

M I N U T E S

IOWA LEGISLATIVE COUNCIL

September 8, 1971

The fourth meeting of the 1971-1973 Iowa Legislative Council was called to order by the Council Chairman, Representative Andrew P. Varley, at 10:20 a.m., Wednesday, September 8, 1971, in the Speaker's Room, State House, Des Moines. Members present for the meeting in addition to Chairman Varley were:

Senator Clifton C. Lamborn, Vice Chairman
Speaker William H. Harbor
Senator James E. Briles
Senator S. J. Brownlee
Senator Lee H. Gaudineer, Jr.
Senator Eugene M. Hill
Senator Vernon H. Kyhl
Senator Arthur A. Neu
Senator William D. Palmer
Representative Michael T. Blouin
Representative Dale M. Cochran
Representative Dennis L. Freeman
Representative Nathan F. Sorg
Representative Delwyn Stromer

Also present were Director Serge H. Garrison and Phil Burks of the Legislative Service Bureau staff, and a number of representatives of the news media and other interested persons.

On motion of Representative Stromer, the minutes of the August 11 Council meeting were approved as submitted to Council members.

The Council took up for further consideration the suggestion that an interim study committee, or a subcommittee of the standing Transportation Committees, be established to make a study of the legislation which would be required to comply with federal standards relating to highway beautification and billboard control, so as to avoid loss of any of Iowa's allocation of federal highway matching funds, and make a recommendation to the 1972 session regarding the desirability of adopting such legislation. This matter had been considered at the August 11 Council meeting, and deferred to permit informal consultation by Council members with legislators from other states at the National Legislative Conference. Speaker Harbor and Chairman Varley reported that it appears that most of the other states have not thus far complied with the federal highway beautification and billboard control standards, and Chairman Varley added that he had found considerable sentiment on the part of legislators from other states not to do so. Speaker Harbor suggested that the Council contact the Governor's office and determine what additional information, if any, has recently been received from the federal government regarding this matter. After further discussion, it was agreed to again defer the matter until the Council's next meeting.

Chairman Varley reported that he had received a communication from Senator Roger Shaff, Chairman of the Senate Ways and Means Committee, indicating that he and Representative Elmer Den Herder, Chairman of the House Ways and Means Committee, do not intend to appoint a joint subcommittee to carry out a study of methods of financial assistance to joint governmental agencies for providing area services on a need basis if feasible, as had been approved by the Council at its August 11 meeting. After a brief discussion, Representative Blouin moved that the Council establish a special interim study committee of six members to carry out this study. The motion was seconded by Representative Cochran.

Senator Lamborn stated that in view of recent developments, the study committee proposed by Representative Blouin's motion should also look into changes which should be made in assessment and revaluation of property for tax purposes. He expressed doubt that market value is always a fair standard on which to base taxation of property, particularly certain types of industrial and commercial property for which, by its nature, there is little or no ready market. Chairman Varley commented that there should also be a study of possible changes in approach to taxation of major industrial and utility properties, so that these would not be treated solely as a property tax resource of the particular units of local government in which they happen to be located. However, he suggested that this matter, and assessment and revaluation, should be assigned to a different study group, rather than being joined with the study of aid to local governments.

After further discussion, Chairman Varley suggested that the study committee proposed by Representative Blouin's pending motion be given until January, 1973 to complete its work, and that the words "if feasible" be dropped from the motion establishing the study committee. Senator Gaudineer questioned the advisability of dropping the words "if feasible", pointing out that this terminology had been added by the Council on August 11 out of concern that a shift to a pure need basis for state aid to local governmental units would place small communities at a disadvantage, as opposed to distribution of aid on a per capita basis, because it would be more difficult in many cases for smaller communities to make a satisfactory showing of need. Representative Cochran then said that he would prefer to drop all reference to distribution of aid on a need basis from the motion, and leave consideration of this aspect of the matter entirely to the study committee's discretion.

It was then agreed, with the consent of Representatives Blouin and Cochran, to rephrase the pending motion to provide that the Council establish a special interim study committee to conduct a study of methods of providing financial assistance to local governmental agencies for providing area services. The study

committee shall be composed of three senators and three representatives, and shall be directed to submit its report to the Council prior to the convening of the first session of the Sixty-fifth General Assembly in January, 1973. .

