

M I N U T E S

Iowa Legislative Council

November 12, 1969

The sixth meeting of the 1969-71 Legislative Council was called to order by the Council Chairman, Senator Elmer F. Lange, at 10:10 a.m., Wednesday, November 12, 1969, in the Speaker's Room, State House, Des Moines, with the following members present:

Lt. Governor Roger W. Jepsen
Senator James E. Briles
Senator Andrew G. Frommelt
Senator Eugene M. Hill
Senator Arthur A. Neu
Senator George E. O'Malley
Senator Robert R. Rigler
Representative Dale M. Cochran
Representative William J. Gannon
Representative Charles P. Miller
Representative Leroy S. Miller
Representative Nathan F. Sorg
Representative Andrew P. Varley

Also present were Director Serge Garrison and Phil Burks of the Legislative Service Bureau staff, and several representatives of the news media.

The Chairman noted the presence of a quorum. In the absence of requests for additions or corrections to the minutes of the October 15 meeting, they were declared approved as submitted to Council members.

Chairman Lange stated that all study committees would be asked to have their reports and recommendations completed by December 1, so that the Council could act upon them at its regular meeting in December. He added that it would probably be necessary for the December Council meeting to cover two days in view of the volume of material which presumably would be presented to the Council for its consideration.

There was a discussion of the procedure to be followed in preparation for the 1970 session of the General Assembly. Chairman Lange pointed out that the 1970 session would convene two months from the date of the present meeting, and stated it is therefore almost mandatory that the Council be in a position to review the reports and recommendations of all the special study committees at its December meeting. It was pointed out that some

of the study committees had already scheduled meetings for the first week in December, so that it would probably not be possible to have reports and recommendations completed by December 1. Chairman Lange agreed that this might not be possible in every case, but said that Council members should receive copies of the study committee reports and recommendations in advance of the December meeting so that they can become familiar with the material before the meeting.

After a brief discussion, it was agreed that the Legislative Council will hold its next meeting on Tuesday, December 16, continuing on Wednesday, December 17, 1969. The meeting will convene at 9:30 a.m. on the 16th.

Senator Frommelt raised the question of the status of the various subcommittees of standing committees of the Senate and House of Representatives which are functioning during the present interim. He stated that in some cases meetings are being held at various points around the state which are represented as the official meetings of subcommittees of standing Legislative committees, although the Council has never approved these meetings. Several Council members commented to the effect that chairmen of standing committees may not establish subcommittees to meet and carry on legislative business during the interim without Council approval. Senator Frommelt replied that this is true only to the extent that members of such subcommittees wish to be reimbursed for their expenses and paid per diem. He added that, in his view, no standing committee chairmen should have authority to establish a subcommittee without authorization from the full membership of the standing committee involved.

Chairman Lange observed that any legislator or group of legislators has the right at any time to make statements, hold meetings, and seek and receive the suggestions and opinions of any individual or organization, without the necessity of seeking anyone's permission to do so. The only restriction is that no legislator or group of legislators may claim per diem nor seek reimbursement for expenses incurred in the course of such activities unless the meetings involved have been authorized in advance by the Legislative Council.

Senator Hill and Representative Charles Miller initiated a discussion of the manner in which special interim subcommittees of standing committees will conclude their work and submit their reports and recommendations. There was general agreement by Council members that such subcommittees may not report bills directly to the General Assembly, but must go through their respective parent standing committees. The only alternative would be for the individual legislators serving on any such subcommittee to submit a bill in their own names, but in this event the bill would be referred to the proper standing committee upon introduction in the same manner as any other bill introduced by one or more individual legislators. Senator Hill suggested that, in future interims, the Council not

authorize the establishment of any special interim subcommittee of a standing committee unless the request for Council authorization to establish the subcommittee has been approved prior to the adjournment of the session by the full membership of the parent standing committee.

Representative Charles Miller inquired whether the special interim subcommittees which are presently functioning by authorization of the Council will be asked to report to the Council in the same manner as the study committees established pursuant to resolutions of the General Assembly. Chairman Lange expressed the view that such subcommittees are in fact responsible directly to their respective parent standing committees and that the Council has no authority to approve or disapprove the reports or recommendations of special interim subcommittees, but that the Council nevertheless has a responsibility to keep itself informed of the work done and the reports and recommendations prepared by such subcommittees. He added that the chairmen of special subcommittees which have been functioning during the present interim should therefore be asked to present reports to the Council during the December 16-17 meeting.

