

M I N U T E S

LEGISLATIVE COUNCIL

December 19-20, 1977

The sixth meeting of the 1977-78 Legislative Council was called to order at 10:20 a.m., Monday, December 19, 1977 in Senate Committee Room 22 of the State House in Des Moines. Council members attending the meeting were:

Senator George R. Kinley, Chairperson
Speaker Dale M. Cochran, Vice Chairperson
Senator C. Joseph Coleman
Senator Lucas J. DeKoster
Senator Gene W. Glenn
Senator Eugene M. Hill
Senator Philip B. Hill
Senator Calvin O. Hultman
Senator Fred W. Nolting
Senator William D. Palmer
Senator Richard R. Ramsey
Representative Gregory D. Cusack
Representative Elmer H. Den Herder
Representative Donald V. Doyle
Representative Jerome D. Fitzgerald
Representative James I. Middleswart
Representative Floyd H. Millen
Representative Delwyn D. Stromer
Representative Andrew P. Varley

Other persons present for the meeting included Chief Clerk of the House David Wray, Legislative Fiscal Director Gerry D. Rankin, and Director Serge H. Garrison, Phil Burks and Bernie Koebernick of the Legislative Service Bureau. Also attending were a number of other legislative staff personnel, representatives of the news media and other interested persons.

Senator Philip Hill noted that on page 19 of the minutes of the Council's November 9, 1977 meeting, as submitted to Council members, Mr. Burks' title appears as "Senior Legal Counsel" rather than "Senior Research Analyst". On motion of Senator Palmer, the November 9 minutes were approved as submitted, when corrected in accordance with Senator Philip Hill's comment.

Chairperson Kinley recognized Mr. Garrison, who noted submission of a number of administrative items to Council members present at the meeting. Included were a compilation of reports of educational leave received by the Legislative Service Bureau for submission to the Council since the Council's previous meeting; a letter from Mr. Alvin Clare Russie noting that he had commenced his duties as Executive Secretary of the Temporary Land Preservation Policy Commission as of Friday, December 9, 1977; a copy of a

letter from Secretary of the Senate Steven Cross to Senator James Calhoon noting that Senator Calhoon's appointment to the interim Nursing Home Costs Subcommittee of the standing Committee on Human Resources, in place of Senator Bob Rush, would have to be approved by the Legislative Council; and a copy of a letter noting the appointment of Representative James C. West to succeed Representative Henry Wulff on the Real Estate Price Disclosure Subcommittee of the House Committee on Ways and Means, following Representative Wulff's resignation from the General Assembly.

Senator Glenn moved that the report submitted and the respective actions noted in the correspondence submitted each be approved by the Council. The motion was adopted by a unanimous voice vote.

Mr. Wray was recognized to present two items submitted to the Council by the House Administration Committee. The first item was a request for Council approval of a proposed renovation project. Mr. Wray noted that that Committee has decided to replace the existing, badly worn carpet in the House Chamber, at a total cost expected to range somewhere between \$25,000 and \$37,500, depending on the quality of the replacement carpet selected and whether or not it proves necessary to replace the pad underneath the present carpet. He added that since removal of virtually all furniture in the Chamber would be necessary in the course of replacing the carpet, it would be most advisable to carry out any necessary repainting and other refurbishing at the same time. In particular, it is anticipated that a close examination of the ceiling area will be made in order to determine whether there is deterioration of the finish which is not yet apparent from the floor but which should be corrected. He briefly described plans for changes to the House Gallery, at a total cost not to exceed \$26,000. A summary of the proposed renovation project is attached to and by this reference made a part of these minutes.

In response to questions from Senators Hultman and Coleman, Mr. Wray stated that there are no plans whatever for lowering the ceiling of the House Chamber, and that the Senate does not plan to replace its existing carpet at this time. Senator Coleman commented that during his tenure the Senate carpet has been replaced every seven years, and that the existing carpet is now seven years old. Mr. Wray pointed out that the House Chamber's carpet receives much greater wear than does the Senate Chamber's carpet, because of the larger number of members in the House.

Mr. Wray further noted that the Buildings and Grounds Division had agreed to bear the expense of necessary repainting in the House Chamber, on the condition that the General Assembly act favorably upon its request for funds to employ a second State House painter. Mr. Wray indicated he feels this request is justified.

Speaker Cochran moved that the Council approve the House Administration Committee's renovation request as presented, and that the Council express support for the addition of one State

House painter to the Buildings and Grounds staff. The motion was seconded by Representative Millen.

In response to questions by Representative Middleswart, Representative Millen and Mr. Wray explained that upon the recommendation of a member of the Department of General Services' staff, the House Administration Committee had retained as a consultant Ms. Kathleen Wood, who has asked a number of carpet manufacturers to prepare and submit samples for examination. They noted that dealers and installers who wish to bid on the carpet installation would be able to obtain the type of carpet selected by the House Administration Committee from any manufacturer making carpet that meets the Committee's specifications. They added it is the Committee's intention to write the specifications so as to encourage a broad range of bidders and exclude none.

In answer to questions from Senator Philip Hill, Mr. Wray stated that Ms. Wood is being paid by the hour, with a maximum of \$2,000 on her total compensation. He further stated that the estimate of the cost of the renovation work on the House galleries had been based on the cost incurred by the Senate for work on its galleries which has recently been completed. Chairperson Kinley said he does not know the cost of the work on the Senate galleries.

Speaker Cochran's pending motion was then adopted by a voice vote, Senator Philip Hill voting no.

The second item presented by Mr. Wray was a list of recommendations from the House Administration Committee relative to fire safety, drawn up pursuant to observations of State Fire Marshal Wilbur Johnson following a walking tour of the House Chamber, meeting rooms, and office areas. The recommendations are attached to and by this reference made a part of these minutes. (NOTE: The submission to the Council included a description of certain airliner-type fire escape mechanisms, which is not included with these minutes.)

Mr. Wray explained that the House Administration Committee believes the Legislative Council should consider this matter, because if steps are taken to improve the fire safety aspects of the House Chamber, they should probably also be taken in all of the legislative areas of the State House, if not the entire building. In response to a question from Representative Middleswart, Mr. Wray stated that the cost of the recommended smoke detection system for the House alone has been estimated at some \$5,000 and he further estimated that extension of a similar system to all legislative areas within the building would cost \$20,000. He said he is unable to estimate the cost of carrying out all of the Fire Marshal's recommendations at this time.