Representative Blouin moved to amend his motion so as to increase the size of the study committee to ten members. The motion to amend was seconded by Representative Cochran, but was defeated on a vote of seven ayes to eight nays. Those voting aye were Senators Lamborn, Gaudineer, Hill, Kyhl, and Palmer, and Representatives Blouin and Cochran; those voting nay were Chairman Varley, Speaker Harbor, Senators Briles, Brownlee and Neu, and Representatives Freeman, Sorg, and Stromer.

Senator Gaudineer then moved to amend Representative Blouin's motion so as to state that the proposed study shall be financed from the Legislative Service Bureau budget subject to approval of a supplemental appropriation to the Bureau at the 1972 session of the General Assembly. Chairman Varley ruled the motion out of order, pointing out that since the proposed study would be conducted by a special interim study committee rather than a subcommittee of standing committees, it would in any case be financed from the Service Bureau budget.

Representative Sorg moved, as a substitute for Representative Blouin's motion, to defer action on the proposed study until a later meeting in order to permit further consideration of the entire matter by Council members. Representative Sorg stated, in discussing his motion, that he believes it is a mistake to bypass the standing Ways and Means Committees in conducting such a study. Representative Blouin responded that the standing Ways and Means Committees had been given an opportunity to conduct the study, and had indicated to the Council Chairman that they do not intend to do so. Senator Lamborn commented that it is his understanding that the Ways and Means Committee chairmen decided not to appoint a subcommittee to undertake the study because they felt that the limitation the Council had placed on the number of meetings the subcommittee could hold was unrealistic.

Speaker Harbor asked Mr. Garrison whether the Office for Planning and Programming is presently doing any studies in areas related to that proposed by Representative Blouin's motion. Mr. Garrison stated that he did not know, but would place a telephone call to the Director of the Office for Planning and Programming and report back to the Council later in the day. Representative Sorg's substitute motion was then deferred temporarily.

Senator Lamborn moved that the Council authorize the standing Ways and Means Committees to establish an eight-member joint subcommittee, to be authorized as many meetings as necessary,

to conduct a study of revaluation and assessment procedures, and of the method of taxation of utility and industrial property, and report not later than January 10, 1972. The motion was seconded by Senator Kyhl.

Representative Stromer expressed the belief that the area which the proposed new subcommittee would study logically falls within the jurisdiction of the Property Tax Exemption Subcommittee of the joint Ways and Means Committees which the Council has already authorized for the present interim. Senator Lamborn responded that even if the Property Tax Exemption Subcommittee confines itself very narrowly to that one area, it will have all the work it can complete in the allotted time if each existing exemption is carefully studied and justification for it evaluated. Senator Gaudineer expressed agreement with Senator Lamborn on this point.

Representative Sorg objected to the portion of Senator Lamborn's motion directing the proposed subcommittee to report to the 1972 session of the General Assembly, explaining that he believes this is not enough time to adequately cover the topics to be assigned to the subcommittee for study. Senator Hill agreed, and added that some way must be found to insulate the revaluation process from political pressure.

Senator Gaudineer suggested that, as a compromise, the proposed subcommittee be instructed to submit a report and recommendations with respect to revaluation and assessment procedures not later than January 10, 1972, but that it be given until January, 1973 to complete its study of taxation of utility and industrial property. Senator Lamborn said that Senator Gaudineer's suggested compromise was acceptable to him, and Senator Gaudineer then moved that the motion before the Council be so amended, as a substitute for Representative Sorg's pending amendment. Senator Gaudineer's substitute amendment was adopted on a vote of ten ayes to five nays. Those voting aye were Chairman Varley, Senators Lamborn, Briles, Brownlee, Gaudineer, Kyhl, Neu, and Palmer, and Representatives Blouin and Cochran; those voting nay were Speaker Harbor, Senator Hill, and Representatives Freeman, Sorg, and Stromer.

Senator Lamborn's motion, as amended, was then adopted on a vote of eleven ayes to four nays. Those voting aye were Chairman Varley, Speaker Harbor, Senators Lamborn, Brownlee, Gaudineer, Kyhl, Neu, and Palmer, and Representatives Blouin, Cochran, and Stromer; those voting nay were Senators Briles and Hill, and Representatives Freeman and Sorg.

The Council then resumed consideration of Representative Sorg's substitute for Representative Blouin's motion regarding a

study of financial assistance to local governments for provision of area services. Mr. Garrison reported that he had contacted the Office for Planning and Programming, and had been informed that they have no study in this or any related area under way at the present time, and do not anticipate conducting any such study within the foreseeable future.