Representative Gannon inquired whether the chairmen of each of the legislative study committees and special interim subcommittees will have the responsibility for presenting the report of his committee or subcommittee at the December 16-17 Council meeting, even if the chairman is not a member of the Council. Chairman Lange replied that it is his hope that this arrangement will be followed in all cases and, in reply to a further question by Representative Gannon, stated that minority reports will be accepted by the Council. Representative Gannon then inquired whether the legislators appearing to present minority reports will be compensated in the same manner as committee chairmen who are not Council members.

In the discussion which followed, Senator Neu expressed the view that the Council has the discretion to authorize payment of per diem and reimbursement for expenses to any legislator appearing to present a minority report, if it so desires. After further discussion, Representative Leroy Miller moved that the Council agree to accept not to exceed one minority report from each legislative study committee or special interim subcommittee; that one member of any such committee or subcommittee be recognized during the December 16-17 meeting for the purpose of presenting a minority report for a period not to exceed one-half the length of time for which the chairman of such committee or subcommittee is recognized for the purpose of presenting the majority report; and that the chairman of any such committee or subcommittee or his designee presenting the majority report of any such committee or subcommittee, as well as one member of any such committee or subcommittee appearing to present a minority report, if any, receive per diem and reimbursement for expenses for one day, provided that any member of a committee or subcommittee who intends

to present a minority report so notify the Legislative Service Bureau in writing in advance. The motion was seconded by Representative Sorg, and adopted unanimously.

Senator Frommelt raised the question whether standing committees may prefile bills or joint resolutions under section 18 of H.F. 390 of the Sixty-third General Assembly. Chairman Lange and Senators Rigler and Neu expressed the view that, in view of the second sentence of section 18 ("Each house may approve rules for placing prefiled standing committee bills or joint resolutions on its calendar."), and the fact that neither house has adopted such a rule, there is no basis for standing committees to prefile bills or joint resolutions prior to the 1970 session.

Chairman Lange called for presentation of progress reports by each of the special study committees established pursuant to resolution of the General Assembly. Mr. Garrison reported on behalf of the Collective Bargaining Study Committee, stating that several controversial areas are being considered as the Committee reviews various bill drafts prepared by the Legislative Service Bureau. There have been no final decisions to date, but it is anticipated that the study will be completed.

Representative Leroy Miller reported on the progress of the Highway Commission Study Committee. Most of the work of this Committee has continued to be done in the three subcommittees into which the Committee is divided, although a meeting of the full Committee was held on October 22. The Committee's Subcommittee on General Operations expects to recommend to the full Committee bills to (1) place within one agency the responsibility for enforcement of various laws and regulations relating to operation of motor trucks which are now enforced by the Highway Commission, the Motor Fuel Tax Division of the Department of Revenue, the Commerce Commission, and the Department of Public Safety; (2) revise sections 313.4 and 313.5, Code of Iowa (1966), relating to allocations to the Highway Commission for various purposes from the Road Use Tax Fund; and (3) provide for fines for violation of over-dimensional load permits. Representative Leroy Miller added that, although the General Operations Subcommittee objects to the fact that more than two years elapsed after the effective date of the 1967 legislation relating to restoration of county roads used as haul roads in connection with Highway Commission construction projects, the legislation has now been implemented to the apparent satisfaction of the counties and therefore it is not anticipated that the Subcommittee will recommend further action in this area at this time.

Mr. Burks stated that the Land Use Policies Subcommittee of the Highway Commission Study Committee had, on October 22, submitted a number of recommendations to the full Committee. Among these was a recommendation for adoption of a revised version of H.F. 188 of the Sixty-second General Assembly, the bill drawn by former Representative Ray Bailey of Wright County to prohibit construction of new diagonal highways for distances in excess of

five miles. The principal revision recommended by the Land Use Policies Subcommittee would allow construction of such diagonal highways with the specific approval of the General Assembly. Mr. Burks further stated that the Highway Commission Study Committee's third Subcommittee, the Subcommittee on Employment Policies, had earlier in the fall received considerable testimony relating to the dissatisfaction of some Highway Commission employees with the manner in which the merit employment system has been implemented. More recently, the Employment Policies Subcommittee has heard extensive testimony on the question of how Highway Commission legal counsel should be appointed and to whom the legal counsel should be responsible, but has not yet made a recommendation on this matter.