Senator Philip Hill moved that the fire safety recommendations be referred to the Council's Administration Committee. The motion was seconded by Representative Doyle, and adopted by a unanimous voice vote.

The Council next considered a letter addressed to Chairperson Kinley on behalf of Co-chairperson John Patchett and members of the Uniform Landlord Tenant Act Subcommittee of the standing Committees on State Government, requesting authority for one additional meeting of the Subcommittee. The letter explained that the legislation being considered by the Subcommittee had proved more complicated than had been anticipated.

Senator Hultman moved that the request be granted as of January 10, 1978. Senator Glenn moved to amend Senator Hultman's motion so as to authorize the Subcommittee one additional meeting as requested in the letter to Chairperson Kinley.

Representative Middleswart, noting that he is a member of the Subcommittee in question, expressed doubt that the Subcommittee could complete its work in one additional day, but added that he is willing to attend another meeting if one is called. In response to an inquiry from Chairperson Kinley, Representative Middleswart explained that it probably would be possible to complete the Subcommittee's work in one additional meeting day, but that would be accomplished only if the Subcommittee could proceed more rapidly than it did at its last previous meeting.

Senator Philip Hill expressed skepticism that it is realistic to try to schedule any more interim Subcommittee meetings between the present date and the convening of the 1978 Session of the General Assembly. He urged disapproval of the request.

After further discussion, Senator Glenn's motion to amend Senator Hultman's motion was adopted by a roll call vote of 10-8. Those voting yes were Chairperson Kinley, Speaker Cochran, Senators Coleman, Glenn, Eugene Hill, Nolting and Palmer and Representatives Doyle, Fitzgerald and Middleswart; those voting no were Senators Philip Hill, Hultman and Ramsey and Representatives Cusack, Den Herder, Millen, Stromer and Varley; Senator DeKoster had not yet arrived when the vote was taken.

The amended motion was then adopted by a roll call vote of 11-7. Those voting yes were Chairperson Kinley, Speaker Cochran, Senators Coleman, Glenn, Eugene Hill, Nolting and Palmer and Representatives Cusack, Doyle, Fitzgerald and Middleswart; those voting no were Senators Philip Hill, Hultman and Ramsey and Representatives Den Herder, Millen, Stromer and Varley; Senator DeKoster had not yet arrived when the vote was taken.

Speaker Cochran was recognized to present the report of the Council's Administration Committee, pursuant to that Committee's meetings on December 7 and on the current date. The report embodied the following recommendations:

1. That Mr. Lee H. Gaudineer, Jr. be retained without fee as Legal Counsel to advise and represent the General Assembly on matters relating to the resolution of the State House space allocation issue.

2. That the following steps be taken to attempt to resolve the dispute:

a. Confer with the members of the Supreme Court and the Court of Appeals to reach voluntary agreement using variations of previously submitted plans or an additional alternative that the use of all first floor space to be vacated by the Department of Agriculture be shared by the General Assembly and the Courts, subject to first call priority by the General Assembly.

b. Negotiate an agreement with the Courts to submit the space allocation issue to arbitration by a disinterested third party, such as the Federal Mediation and Conciliation Service, if voluntary agreement is unsuccessful.

c. Plan for litigation of the issue if step b is unsuccessful.

Speaker Cochran moved acceptance of the report.

Responding to questions by Senator Glenn, Speaker Cochran indicated that former Senator Gaudineer is willing to serve as Legal Counsel for the General Assembly without fee for a "reasonable length of time." Speaker Cochran added that if a decision is finally made to enter into litigation, the Administration Committee would consult with the full Council in regard to arrangements with Mr. Gaudineer concerning a fee for his services.

After ascertaining from the Chair that adoption of the pending motion to accept the Administration Committee Report would be considered authorization for the Administration Committee to proceed in accordance with the recommendations presented in the report, Senator Philip Hill moved to strike items 1 and 2(b) and 2(c) from the report. In support of his motion to amend, Senator Philip Hill reiterated the views he had expressed at the November Council meeting regarding the State House space allocation issue. (See minutes of Council's November 9, 1977 meeting, pages 8-12 and 17-19.)

Senator Eugene Hill and Representative Middleswart each expressed opposition to Senator Philip Hill's proposed amendment. They contended the effect of the amendment would be nothing more than to mandate continuation of previous futile efforts to reach agreement with the Courts on the State House space allocation issue.

Senator Philip Hill's pending amendment was then defeated by a roll call vote of 4-12. All Council members present voted in the negative except Senators Philip Hill, Hultman and Ramsey and Representative Den Herder; Senator DeKoster and Representative Varley were not in the meeting room when the vote was taken.

Speaker Cochran moved to amend item 2(c) of the Administration Committee's report so as to add that the Administration Committee would negotiate with Mr. Gaudineer regarding a fee for his services if the State House space allocation matter reaches the point where commencement of litigation is deemed appropriate. In response to a question by Representative Fitzgerald, Speaker Cochran said that the effect of his amendment would be to authorize the Administration Committee to employ Mr. Gaudineer to represent the General Assembly in such litigation. Senator Glenn suggested the motion to amend be restated to so indicate, and Speaker Cochran agreed.

Senators Hultman and Philip Hill objected that Speaker Cochran's proposed amendment would delegate the Council's power to approve a fee for Mr. Gaudineer's services, and would commit the Council to litigation in the State House space allocation matter without the necessity of further action by the full Council. Representative Millen agreed, adding that he is willing to support the Administration Committee's report as submitted, but not with Speaker Cochran's proposed amendment. In response, Speaker Cochran stated that he did not contemplate the Administration Committee taking such action without specific Council approval.

In further discussion, Representative Stromer suggested that item 2(c) be dropped entirely, and that item 2(b) be revised to provide for binding arbitration. He noted that Chapter 20 of the Code embodies a similar concept, and that a number of Council members have supported that concept.

After further discussion, Speaker Cochran restated his pending motion so as to provide for adding to item 2(c) of the report the words "If the point of commencing litigation is reached, the Administration Committee will negotiate with Mr. Gaudineer regarding a fee for his services, subject to approval of the Legislative Council."