Representative Cochran pointed out that the Council had voted in favor of a study in this area at the August 11 meeting, and inquired why Representative Sorg now wishes to defer the matter. Representative Sorg replied that he does not believe there is adequate time to properly conduct such a study prior to the convening of the 1972 session of the General Assembly. Representative Cochran pointed out that under the terms of Representative Blouin's motion as restated, the proposed study committee would be given until January, 1973 to report. Representative Sorg then withdrew his substitute motion.

Representative Blouin's motion, as restated, was then passed by a vote of thirteen ayes to two nays, the nay votes being cast by Representatives Freeman and Stromer.

Senator Gaudineer requested that Mr. Garrison prepare and distribute to Council members an analysis of the number of special interim study committees established by the Council as of the close of the present meeting, the number of meetings each is expected to hold, and the anticipated deficit in the Legislative Service Bureau budget for the current fiscal year. Mr. Garrison agreed to do so, although he pointed out that the projection of the number of meetings each study committee is expected to hold would in some instances be largely guesswork.

Chairman Varley noted that he had received from Senator Roger Shaff, Chairman of the Senate Ways and Means Committee, a letter requesting authorization for establishment of a joint subcommittee of the Senate and House Ways and Means Committees to meet twice during the present interim, for the purpose of perfecting Senate File 575, a bill presently on the Senate calendar. Copies of Senator Shaff's letter to the Legislative Council were distributed to Council members, and a copy is attached to and by this reference made a part of these minutes.

Representative Cochran stated that in his view there is relatively little work remaining to be done on Senate File 575, and the necessary revisions can easily be worked out after the 1972 legislative session convenes. He therefore moved that the Council postpone action on Senator Shaff's request. The motion was adopted by a voice vote, Representative Sorg voting no.

Chairman Varley called for progress reports from interim study committees and subcommittees. Mr. Garrison reported briefly

on the number of meetings held to date, and the meetings scheduled for future dates.

Representative Sorg reported that the Assistance Grants Study Committee held its organizational meeting on August 30, at which time Senator Quentin Anderson was elected permanent Chairman and Representative Sorg was elected Vice Chairman. Representative Sorg stated that House Concurrent Resolution 48 which requested that the Assistance Grant Study Committee be established, had been in error in stating that "over two hundred seventy-seven million dollars has been appropriated for the next fiscal year as the state's share of payments for the categorical assistance programs," whereas in fact the appropriation was twenty-seven million seven hundred thousand dollars. In conclusion, Representative Sorg pointed out that the categorical assistance programs are controlled to a great extent by federal laws and regulations, so that it would not be useful for the Study Committee to recommend to the General Assembly any major changes in these programs. However, he stated the Study Committee will recommend such improvements as it finds can be made through state law.

Senator Gaudineer reported that the Criminal Code Review Study Committee, which has been continued from the previous interim, is making what he termed "slow progress". He stated that the Study Committee is presently engaged in reviewing and making substantive changes in the fourth draft of the proposed new criminal code. He stated that the present rate of progress does not appear adequate to permit the Study Committee to present a final report on all aspects of its work in January, 1972. In response to a question from Chairman Varley, Senator Gaudineer stated that he personally would favor presenting the Criminal Code Review Study Committee's report by divisions, so that a portion of the recommendations could be submitted to the 1972 session for action while the Study Committee continues to work on the remainder of its report, but expressed belief that the full Study Committee is not so inclined at this time. However, he added that the state constitutional prohibition against bills with more than one subject may prevent consideration of all of the Study Committee's recommendations in one package in any case.

Mr. Burks reported that the Mental Health and Juvenile Institutions Study Committee, which he and Mrs. Martha Frevert of the Legislative Service Bureau are staffing, held its organizational meeting on September 2. Representative Edgar H. Holden was elected permanent Chairman and Senator Earl Bass was elected Vice Chairman of the Study Committee. It was decided to regard the Legislature's directive to study juvenile institutions as meaning only the Toledo and Annie Wittenmyer homes, not the juvenile correctional institutions at Eldora and Mitchellville, at least for the present period. Subsequent meetings have been scheduled for the September 22 and October 4. Mr. Dale Ball, who

served on the Governor's Economy Committee with particular responsibility of the study of mental health institutions, a number of county officers with knowledge of and responsibility for arranging to meet local mental health care and needs, and two district judges with juvenile court experience have all been invited to meet with the Committee on September 22 in Des Moines.