With respect to the Federal Highway Programs Study Committee, Representative Leroy Miller stated that the Committee is working specifically on a relocation and assistance bill, which must be passed by July 1, 1970 if Iowa is not to lose its allocation of federal highway funds. Mr. Garrison stated that this Committee has also identified the areas in which legislation may be necessary in order for Iowa to comply with the requirements of the Federal Highway Safety Act, and believes it has identified those areas to which greatest priority must be given. However, it now appears that the federal government may interpret the requirements of this Act with greater flexibility than had formerly been suggested. Senator Rigler stated that the Committee had, at its most recent meeting, heard a presentation by a subsidiary of RCA which proposed to build, staff, and operate a series of motor vehicle testing stations on the basis of a contract with the state. The firm would carry out the motor vehicle inspections which will eventually be required under provisions of the Federal Highway Safety Act, but would not perform any repair work. Senator Rigler commented that the proposal appears to be worthy of careful study.

Representative Charles Miller summarized the most recent meeting of the Medicaid Study Committee, held November 5-6. He stated that it appears that the Department of Social Services may have to request another deficiency appropriation for the Medicaid program. He and Mr. Burks outlined the major provisions of the 1967 Iowa Medical Assistance Act and relevant federal laws and regulations governing eligibility for Medicaid, the implications of the recent federal court ruling in the Dimmery case, and other problems which have caused the cost of the Medicaid program to exceed estimates. Council members discussed these matters at some length. At the conclusion of the discussion, Lt. Governor Jepsen suggested that the information which had been orally presented by Representative Charles Miller and Mr. Burks be summarized as briefly as reasonably possible, and made available to all members of the General Assembly. Council members expressed general agreement with this suggestion.

The meeting was recessed at noon, and reconvened at 1:30 p.m. in the Speaker's Room. All Council members who had

been present for the morning session were also present for the afternoon session.

Senator O'Malley reported for the Criminal Code Review Study Committee, stating that the Committee has organized a number of subcommittees which are now functioning, but that the Committee will not be in a position to make recommendations to the 1970 session of the General Assembly. Mr. Garrison stated that it is anticipated that the Committee will present a progress report. He added that \$5,000 of federal money was obtained, with the assistance of the Iowa Crime Commission, to finance the work of the Criminal Code Review Study Committee for the period ending December 31, 1969, and that an allocation of \$50,000 of federal money is being requested for the Committee for 1970.

Representative Sorg reported on the progress of the Municipal Laws Review Study Committee, stating that an attempt will be made to prepare a preliminary report to the 1970 session of the General Assembly but that the Committee's work will be far from complete at that time. He added that it has begun to appear that the Committee's final product will be "a little combination and a lot of deletion" of provisions of the present Iowa Code. The Committee's full recommendations should be ready for presentation to the 1971 session of the General Assembly, but in the meantime it is likely that the Cities and Towns Committees of the Senate and House of Representatives will be very reluctant to amend or add to the existing statutes relating to municipal governments.

In answer to a question by Representative Charles Miller, Representative Sorg stated that although it had originally been anticipated that some recommendations would be made by the Municipal Laws Review Study Committee to the 1970 session, it now appears that few, if any, recommendations will be made. The reason for this is that it has been found that nearly all of the areas of the Committee's work are interrelated with and that the Committee's final recommendation should be presented as a complete package in order to reduce the likelihood of conflict or inconsistency. Representative Charles Miller pointed out that many of Iowa's cities and towns are experiencing increasingly troublesome financial problems, and that members of the 1969 session were told that the General Assembly should defer any action in this area until the existing municipal statutes could be brought into harmony with the newly adopted home rule amendment. He added that he is fearful, on the basis of Representative Sorg's statements, that the 1970 session will be told essentially the same thing. Representative Sorg expressed the view that while it would not be desirable to amend or add to the statutes which the Municipal Laws Review Study Committee is attempting to revise and recodify, the power delegated to cities and towns by the home rule amendment does not extend to the taxation and there should therefore be no reason why the 1970 session cannot act in this area if it chooses to do so.

With reference to the subject of revenue for local

governments, Chairman Lange expressed belief that the Bank and Financial Institutions Taxation Subcommittee of the joint Standing Committees on Ways and Means, of which he is a member, will recommend an increase in bank taxes. However, he stated that the Subcommittee will in all probability recommend that the revenue so derived be distributed back to the political subdivisions of the state in the same general proportions as are applied to the revenue raised by existing bank taxes.