In answer to a question from Representative Stromer, Speaker Cochran confirmed that Mr. Gaudineer has agreed to act for the Legislative Council in the course of step 2(b), should that become necessary, without fee. Representative Stromer then suggested that the Council might find itself in a position with respect to Mr. Gaudineer similar to that which exists with respect to the firm of Coopers and Lybrand, which contends that it is owed a substantial sum of money for work completed toward development of an interactive budgeting and monitoring system for the General Assembly, although that project has been halted. Speaker Cochran replied that the two situations are quite different.

After further discussion, Speaker Cochran's pending amendment was adopted by a divided voice vote.

Senator Philip Hill then moved to amend the Administration Committee's report by inserting in item 2(b) after the word "Service" the words "or the American Arbitration Association."

After a brief discussion, in the course of which Senator Nolting noted that while the Federal Mediation and Conciliation Service is free the American Arbitration Association ordinarily expects a fee for its services, Senator Philip Hill's motion to amend was adopted by a divided voice vote.

Senator Ramsey expressed objection to adoption of the Administration Committee's report as amended, asserting it amounts to authorizing litigation and such a step is not currently timely. Speaker Cochran replied that some members of the General Assembly would support commencing litigation immediately, with no further efforts at negotiation of any kind.

The Administration Committee's report, as amended, was then adopted by a roll call vote of 13-5. All members of the Council present voted in the affirmative except Senators Philip Hill, Hultman and Ramsey and Representatives Den Herder and Stromer; Senator DeKoster was not present when the vote was taken.

Representative Cusack was recognized as Chairperson of the Legislative Fiscal Committee, and presented a 30-page report covering the activities of the Fiscal Committee during the 1977 legislative interim. Copies of the report are on file with and may be obtained from the Legislative Fiscal Bureau. After calling attention to several items of particular significance in the report, Representative Cusack moved that it be accepted by the Council, noting that it had been adopted unanimously by the Fiscal Committee earlier on the present day.

In response to questions by Representative Stromer, Representative Cusack explained that some of the Budget subcommittees had further divided into two-member visitation subcommittees, and that these Budget subcommittees had submitted longer reports than those which did not follow this procedure. Representative Cusack added that the procedure is innovative and has value in itself, aside from the substantial results which were achieved.

Senator Eugene Hill called particular attention to items a and b in the report of the Regulatory and Finance Budget Subcommittee, appearing on page 13 of the Legislative Fiscal Committee's report. He suggested that it would be worthwhile to appropriate the funds necessary to develop an Iowa Consumer Price Index.

The Fiscal Committee's report was then adopted by a unanimous voice vote.

The meeting was recessed for lunch at 11:45 a.m., and reconvened in Senate Room 22 at 1:45 p.m. All Council members who had attended the morning session were also present during the afternoon. In addition, a number of other legislators were in attendance to present subcommittee and study committee reports as noted in these minutes. (Copies of most of the reports to be

presented during the two-day meeting were distributed to Council members present, and additional copies are on file with and may be obtained from the Legislative Service Bureau.)

Representative Lyle Scheelhaase was recognized as Chairperson of the House Committee on Agriculture, and presented the report of the Joint Subcommittee on Corporate Farming. On motion of Representative Doyle, the Council voted unanimously to receive the report.

Noting that it was necessary that Representative Scheelhaase leave the Capitol immediately, Chairperson Kinley invited him to present at that time a report of the Joint Subcommittee on the Iowa-Nebraska Boundary Dispute of the Senate Judiciary and House State Government Committees. Following Representative Scheelhaase's presentation, there was a very brief discussion at the conclusion of which Representative Doyle moved that the Council receive the report. The motion was adopted unanimously.

Representative Doyle then moved that the question of establishing a Legislative Iowa-Nebraska Boundary commission or committee be referred to the Studies Committee of the Legislative Council. Senator Philip Hill suggested that the matter be handled by introduction of legislation in the 1978 Session. Representative Doyle said he anticipates that will be done, but he would also like to have the Studies Committee take the matter under advisement.

Representative Middleswart expressed concern about further delay of the Iowa-Nebraska boundary matter. In response to his question, Chairperson Kinley said that he would hope the Council's Studies Committee would take action in the near future if Representative Doyle's pending motion is passed. The motion was then adopted unanimously.

Representative Robert Bina was recognized as Chair of the House Committee on Cities to present the report of the Joint Subcommittee on Community Development of the House Cities and Senate County Government committees. At the conclusion of Representative Bina's presentation, Senator Philip Hill inquired about attendance at meetings of the Subcommittee. Representative Bina replied that it his recollection that one member was absent at each of the Subcommittee's meetings, but no member missed both meetings.

After a brief discussion regarding the substance of the Subcommittee's work, Senator Glenn moved that the Council receive the report. The motion was adopted unanimously.

Senator Alvin Miller was recognized as Chairperson of the Senate Committee on Cities, and presented the report of the Joint Subcommittee on Metro Government. In response to Senator Philip Hill's concern, Senator Miller noted that all Senate members attended the Subcommittee's final meeting but that there was not a

quorum of the House members present. On motion of Representative Doyle, the Council voted unanimously to receive the report.

Senator Palmer was recognized as Co-chairperson of the Subcommittee on Availability of Mortgage Loans, etc. of the standing Committees on Commerce. In the course of presenting and discussing the Subcommittee's report, Senators Palmer and Philip Hill expressed concern that the program being carried out by the Iowa Housing Finance Authority, established in 1975, is serving primarily middle-income rather than low-income persons. In response, Representative Cusack went into some detail regarding the present policies of the Housing Finance Authority and the reasons for these policies, indicating that while he does not entirely disagree with the observations of Senators Palmer and Philip Hill, he feels there is some justification for this situation.

After considerable discussion regarding the programs of the Housing Finance Authority and related matters, Senator Palmer moved that the Council receive the report of the Subcommittee on availability of mortgage loans, etc. The motion was adopted unanimously.

Senator Eugene Hill was recognized to present the report of the joint Commerce Committees' Subcommittee on Utility Rate Increases and alternative rate structures. In presenting the report, Senator Eugene Hill indicated that the Subcommittee did not deal to any significant extent with the matter of alternative utility rate structures. On motion of Senator Philip Hill, the Council members present voted unanimously to receive the report.