Senator Lamborn reported that he was named permanent Chairman and Representative Donald V. Doyle was elected Vice Chairman, of the Penal and Correctional Institutions Study Committee at its organizational meeting. At that meeting, Director Nolan Ellandson of the Department of Social Services' Bureau of Adult Corrections Services gave the Study Committee general background information on penal and correctional institutions in Iowa. The next meeting is scheduled to be held at the Ft. Madison Penitentiary, and at that time the Study Committee will meet with prisoners to obtain their views and will also tour the facility. In the discussion that followed, several Council members expressed concern about who will select the prisoners to meet with the Study Committee and how they will be selected, and what arrangements have been made for the meeting at Ft. Madison to assure both adequate security and an opportunity for the prisoners to express themselves freely without fear of being penalized in any way for providing information to the Study Committee.

Chairman Varley called attention to a letter that had been received by Mr. Garrison from Warden Lou V. Brewer of the Ft. Madison Penitentiary, relating to certain problems which had arisen in connection with plans to appoint a prisoner at the penitentiary as an advisory member of the Penal and Correctional Institutions Study Committee. A copy of Warden Brewer's letter is attached to and by this reference made a part of these minutes. Senator Lamborn commented that Warden Haugh of the Anamosa Reformatory had not indicated that any such problems would arise in connection with having a prisoner from that institution serve as an advisory member of the Study Committee. After some discussion, it was agreed to defer the matter until further information could be obtained from Warden Brewer.

Chairman Varley called a short meeting of the Council's Studies Committee for the Speaker's Room at 1:00 p.m. on the present day. The Council recessed for lunch at 12:00 noon and reconvened at 1:45 p.m. in the Speaker's Room, with all members present who had been present for the morning session, except Senator Gaudineer. Also present for a portion of the afternoon session was Representative Floyd H. Millen, Chairman of the House Human and Industrial Relations Committee.

The Council took up the report of the Studies Committee, as reflected by the minutes of the September 9 meeting of the Studies Committee, a copy of which is attached to and by this

reference made a part of these minutes. The Council approved the recommendations of the Studies Committee regarding replacement of legislators who have indicated they are unable to serve on the Building Code Study Committee and the Penal and Correctional Institutions Study Committee.

Senator Lamborn noted that the Council had originally established a policy that the number of advisory members appointed to any one special interim study committee shall not exceed one-half the number of legislators serving on the study committee. He requested that the Council depart from this policy with respect to the Penal and Correctional Institutions Study Committee only, because it has been decided that a prisoner from each of the three state adult correctional institutions should serve as an advisory member, and legislators serving on the Study Committee feel that there should be more than two additional advisory members. After a brief discussion, the Studies Committee's recommendations regarding appointment of advisory members to the Penal and Correctional Institutions Study Committee were approved.

On motion of Representative Stromer, seconded by Senator Kyhl, the Council approved the recommendations of the Studies Committee regarding appointment of advisory members to the School Systems and Standards Study Committee.

On motion of Senator Kyhl, seconded by Senator Brownlee, the Studies Committee's recommendation for reappointment of Charles Vanderbur to the Criminal Code Review Study Committee was approved.

On motion of Senator Lamborn, seconded by Senator Cochran, the Studies Committee's recommendations regarding appointments to the special interim committee to study financial assistance to local governments were approved.

The Council then resumed hearing progress reports from study committees. Representative Stromer reported that the School Systems and Standards Study Committee had elected Senator Charlene Conklin as permanent Chairman and Representative Charles Grassley as its Vice Chairman. Director Leroy Petersen and Mr. Robert Buck, a member of the Governor's Educational Advisory Committee, had attended the first meeting of the Study Committee and had presented information indicating that a sharply lower number of children in the under five year old age range will present a considerably different situation with respect to utilization of school facilities within the next few years. Representative Stromer also noted that the Study Committee may, at a future date, request Council approval to bring in a consultant on a paid basis from Madison, Wisconsin, to assist the Study Committee if it decides to go more deeply into the manner of providing regional educational services.

