 a.m. by the Chairman, Speaker Donald Avenson, on Tuesday, September 18, 1984, in Committee Room 22 of the State House, Des Moines, Iowa. Members present in addition to the Chairman were:

Senator Lowell L. Junkins, Vice-Chairman
Lieutenant Governor Robert Anderson
Senator James Briles
Senator C. Joseph Coleman
Senator Donald V. Doyle
Senator Merlin Hulse
Senator Calvin O. Hultman
Senator C. W. (Bill) Hutchins
Senator Charles Miller
Senator Arthur A. Small, Jr.
Senator Dale Tieden
Representative Dale Cochran
Representative John H. Connors
Representative Betty Hoffmann-Bright
Representative Jean Lloyd-Jones
Representative Lester D. Menke
Representative Lowell Norland
Representative Delwyn Stromer

Also present were:

Mr. Serge H. Garrison, Director, Legislative Service Bureau
Mr. Dennis Prouty, Director, Legislative Fiscal Bureau
Mr. Bill Angrick, Citizens' Aide
Mr. Dan Dudley, House Legal Counsel
Ms. Ann Ver Heul, Senate Legal Counsel
Mr. Burnette E. Koebernick, Senior Legal Counsel, Legislative Service Bureau
Ms. Diane Bolender, Senior Research Analyst, Legislative Service Bureau

Also present were other Iowa legislative staff persons, news media representatives, and other interested individuals.

Representative Lloyd-Jones moved that the minutes of the September 11, 1984 Council meeting be approved as distributed to Council members, and the motion was adopted.

Senator Junkins moved that the citizen members of the Recreation-Tourism Study Committee and the Economic Development Study Committee be paid per diem and expenses as provided for in the statutes. Senator Hultman inquired whether Senator Junkins wished also to include the citizen members of the Campaign Finance

Subcommittee. Mr. Junkins responded in the negative, commenting that the legislation that established that study committee provides for reimbursement for expenses. Senator Coleman commented that per diem can be paid to citizen members only upon action of the General Assembly. Senator Junkins agreed and stated that his motion had been phrased "as provided for in the statutes". He noted that the members of the Excellence in Education Task Force are receiving expenses only for their attendance at committee meetings and suggested that his motion be clarified so that citizen members only receive expenses for attendance at committee meetings. Senator Junkins' motion, as amended, was adopted.

Senator Junkins moved that the Legislative Council in accordance with the contract with Sperry Corporation accept the system with (1) reservation of all rights to terminate or cancel the lease-purchase provided for in the agreement upon the occurrence or existence of a condition of material deficiency as provided for in the Amendatory Accord and Satisfaction, and (2) conditioned upon agreement by Sperry Corporation to (a) place a cap of \$195,000 upon the cost of designing and implementing Code publication, and (b) apply 90% of the cost of all lease payments made during the 12 months following acceptance to the purchase price and 75% of the cost of all lease payments during the 13th through the 18th months following acceptance of the purchase price, and (3) that the Chairman, in consultation with the Computer Subcommittee, has the authority to further specify the conditions of acceptance in a letter to be acknowledged by Sperry and the Chairman of the Council.

Representative Hoffmann-Bright said that she believes that the Legislative Council at its September 11th meeting had determined that there would be a final date upon which the system must operate in order for legislation to be typed into it for the 1985 Legislative Session. Senator Junkins responded that the letter referred to in the motion will include a November 1st deadline date. He added that the letter will constitute a legal document. Chairman Avenson added that the November 1st date was determined by the Computer Subcommittee as the last date on which a decision can be made as to which computer will be used during the session. Representative Hoffmann-Bright asked whether the November 1st date will provide the Legislative Service Bureau with sufficient time to retype bills if the computer is not working. Chairman Avenson responded in the affirmative.

Representative Hoffmann-Bright asked about the staff assistance that will be required from the Legislative Service Bureau between now and November 1st in order for Sperry to correct material deficiencies. Senator Junkins responded that the language in the letter will allow Mr. O'Hern, as Chairperson of the Staff Subcommittee, to work out time schedules for Legislative Service Bureau personnel with the approval of the Director of the Service Bureau.

Representative Hoffmann-Bright commented that she believes the November 1 date should be included in the motion and she moved that the motion be amended to include a November 1 deadline for correcting all material deficiencies.

Representative Cochran asked for a listing of what will be included in the letter. Senator Junkins commented that the letter will not include any information about hiring of additional employees, but will include the items listed in the motion plus the November 1 deadline.

Representative Cochran called for comments from Mr. Garrison. Mr. Garrison indicated that he had originally believed that the motion was somewhat vague, but he believes that the November 1 deadline date is helpful. He commented if the minutes are clear as to the intent of the Legislative Council and if limits are placed on the amounts of time during which Legislative Service Bureau staff can be used, he will feel more comfortable about the motion.

Senator Junkins stated that he opposes a motion that specifies a deadline date. He expressed the belief that it will not be psychologically positive to employ qualified staff persons for operation of the computer system if the motion contains a deadline date. Senator Junkins also expressed hope that the material deficiencies can be resolved in advance of the November 1 date.