Senator Philip Hill noted that the Council's agenda indicates that the joint Subcommittee on the Municipal Utilities Bill (H.F. 611) of the Senate Commerce and House Energy Committees has not met, and expressed criticism of this situation. Senator Eugene Hill stated that there appears to be "lack of interest" on the part of some Subcommittee members, although he added this was not his intent in appointing Senate members to the Subcommittee. Representative Fitzgerald stated that the Subcommittee will meet on January 4, 1978.

Senator Glenn said that he had been asked by the Senate Energy Committee Chairperson to report for that Committee regarding its review of the mandatory deposit bill passed by the House of Representatives during the 1977 Session. Senator Glenn stated that the Committee had reported out the bill with a number of amendments, which he described in some detail. After responding to several questions, Senator Glenn moved that the Council receive the report and the motion was adopted unanimously.

Legislative Service Bureau Research Analyst Debra Dahab was recognized for the report of the Joint Subcommittee on Construction of Nuclear Fission Power Facilities of the standing Committees on Energy. At the conclusion of her presentation, Senator Philip Hill inquired about attendance at the Subcommittee's

one interim meeting, and Ms. Dahab indicated that seven of the ten Subcommittee members were present. Senator Philip Hill then said he has been receiving correspondence urging him to support appropriations for further research by this Subcommittee. Ms. Dahab stated that the Subcommittee intends to continue its efforts during the 1978 Session, but has requested neither authority for additional interim meetings nor specific funding for its efforts. On motion of Senator Nolting, the Council voted unanimously to receive the report.

Representative Doyle was recognized as Co-chairperson of the Joint Subcommittee on Hazardous Wastes of the Committees on Energy. In presenting the Subcommittee's report, Representative Doyle noted that there had been excellent attendance at its two interim meetings, and that the Subcommittee plans to hold a third meeting during the 1978 Session. After a brief discussion, Representative Doyle moved that the Subcommittee's report be received. The motion was unanimously adopted.

Senator Glenn was recognized as Chairperson of the Senate Committee on Judiciary. He noted that the report of the Joint Subcommittee on Criminal Code Publication had been submitted to the Council at its October 12, 1977 meeting, and that the report of the Joint Subcommittee on the Iowa-Nebraska Boundary Dispute had been submitted on the present afternoon.

Senator Glenn stated that the Joint Subcommittee on the Formula for Allocation of District Judges has not met thus far during the 1977 interim. He added that the Senate members of this Subcommittee were promptly appointed, and that the House members were appointed somewhat later, and stated that the Senate and House Co-chairpersons have not yet called a meeting.

Senator Glenn then yielded to Representative Doyle, Co-chairperson of the Penal and Correctional Systems Study Subcommittee. Representative Doyle stated that the Subcommittee has used two of its four authorized interim meetings, and that some of its members have been monitoring formulation of the Corrections Master Plan and the development and implementation of jail standards so as to avoid duplications of effort. He then presented a series of recommendations formulated by the Subcommittee.

Representative Cusack and Senator Philip Hill said they have recently been contacted in regard to allegations of serious misconduct at the Rockwell City Women's Reformatory, and inquired what information Representative Doyle may have about the matter. Representative Doyle replied that he had just received a report on the matter from the Citizens' Aide Office on the current date, and said that he is reluctant to discuss the report in a public meeting because it identifies individuals whose reputations may be unjustly damaged. He added that the Penal and Correctional Systems Study Subcommittee itself has not met outside the State House during the current interim, but that several of its House members are also

members of the Social Services Budget Subcommittee and were at the Rockwell City Reformatory at the time of that group's visitation.

After further discussion, Representative Doyle moved that the report of the Penal and Correctional Systems Study Subcommittee be received by the Council. The motion was unanimously adopted.

Senator Philip Hill then moved that the Council request Prison Ombudsman Ray Cornell of the Citizens' Aide Office to appear before it on the following morning to discuss allegations of misconduct on the part of certain staff personnel at the Rockwell City Womens' Reformatory contained in letters received by a number of members of the General Assembly. After some discussion as to whether it is legally possible, or would be desirable, to close the portion of the Council meeting during which Mr. Cornell would appear, Senator Philip Hill's motion was unanimously adopted.

Senator Glenn continued by presenting the report of the joint Subcommittee on Criminal Code and Public Officials of the Senate Judiciary and House State Government Committees.

Speaker Cochran assumed the Chair at 3:20 p.m.

There was extensive discussion of the pertinent provisions of the revised criminal code and the Subcommittee's recommendations. At the conclusion of the discussion, the Council voted unanimously to receive the report on motion of Senator Glenn.

Senator Glenn next presented the report of the Senate Judiciary Committee's Subcommittee on Juvenile Justice. He termed the Subcommittee members a "very conscientious group" stating that all of them had attended all five Subcommittee meetings. He added that the Juvenile Justice bill had been reported to the full Senate Judiciary Committee, which in turn reported it to the Senate at a meeting held December 16. Senator Glenn moved that the Council receive the report, and the motion was unanimously adopted.

Senator Philip Hill noted the requirement of Acts of the Sixty-seventh General Assembly, 1977 Regular Session, Chapter 18, section 5, that "the Legislative Council shall cause an interim study on section 602.18 of the Code to be carried out by a Subcommittee of the Standing House and Senate Judiciary Committees." Recalling Senator Glenn's earlier report that this Subcommittee had not met thus far during the interim, he pointed out the conflict between the provisions of Chapter 18 (S.F. 162) and section 602.18 of the Code, and raised the question what would happen if there are more vacancies for district court judges than could be filled under Chapter 18, section 3. Senator Glenn acknowledged that the matter is a potentially serious problem, and stated that if nothing is done sooner, it will be considered a priority by the Senate Judiciary Committee in the 1978 Session. Speaker Cochran stated that the Council would take the matter under advisement.

Chairperson Kinley resumed the Chair at 3:50 p.m.