Senator Hill reported that the Department of Transportation Study Committee held its organizational meeting on September 7, electing Representative Richard Drake as permanent Chairman and Senator John Walsh as Vice Chairman. The Office for Planning and Programming had made a presentation with respect to its work in this area, which has been fairly extensive. Senator Hill noted that some states have a "department of transportation" in name only, one having as few as eight employees, whereas the type of department contemplated in the work which the Office for Planning and Programming has done would create a state department with over five thousand employees. Senator Hill also expressed concern that the federal government may bypass the state level entirely, in the matter of transportation, if the state does not develop a department that has an agency to handle urban mass transit. Senator Hill noted that matters which had been considered by the Study Committee at its first meeting included what agencies of state government should be included in any future Department of Transportation, and whether a constitutional amendment to broaden permissible use of motor vehicle fuel tax revenues might be desirable. It was also noted that the Study Committee had decided to appoint subcommittees to work with the various executive branch agencies which would be involved if it were decided to establish a Department of Transportation.

Chairman Varley called for reports from subcommittees of standing committees. He first recognized Representative Millen, who stated that as Chairman of the House Human and Industrial Relations Committee he wished to request authorization to establish a joint six-member subcommittee with authority to hold three meetings during the present interim, to develop enabling legislation which will permit more adequate regulation and control of carnival rides and similar devices. Representative Millen noted the concern which has been expressed by the Governor and others with respect to the number of personal injury accidents which have occurred in recent months involving carnival rides and other such devices. On motion of Speaker Harbor, seconded by Representative Cochran, Representative Millen's request was approved.

Senator Palmer reported on the most recent meeting of the Commerce Commission Subcommittee, noting that another meeting was scheduled for Friday, September 10. Senator Palmer stated that State Auditor Lloyd Smith and several present and former State Commerce Commission officials had appeared before the Subcommittee at that meeting, and that on the basis of the information presented it appeared that some of the office procedures of the Commerce Commission were inadequate and unbusinesslike. At the request of Representative Blouin, Senator Palmer discussed his own impressions of the Commerce Commission study to date, commenting that at the most recent meeting he had asked the former head of the Commission's Utilities Division what he felt his responsibilities to the consumer were, and that the reply had been to the effect

that this officer's role should be neutral, with no greater responsibility to consumers than to the utility companies. Senator Palmer indicated that he disagrees with this point of view.

Representative Sorg, reported that the Nursing Home Subcommittee of the joint Social Service Committees had held the first of its two allotted meetings on Friday, September 3. At that time, the attendance was so much greater than expected that it was necessary to move the meeting from the Speaker's Room to the Legislative Dining Room, and even there the available area was quite crowded. This made it very difficult for the Subcommittee to function effectively, but it was made quite apparent that there is considerable dissatisfaction on the part of some nursing home operators, and of county home operators and county officers, with the proposed new nursing home rules which would implement the revisions in the nursing home law passed by the Sixty-third General Assembly in 1970. It was noted that the opposition appears to be much stronger on the part of operators of older nursing homes which were constructed prior to 1957, and have until now been exempted from some of the structural requirements imposed on homes of more recent construction. Since most county homes were constructed well before 1957, the persons and county officers involved with operation of county homes are apparently almost all opposed to the proposed new rules. Representative Sorg concluded by stating that it appears that it will probably be necessary to request Council authority for the Nursing Homes Subcommittee to have one or two extra meetings in addition to the two originally authorized by the Council.

Mr. Garrison reported that the Tax Exemption Subcommittee of the standing Ways and Means Committees had held its first meeting on August 31. For study purposes only it had been agreed to operate from the assumption that none of the existing property tax exemptions should be continued unless they could be justified.

Speaker Harbor presented the report from the previous day's meeting of the Council's Legislative Procedures and Facilities Committee, a copy of which is attached to and by this reference made a part of these minutes. He noted that the Capitol Planning Commission had informed the Committee that it has no specific plans for allocation of space within the Capitol Building, but rather has concerned itself primarily with development of the overall Capitol Complex.

Speaker Harbor moved that the Council endorse the first of the two motions approved on the previous day by the Procedures and Facilities Committee, as shown in the Committee's attached report. The motion was seconded by Representative Sorg, and unanimously adopted.

Speaker Harbor then moved that the Council also endorse the second of the motions approved on the previous day by the Procedures and Facilities Committee, with the deletion of the words "and work commenced", appearing in the Committee's attached report, which he stated did not accurately reflect the intent of the Committee's action on the previous day. The motion was seconded by Representative Cochran and unanimously adopted.

Some Council members expressed continuing concern regarding the need for improved ladies restroom facilities in or near the legislative chambers, and office for legislators in the State House.

The meeting was adjourned at 2:55 p.m.

Respectfully submitted,

SERGE H. GARRISON
Director

PHILIP E. BURKS
Senior Research Analyst