Representative Stromer asked when the lease-purchase arrangement will begin. Senator Junkins responded that the first payment is due to Sperry Corporation on March 1, 1985 but the lease will be signed as soon as possible with a retroactive date of August 29, 1984. He added that theoretically any time the system demonstrates a material deficiency, the lease can be cancelled. Senator Junkins added that if the lease is cancelled, all costs are recoverable and the language in the letter will provide that protection. Chairman Avenson commented that all costs that could be avoided have been avoided.

Representative Stromer commented that if the computer has the same material defects after November 1 as it has to date, it appears that there will be litigation, but he expressed hope that the actions that have been taken by the Legislative Council in the last year will allow the General Assembly to win any suits.

Representative Menke asked for clarification about what the letter accomplishes. Mr. Dudley responded that the letter is a binding amendment to the contract with the same force and effect as the contract. Senator Junkins added that the letter will be signed by both parties.

Senator Junkins, again speaking against the amendment, commented that the Computer Subcommittee is attempting to allow its legal consultants to have the flexibility to keep the contract tight and correctly written. He noted that the 2 Legal Counsels are present and are cognizant of the discussion that is taking place. He urged the Legislative Council not to take away the flexibility of the Legal Counsels when they are writing the letter.

Chairperson Avenson commented that he has managed to obtain additional concessions from Sperry Corporation, and cited the example that there is a cap on the cost of designing and implementing Code publication which is a significant concession. He indicated that at all times the Computer Subcommittee has attempted to provide the best contract for the taxpayers of the state. In response to a question from Representative Menke, Senator Junkins agreed that the \$195,000 cap will be listed in the letter.

Representative Menke asked who will determine on November 1 whether Sperry Corporation has corrected the material deficiencies. Senator Junkins responded that the Computer Subcommittee will make that determination. Representative Menke asked for clarification about whether the lease is automatically cancelled on November 1 if there are material deficiencies, and whether the Legislative Service Bureau will use the Megadata System for bills for the session, but continue working with representatives from Sperry Corporation. Mr. Dudley responded that the decision must be made by the Legislative Council. Senator Junkins commented that if the Computer Subcommittee decides that the computer is not ready for the session, the Computer Subcommittee's decision must be to terminate the lease.

Representative Menke asked whether the letter will legally bind Sperry Corporation and the Legislative Council to cancel the lease on November 1 if material deficiencies remain. Mr. Dudley responded that the instructions are to put the Legislative Council in a position so it can cancel the lease on November 1. Senator Hultman commented that any decisions of the Computer Subcommittee must be unanimous, and he will vote to cancel the lease on November 1 if the computer does not work. He commented that the letter itself does not automatically cancel the lease.

Senator Small commented that the motion also relates to the cost of designing and implementing software for Code publication, and he asked if the state is paying costs for development of the software, the state then has priority rights to the software. Senator Junkins commented that the ownership of the software is already specified in the contract and is somewhat of a hybrid. Senator Small suggested that the priority interest in the software should be put in the letter also. Senator Junkins agreed that the issue will be addressed in the letter. He noted that the Legal Counsel had discussed that situation earlier in the day.

Representative Connors stated that he had initially voted to offer the contract to Honeywell last summer, but has supported Sperry once the Sperry Corporation was given a contract. He noted that he has talked to both the legislative employees and the computer consultant. He stated that he understands that the computer consultant believes the problems can be solved, and he will continue to support Senator Junkins' motion. He emphasized that if the computer does not work on November 1, he will vote to terminate the lease.

Representative Hoffmann-Bright's amendment to include the November 1 deadline date in the motion failed on a voice vote.

Representative Stromer expressed a major concern about the safeguards that are needed to ensure that the computer is not used for generating partisan political information. He moved that the Legislative Council establish a Legislative Committee composed of members from both houses and parties to monitor the use of the computer in accordance with the laws of Iowa so that the computer cannot be used for partisan political purposes. Senator Junkins responded that the Legislative Council has already passed a motion establishing such a committee. He asked members to refer to page 6, paragraph 4, of the April 13, 1984 Minutes of the Legislative Council, in which a resolution was adopted that reads: "Be it resolved by the Legislative Council, That it is the policy of the Legislative Council that all persons using the legislative computer shall use that facility only for the purposes within the employee's scope of employment or the official's duties as a state official and the Computer Subcommittee is authorized to issue guidelines to further clarify permissible and nonpermissible use of the facility." Representative Stromer noted that the Subcommittee has not yet met. Senator Hultman agreed that guidelines should be drafted.

Chairman Avenson invited Representative Stromer to view the kinds of materials that have been placed in the computer by the Senate and House Democratic Caucus staffs.

Representative Stromer asked about whether the Computer Subcommittee should be setting penalties for violation. Senator Junkins responded that the Ethics Committee would ultimately deal with violations.