Senator Nolting was recognized to present the report of the joint Labor and Industrial Relations Subcommittee on the Unemployment Insurance Program. At the conclusion of his presentation, Senator Nolting stated that a bill recommended by the Subcommittee was not available on the current date, but would be attached to the Subcommittee's report when it is distributed to members of the General Assembly. In response to a question by Senator Philip Hill, Senator Nolting stated that one Senator and two Representatives had each missed at least one of the Subcommittee meetings. After further discussion, Senator Nolting moved that the Council receive the Subcommittee's report. The motion was unanimously adopted.

Representative John Connors was recognized to present the report of the Public Employment Study Committee, established by the Council. After reviewing the Subcommittee's progress report, Representative Connors noted there had not been a quorum at the Study Committee's most recent meeting due to inclement weather, and that an attempt would be made to reschedule the meeting after convening of the 1978 Session. On motion of Senator Nolting, the Council voted unanimously to receive the report.

Senator Cloyd Robinson was recognized as Chairperson of the Senate Committee on Transportation to present the report of the joint Subcommittee on Railroad Abandonment, etc. Senator Robinson stated that the Subcommittee has held one of its two authorized meetings and, after reviewing the events of that meeting, added that the second authorized meeting would be held on the following day. On motion of Representative Fitzgerald, the Council voted unanimously to receive the report.

Chairperson Kinley noted that pursuant to the Council's request earlier in the present meeting, Prison Ombudsman Ray Cornell would be present on the following morning at 9:30 a.m. Accordingly, Chairperson Kinley requested unanimous consent to proceed with the first group of reports scheduled for the following day's session. There being no objections, Representative Middleswart was recognized as Chairperson of the House Committee on Natural Resources.

Representative Middleswart first presented the report of the Joint Subcommittee on a Comprehensive Water Study. In response to a question, he indicated that legislation has been requested by the joint Subcommittee but has not yet been drafted. He then moved that the report be received by the Council and the motion was unanimously adopted.

Representative Middleswart continued with the report of the Joint Subcommittee on Conservation Commission Practices, reviewing briefly some of the charges against the Conservation Commission and objections to its policies and procedures which had been brought before this Subcommittee and the manner in which these

had been addressed. The Council voted unanimously to receive the report, on Representative Middleswart's motion.

The meeting was recessed for the day at 4:30 p.m.

December 20, 1977

The meeting was reconvened by Chairperson Kinley in Senate Committee Room 22 at 9:15 a.m., Tuesday, December 20, 1977. All Council members who had been present on the previous day attended the morning session, except Speaker Cochran and Senators DeKoster and Hultman. A number of other legislators were in attendance to present reports, as indicated by these minutes.

Representative Arlo Hullinger was recognized as Chairperson of the House County Government Committee and presented the report of the joint Subcommittee on the County Home Rule Constitutional Amendment. He stated that the Senate and House members of the Subcommittee had not reached agreement, and that the House Subcommittee members have recommended to the House County Government Committee that the pending constitutional amendment resolution be reported to the full House with a recommendation for amendment and passage, while the Senate Subcommittee members have recommended to the Senate County Government Committee that the resolution be reported for passage in the same form in which the Sixty-sixth General Assembly passed it.

In response to Senator Eugene Hill's inquiries, Representative Hullinger explained that the differences of opinion between the Senate and House Subcommittee members center around the provision in the proposed constitutional amendment that "the General Assembly may provide for the establishment of charters in county or joint county-municipal corporation governments." The House Subcommittee members fear that this language will be interpreted as a direct delegation of authority to counties; the Senate members believe that it is clear that the discretion to provide for the establishment of charters rests with the General Assembly only.

On motion of Representative Doyle, the Council voted unanimously to receive the report of the County Home Rule Subcommittee.

Chairperson Kinley recognized Acting Citizens' Aide Ruth Mosher, who stated that her office has in recent weeks been engaged in a three-phase investigation of allegations of illegal activities at the Rockwell City Women's Reformatory. The matters investigated are:

1. Allegations of racial bias on the part of the Superintendent and staff. The Citizens' Aide found no substantiation of that allegation, although it did discover circumstances which could be so perceived by black inmates.

2. A claim by an inmate that the Superintendent had violated the terms of an agreement he made with her under which certain disciplinary reports pending against her were to be dropped in return for her services as an informant. This investigation had led to discovery of illicit sexual activity and apparent drug trafficking, and had raised serious questions as to the legality of an educational opportunities program being carried on with Iowa Central Community College (ICCC) at Fort Dodge.
3. Allegations of homosexual activity involving staff and inmates at the Women's Reformatory. As of the current date, nothing had been done on this investigation except to notify the Department of Social Services that the Citizens' Aide will make the investigation.

Copies of the Citizens' Aide's report on the first two phases of the investigation described by Ms. Mosher, with attached responses from the Department of Social Services, were distributed to each Council member present.

In the absence of Council Vice-chairperson Speaker Cochran, Senator Kinley asked Senator Eugene Hill to assume the Chair at 9:30 a.m.

Senator Palmer inquired of Ms. Mosher what is considered to be illegal with respect to the educational opportunities program at the Women's Reformatory. Ms. Mosher briefly described the Citizens' Aide office conclusions as outlined in the report of the second phase of the investigation. She added that Prison Ombudsman Ray Cornell, who was also present, would discuss this matter more fully.

Mr. Cornell was recognized, and reviewed the two reports that had been distributed to Council members.

In further response to questions which had been raised by Senator Palmer regarding the legality of the educational opportunities program arranged by the Women's Reformatory with ICCC, Mr. Cornell said that while this program was established to meet a very definite and legitimate need, there appears to be no legal authority for the contract between the Reformatory and ICCC. Therefore, he asserted, each time an individual assigned to the program goes to the ICCC campus, she could technically be considered an escapee. He said that the Citizens' Aide Office had recommended that the Department of Social Services have the program reviewed relative to its legality by the Division of Corrections, and that the Division's findings be submitted for further review by the Attorney General's Office. It had also been recommended that written criteria and rules be promulgated, reviewed and approved by the Rules Review Committee, and that the Women's Reformatory's contract release program should have rules dealing with

qualifications for participants in the program so as to insure compliance with Chapters 17A, 247 and 247A of the Code.

Senator Glenn noted that in the Department of Social Services' December 16, 1977 letter of response to the Citizens' Aide regarding the investigation of the educational opportunities program and related matters, the statement is made that Assistant Attorney General Stephen Robinson had indicated that the existing program is legal under the powers given the Division of Corrections by section 217.14(3) of the Code. Senator Glenn inquired whether Mr. Cornell knows if Assistant Attorney General Robinson had been consulted before that program was initiated. Mr. Cornell replied that Mr. Robinson had been consulted on the matter only after the Department had received the Citizens' Aide's report.

Senator Glenn observed that in reviewing the report on this matter, Mr. Cornell had used the term "unsatisfactory" in connection with the probe by the Bureau of Criminal Investigation (BCI) into the allegations of sexual misconduct in connection with the educational release program. Mr. Cornell replied that the intent of his statement had been that Women's Reformatory Superintendent Wallman was not satisfied that enough information had been gathered in the course of the BCI investigation, and had asked for an additional investigation by the Citizens' Aide office. Mr. Cornell added he had not meant to say that the BCI investigation was in itself unsatisfactory.

Representative Cusack remarked that although the Legislative Council had on the previous day requested Mr. Cornell to appear before it this morning in connection with this matter, the Council members had learned most of the details by reading the morning newspaper. Mr. Cornell replied that the Citizens' Aide report had been released at 9:00 a.m. on the previous day, and that the request for him to appear before the Legislative Council had not been received until 3:35 p.m. He added that the intent had originally been to release the report on the previous Friday, December 16, but the Department of Social Services' response was not received earlier enough to permit that.

In response to a series of questions from Representative Cusack, Mr. Cornell described the manner in which the contract release program involving the Women's Reformatory and ICCC is handled. The inmates enrolled in ICCC courses are transported to and from the Fort Dodge campus by a state-owned van. They are delivered to the campus and picked up there for the return to the Reformatory, and there is no supervision during the time the inmate-students are on the campus at Fort Dodge. Mr. Cornell said that his investigation disclosed that contraband has been transported by inmate-students riding in the van, while concealed in the clothing or on the persons of the inmate-students. He added that while he has no certain knowledge of any such occurrences, it is quite possible that contraband could also have been concealed somewhere in the van and later retrieved at the Reformatory, since the van is not guarded nor stored in a secured area while parked at the Reformatory.

Mr. Cornell noted that the Citizens' Aide's report had included the recommendation that all of the inmate-students be subjected to searches of themselves and their possessions, including body searches when indicated, each time they return from the ICCC campus to the reformatory. He said the Department of Social Service's response to this recommendation had been that the recommendation is "excessive." Mr. Cornell expressed some surprise at this comment, noting that although the Women's Reformatory has been operated as a minimum security institution in the past, some of the inmates now there have been convicted of serious offenses and ought to be handled accordingly. He commented that body searches are routine at both the Men's Reformatory and State Penitentiary.

Representative Cusack expressed concern about the effects of drug and alcohol traffic at the Women's Reformatory, and inquired whether the BCI is assisting in the investigation of such matters. Mr. Cornell replied that the Citizens' Aide office has not thus far asked the BCI for assistance, adding that he believes his own investigative tools as Prison Ombudsman are adequate for the present. He stated, however, that he would refer any evidence of criminal activity to the BCI.

In response to a final question from Representative Cusack, Mr. Cornell indicated that the present allegations of homosexual activity at the Women's Reformatory are not essentially different from those which are constantly heard from inmates of penal institutions, except that they are being made in the context of the other difficulties which the Women's Reformatory has been experiencing. Mr. Cornell commented that when an inmate wishes to discredit another inmate for any reason, the two most common tactics are to charge the other inmate with being a "snitch" or a homosexual. However, he pledged that he would make a full investigation of the allegations.

Senator Berl Priebe, who was present at the meeting, requested recognition. There being no objection, he was recognized and noted that he chairs the Senate Budget Social Services Subcommittee. He summarized the findings of the joint Budget Social Service Subcommittee members who went to Rockwell City as a visitation committee, and said that he had intended to bring before the present Council meeting a request for authority for additional meetings of that group in connection with the situation at the Women's Reformatory. He expressed support for the concept of the educational opportunities program being conducted with ICCC, stating that efforts must be made to teach the inmates at the Reformatory marketable skills so that they may obtain lawful employment when they are released. However, he expressed concern about some of the staff personnel of the Women's Reformatory and asserted that the Department of Social Services should make changes in the personnel there.

Senator Kinley resumed the Chair at 9:50 a.m.

Senator Philip Hill stated that while the Women's Reformatory's ICCC educational opportunities program may be advisable, it does not appear to be legal. In response to his questions, Mr. Cornell replied that there are generally comparable programs at the men's institutions at Anamosa and Fort Madison, which involve area school personnel coming into the prison facilities. He acknowledged that it might be difficult to effect such an arrangement at the Women's Reformatory because of the smaller number of inmate-students there, but he noted that five of the eight women who have been transported to the ICCC campus to attend classes were committed to the Reformatory for shooting someone. He asserted that this is simply too great a risk to take in terms of protection of the community from potentially dangerous individuals.

Senator Philip Hill then inquired whether use of inmate-informants is an accepted practice in the Iowa prison system. Mr. Cornell replied that it does happen, but that it is dangerous to the inmates involved and the Citizens' Aide office tries to discourage the practice. He added that in any event, use of an inmate as an informant should never occur unless the informant can be given adequate physical protection.

In response to Senator Philip Hill's further questions, Ms. Mosher stated that it is very likely that her office will turn over to the BCI and the Attorney General the report on what she had identified as the second phase of the investigation at the Women's Reformatory. Mr. Cornell noted, however, that the male individual who had been involved in a sexual liaison with an inmate-student was granted immunity by the BCI in the course of its investigation.

Representative Stromer questioned the advisability of legislators attempting to solve problems of the kind under discussion, and said that he is not sure the Council should authorize additional meetings of the visitation committee as Senator Priebe had suggested. In response to a related question from Senator Eugene Hill, Mr. Cornell said that while a further investigation of the situation at the Rockwell City Reformatory could conceivably impede his function as prison ombudsman, he believes that it is more likely that inmates will feel free to respond to his questions than those posed by BCI agents because they do not identify Mr. Cornell as a law enforcement officer. He added that in any case such functions are a part of his duties, and he assumes it is his responsibility to carry them out.