Before voting on the Junkins' motion, Senator Tieden asked whether members of the Computer Subcommittee have knowledge that the members of the Legislative Council do not. Chairman Avenson explained that the members of the Computer Subcommittee have visited with a computer consultant from Iowa State University about the material deficiencies and problems that remain for Sperry Corporation. He noted that the computer consultant has visited

with personnel from Sperry Corporation and believes that the problems are correctable within the next three to four weeks. He added that the consultant believes that Sperry has identified a strategy to solve the problems and that the problems that are visible are problems that are present for many different vendors. Senator Junkins added that the computer consultant has stated that the loss of efficiency is not unique to this system and, over a period of time, the Sperry system will become more efficient, although he believes that the Sperry computer is within the normal efficiency loss.

In response to a further question by Senator Tieden, Senator Junkins stated that the computer consultant believes that Sperry Corporation has now been able to isolate the causes for the remaining problems and the system will be workable by November 1. He commented that the computer consultant has stated that the system will probably not have the same efficiencies as the Megadata system for the 1985 session, and he calls this "burnin time". Senator Junkins commented that the Legislative Council cannot hold the Legislative staff responsible for efficient operation during the "burnin time".

Senator Tieden asked whether a complete breakdown is possible. Senator Junkins stated that the computer consultant feels confident that the Sperry computer will run as well as the system the General Assembly now uses.

Lieutenant Governor Anderson commented that the General Assembly will have to understand when the Legislative session starts, that the General Assembly may have to operate a little differently in order to achieve the same results. He expressed the belief that members of the General Assembly should understand the new circumstances that exist during the next legislative session.

Senator Junkins noted that the General Assembly may gain time because of the capabilities for the appropriations and budgeting processes which are working well.

Representative Hoffmann-Bright asked whether members of the Legislative Council will see the letter after it has been sent. Chairman Avenson responded in the affirmative.

Representative Hoffmann-Bright stated that she will not vote for the motion. She asked whether there will be another testing process provided at the end of October. Senator Junkins responded in the negative, and expressed hope that the computer will already be in operation by that day. Chairperson Avenson agreed.

Senator Doyle asked who will pay for problems that occur during January and February. Senator Junkins responded that under the contract, Sperry personnel will remain for six months.

Representative Connors stated that he believes the legislative employees have done all that they possibly can to make the Sperry system work.

Representative Menke noted that during the past year members of the Legislative Council have indicated that they will base their decisions on recommendations of the staff, and he noted that the staff report indicates that there are three material deficiencies. He asked whether the Legislative Council is making its decision based upon the recommendations of a consultant rather than the recommendations of the staff. Chairman Avenson commented that decisions were based upon the staff recommendations that listed three material deficiencies. He noted that the Computer Subcommittee had asked the consultant whether the deficiencies listed by the staff can be corrected, and the consultant said they could.

Senator Junkins commented that the following are reasons to sign a lease with Sperry Corporation:

1. They have a system that will work.
2. The system will be as good or better than what is presently available.
3. The system will be for less money because of bargain hunting that has been performed.
4. The consultant has said that the "glitches" can be corrected.

Senator Junkins' motion carried with 15 affirmative votes by Chairman Avenson and Vice-Chairman Junkins, Senators Briles, Coleman, Doyle, Hultman, Hutchins, Miller, Small, and Tieden, and Representatives Cochran, Connors, Lloyd-Jones, Norland, and Stromer. There were three negative votes by Senator Hulse and Representatives Hoffmann-Bright and Menke.

Senator Junkins moved that the Service Committee be authorized to employ, with the approval of the Chairman of the Legislative Council, a director and an operator to staff the Computer Support Bureau. He also moved that the Computer Subcommittee be authorized to approve the expenditure of the necessary funds for the operation of the computer system.

Representative Hoffmann-Bright asked how many employees will be staffing the Computer Support Bureau. Chairman Avenson commented that Sperry Corporation recommends four individuals which would include a director, a Mapper coordinator, an analyst, and an operator. He stated that the legislative staff believes that three employees will be sufficient. Mr. O'Hern interjected that under

the ideal situation Sperry Corporation believes that four individuals will be necessary, but initially two will be hired. Mr. O'Hern explained that the legislative personnel believe that some functions of the Director and the Mapper Coordinator can be combined.

Senator Tieden asked about the proposed salaries for the individuals. Chairman Avenson responded that it is anticipated that the annual salary for the director would be about \$40,000, which is comparable to employees with those responsibilities elsewhere in state government.

Senator Junkins' motion was adopted on a voice vote.

Representative Cochran moved that the Council adopt a resolution stating that the staffs of the various legislative departments have gone far beyond the call of duty and have done everything humanly possible to work to develop a new computer system that will be advantageous to the legislative process. The staff has done this while accomplishing a most commendable job of their normal duties even though they have had to work under extremely adverse circumstances brought about by an attempt to produce a workable and acceptable new computer product. Representative Cochran moved that this statement be made a part of the Council's minutes. Representative Cochran's motion was adopted unanimously.

Chairman Avenson commented that the next meeting of the Legislative Council will probably take place in early November.

The Legislative Council adjourned at 11:20 a.m.

Respectfully submitted,

SERGE H. GARRISON
Director

DIANE BOLENDER
Senior Research Analyst

COUNCIL
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