Senator Glenn inquired when the Department of Social Services first became aware of the allegations of misconduct in connection with the educational opportunities program. Mr. Cornell said he believes this occurred around September 17 or 18, 1977, adding that the Citizens' Aide office learned of it a day or two later. Senator Glenn then raised the rhetorical question why executive branch agencies do not handle such matters themselves,

rather than taking little or no action until a legislative agency becomes involved. He asserted this had been the pattern of events at the Iowa Public Broadcasting Network, which is currently under investigation pursuant to action of the Legislative Council at its previous meeting. Mr. Cornell commented in response that the Department of Social Services is a very large agency, and that he believes such an agency ordinarily perceives no vested interest in "cleaning up a mess it created itself."

Senator Philip Hill then moved that the Council go on record as urging the Citizens' Aide office to continue its investigation of allegations of homosexual activity at the Women's Reformatory. He added he believes that Mr. Cornell's efforts are entirely within the scope of Chapter 601G of the Code.

Representative Fitzgerald expressed support for Senator Philip Hill's motion, commenting that the Budget Social Services Subcommittee should be kept informed. Representative Stromer agreed, commenting that the General Assembly created the Citizens' Aide office to carry out such functions, and the Council should encourage the office to proceed accordingly.

In response to a question from Senator Eugene Hill, Senator Philip Hill agreed that if clear evidence of illegal activity is obtained it should be turned over to the BCI and the Attorney General. He added he believes that Mr. Cornell can best pursue the investigation at the present time.

Senator Glenn suggested that the pending motion include a recommendation that the reports distributed to Council members at the present meeting, and any additional reports arising from the investigation of the Women's Reformatory, be transmitted to the Governor. Senator Philip Hill noted that the Code now permits the Citizen's Aide's office to do that, and he assumes it is their practice.

Senator Glenn formally moved the amendment he had just suggested, which was adopted by a voice vote.

Senator Priebe was again recognized, and stated that the Social Services Subcommittees were told that if an inmate talks to "the establishment" that individual eventually is punished. He expressed fear that this will happen again. Representative Stromer pointed out that one of the main purposes of having a Prison Ombudsman in the Citizens' Aide office is to avoid exactly this sort of thing.

Senator Philip Hill's pending motion, as amended, was then adopted unanimously.

Senator Kinley recognized Senator Norman Rodgers and Representative Lowell Norland, Chairpersons respectively of the Senate and House Ways and Means Committees. They presented the report of the joint Subcommittee on the Tax Study established

pursuant to H. F. 332 of the 1977 Session. There was considerable discussion of the report and the general property tax situation in the state.

Senator Nolting moved to receive the Tax Study Subcommittee report. After further discussion, the motion was adopted unanimously.

The meeting recessed at 10:45 a.m., and reconvened at 11:00 a.m. in Senate Committee Room 22.

Senator Rodgers and Representative Norland were again recognized to present the report of the joint Subcommittee on Renters' Credit. After a brief discussion, the report was received by a unanimous voice vote upon motion of Senator Nolting.

Senator Rodgers and Representative Norland then presented the report of the joint Subcommittee on County Fees and Equipment Car Tax. That report was also received by a unanimous voice vote on Senator Nolting's motion.

Senator Rodgers next presented the report of the Senate Subcommittee on Road Use Tax. After some discussion, Senator Nolting moved that the report be received. The motion was adopted unanimously.

Representative Norland then presented the reports of the House Subcommittees on Franchise Tax and on Full Disclosure of Real Estate Sales Prices, City Assessors and Appointment of Assessors. Upon motion by Senator Nolting, each of the reports was received by a unanimous vote.

Chairperson Kinley then recognized Senator Alvin Miller as Co-chairperson of the Special Study Committee on Tort Liability Problems of State and Local Government, to present a progress report from the Study Committee. Senator Miller noted that the study committee will hold another meeting on December 28, 1977. After some discussion, Senator Coleman moved that the Council receive the report. The motion was adopted unanimously.

Senator Palmer was recognized for a report from the Iowa Public Broadcasting Network (IPBN) Study Committee, established by the Council at its previous meeting. (See minutes of the Council's November 9, 1977 meeting, pages 6-8) The report, prepared by Senator Palmer's Administrative Assistant, Craig Palmer, was subsequently duplicated and distributed to Council members present. Additional copies are on file with the Legislative Service Bureau.

Senator Palmer noted that the Study Committee had met on November 21 and had scheduled a second meeting for December 14, but had cancelled the latter meeting at least in part because IPBN had not yet responded to a series of specific inquiries made by the Study Committee pursuant to its first meeting. Senator Palmer added that IPBN Acting Executive Director Hugh Cordier had advised

him on the previous day that IPBN had just begun to assemble the requested material, and that therefore it did not appear that it would be productive to schedule another meeting of the IPBN Study Committee prior to the convening of the 1978 Session.

In response to questions by Senator Eugene Hill regarding possible changes in the structure of IPBN, Senator Palmer noted that it is presently governed by a board of nine members, six of whom are appointed by and from other boards or agencies. Senator Palmer suggested that IPBN is a sufficiently important agency to merit the direct appointment of its governing board.

There was considerable discussion by Council members of the recent discharge of Mr. Michael Feld, the IPBN staff member who had been identified as the source of at least some of the information on the basis of which the Legislative Council had established the IPBN Study Committee. Representative Fitzgerald expressed concern that the discharge had been an act of retribution. Representative Cusack noted that although the members of the IPBN Study Committee had expressed serious concern about Mr. Feld's status on November 21, they were careful not to place themselves in the position of attempting to dictate or veto the action of the IPBN Board or its Acting Executive Director in a personnel matter. He added he is sure that the discharge of Mr. Feld will be discussed at the Study Committee's next meeting. Representative Middleswart noted that Mr. Feld had originally received his notice of termination from former Executive Director Thomas Ditzel, dated the same day on which Mr. Ditzel's resignation took effect. He raised the question of what should be the status of a discharge made by an administrator under such circumstances.

After further discussion, Senator Palmer moved that the progress report of the IPBN Study Committee be received by the Council. The motion was adopted unanimously.

Representative Cusack was next recognized, as Chairperson of the House Budget Committee, to present the report of the House Subcommittee on Appropriation of Federal Funds. At the conclusion of his presentation, Representative Cusack moved acceptance of the report. After some discussion, the motion was adopted by a unanimous voice vote.

Representative Cusack noted that the House Budget Subcommittee on Public Works Projects has not met thus far during the interim, but he stated that information is being gathered for this Subcommittee and that it will probably meet after convening of the 1978 Session.

Representative Cusack continued by presenting a report from the two House Special Subcommittees on University of Iowa Policy Research, in the areas of education and of policy relative to the elderly. Both of these reports were accepted by unanimous vote of the Council on motion of Representative Cusack.

Representative John Brunow, Chairperson of the House Budget Social Services Subcommittee, was recognized to present the report of the joint Subcommittee on the Title XX Study. The report was reviewed by Representative Brunow, with assistance of a series of transparencies displayed by means of an overhead projector. Council members posed a number of questions about Title XX, its administration in Iowa, and the Subcommittee's conclusions, which were addressed by Representative Brunow and by Representative Den Herder, ranking member of the House Budget Committee. At the conclusion of the discussion, the Council received the report by unanimous vote on motion of Representative Doyle.

Chairperson Kinley noted that the joint Budget Subcommittee on Banked Sick Leave has not met thus far. Senator Palmer stated that he anticipates this Subcommittee will meet shortly after convening of the 1978 Session, adding that preparations are being made to obtain the necessary actuarial assistance.

The meeting was recessed for lunch at 12:20 p.m., and reconvened in Senate Committee Room 22 at 1:35 p.m. All members of the Council who had attended the morning session were again present during the afternoon. Also present was Speaker Dale Cochran, who had been prevented by poor driving conditions from returning to Des Moines for the morning session.

Representative W. R. Monroe, Jr., Chairperson of the House Committee on State Government, was recognized to present the report of the joint Subcommittee on Obsolete Boards and Commissions. Council members briefly discussed the report. Representative Doyle moved its acceptance, and the motion was unanimously adopted.

Senator Minnette Doderer, Chairperson of the Senate Committee on State Government, was recognized to present the reports of the joint subcommittees on the Retirement Programs Study and on Open Meetings. Following her review of the Retirement Programs report, Council members addressed several questions to Senator Doderer. That report was then received by unanimous vote, upon motion of Representative Doyle.

Senator Doderer then presented a very brief progress report from the Open Meetings Subcommittee, which she noted was holding a meeting on the current date. She expressed optimism that the Subcommittee will develop a workable and effective revision of the current Iowa Open Meetings Law. On motion of Representative Doyle, that report was also received by unanimous vote.

Rep. John Patchett was then recognized as Co-chairperson of the joint Subcommittee on the Uniform Landlord-Tenant Act. He stated that the Subcommittee has devoted a large proportion of its time thus far to drafting a bill intended to protect the interests of mobile home tenants and added that, as the Council had earlier been informed, this bill had proved far more complex than had been anticipated. After a short discussion of the probable form of the

Uniform Landlord Tenant Act, which it is anticipated the Subcommittee will recommend, Representative Fitzgerald moved that the report be received. The motion was unanimously adopted.

Senator Kevin Kelly was recognized, and stated that he had been asked to present a report from the joint Subcommittee on Review of the Iowa Civil Rights Law in lieu of the Senate Co-chairperson, who had been prevented from attending the Council meeting by inclement weather. Upon conclusion of Senator Kelly's presentation, Council members directed to him a few questions regarding the Subcommittee's activities and its report. Senator Kelly noted that a public hearing on the Subcommittee's recommendations was to be held on the evening of the current date. He added that Subcommittee members would not claim per diem for this hearing, since the Subcommittee had used all of its authorized meetings previously. The Council voted unanimously to accept the report, upon motion of Representative Fitzgerald.

Speaker Cochran assumed the Chair at 2:00 p.m.

Representative Patchett was then recognized as Chairperson of the House Committee on Education, and presented the report of the joint Subcommittee on Equal Rights for Women in Education. After a brief discussion, the Council voted unanimously to receive the report upon motion of Senator Coleman.

Representative Patchett continued with presentation of the report of the joint Subcommittee on School Finance, Declining Enrollments, and certain related matters. He described in some detail the efforts and the conclusions of the Subcommittee. There was a discussion by Council members of the Subcommittee's recommendations, at the conclusion of which Senator Palmer moved that the report be received. The motion was adopted unanimously.

Speaker Cochran recognized Service Bureau Research Analyst Diane Bolender, who presented the report of the Senate Education Committee's Subcommittee on the Area Education Agency bill (H.F. 463). After addressing a few questions to Ms. Bolender regarding the report, it was received by unanimous vote of the Council on motion of Senator Palmer.

Speaker Cochran recognized Representative Craig Walter, Chair of the House Committee on Human Resources, who presented a brief summary of the recommendations being submitted to his committee by four of the five joint interim Human Resources Subcommittees which have functioned during the 1977 interim. The Subcommittees covered by the summary are those on nursing home costs, local public health departments, food stamps and juvenile services. The joint Subcommittee on the Mental Health Study, mandated by S.C.R. 14 of the 1977 Session, expects to report in February, 1978.

Representative Walter noted that the House Human Resources Committee was in session on the present date, and that he had left

that meeting temporarily to present this summary. Some of the written material provided to members of the House Human Resources Committee had not been distributed to Council members present. Representative Millen and Senator Philip Hill requested copies of this information, which were provided.

After additional comments by Representative Cusack regarding the Food Stamps Study, the Council voted unanimously to receive the Human Resources Committee report on motion of Senator Glenn.

Chairperson Kinley noted that the only item on the Council's agenda for the current two-day meeting which had not been disposed of was the report of the Council's Service Committee, which dealt with the appointment of an individual to the existing vacancy in the office of Citizens' Aide. He added that it had been agreed on the previous day to take the matter up this afternoon, but that Senator Hultman had become ill and he had advised Senator Hultman that the Council would not take up this matter in his absence. Accordingly, Chairperson Kinley stated the consideration of the Service Committee's report would be deferred to a future Council meeting.

On motion of Senator Coleman, the Council adjourned at 3:00 p.m.

Respectfully submitted,

SERGE H. GARRISON
Director

PHILIP E. BURKS
Senior Research Analyst