Senator Briles reported that the Eminent Domain Study Committee will hold its next meeting on Monday, November 17, and that the Committee is now at the point where it is ready to begin adopting recommendations to be made to the 1970 session of the General Assembly. Representative Charles Miller inquired whether the Committee has taken into account reported new federal regulations in the area of pipeline safety. Representative Gannon, who also serves on the Eminent Domain Study Committee, reported that the Committee has touched on this area only briefly. Senator Frommelt expressed belief that the most important aspect of pipeline safety is assurance that shutoff valves are installed at reasonable intervals along the route of a pipeline.

Senator Briles stated that some consideration has been given to assigning the General Assembly a more direct role in delegation of Eminent Domain power to specific firms for specific purposes. Several Council members expressed some skepticism about the desirability of such a move. Representative Gannon explained that the possible recommendation to which Senator Briles had referred is based upon a feeling that the Commerce Commission has not been sufficiently restrictive in granting Eminent Domain power to private firms.

A report on the progress to date of the Environmental Preservation Study Committee was presented by Representatives Cochran and Varley. Representative Cochran, a member of the Committee's Air and Water Pollution Subcommittee, again expressed concern about the Air Pollution Control Commission's ban of all open burning, other than that done by private individuals in their own yards, effective in April, 1970, to which he had made reference at the Council's previous meeting. (See minutes of October 15, Council meeting, page 3) He also stated that the Subcommittee is considering endorsement of two pieces of pending legislation, H.F. 519 and H.F. 17 (the "conservancy district" bill). He stated that the Subcommittee has been informed that there are three major sources of water pollution in Iowa: industry, municipalities, and agriculture. The first two are under control for all practical purposes, but agriculture is not.

Representative Varley, Chairman of the Environmental Preservation Study Committee's Chemical Safety Subcommittee, briefly reviewed some of the Subcommittee's probable recommendations to the full Committee. He echoed Representative Cochran's comments regarding the pollution problems created by soil erosion, explaining that the pollutants involved are not only the silt itself but chemical residues from fertilizers and pesticides which are

carried into streams with the silt during times of heavy runoff. He added that if farmers will not face up to restricting soil loss from their land, they may have to accept strong restrictions on the use of agricultural chemicals.

Representative Sorg, Senator Frommelt, and Representative Gannon directed to Representatives Cochran and Varley a number of specific questions regarding the progress of the Environmental Preservation Study Committee's work. Council members discussed for some time the question of tighter controls on use of certain types of chemicals, and how these controls might best be established and enforced.

Chairman Lange directed that copies of the letter to Senator O'Malley from Senator Henry M. Harren, Chairman of the Minnesota State Senate Civil Administration Committee, be distributed to Council members. A copy of Senator Harren's letter is attached to and by this reference made a part of these minutes. Senator O'Malley moved that Chairman Lange be given authority to appoint two persons to attend the December 15 meeting in St. Paul, Minnesota, to which reference is made in the letter, and that they be paid per diem and expenses for attending the meeting. The motion was seconded by Senator Frommelt and unanimously adopted.

Copies of Proposed Rules for Prefiling Legislative Bills, drawn up by Mr. Garrison in consultation with Mr. Carroll Lane and Mr. William Kendrick, Secretary of the Senate and Chief Clerk of the House, were distributed to Council members and briefly reviewed by Mr. Garrison. Senator Hill inquired what is proposed to be done about new bills which standing legislative committees request prior to the 1970 session. Mr. Garrison replied that the Legislative Service Bureau will draft such bills at the request of standing committees, but the manner of handling such bills after they are drafted and returned to the requesting committee is up to the Senate and House of Representatives, respectively. In response to a question by Representative Gannon, Senator Rigler stated that he personally does not believe that standing committees should introduce new committee bills prior to the convening of the 1970 session. Chairman Lange and Senators Frommelt and Neu expressed agreement with Senator Rigler on this point.

There was a discussion of the proposal to mail copies of all prefiled bills to all members of the General Assembly, and offer each member an opportunity to join the primary sponsors in introducing the prefiled bill. It was pointed out that some legislators may not wish to have cosponsors on particular bills, or may wish to determine which legislators are to be cosponsors of their bills.

Senator Rigler suggested that the Proposed Rules for Prefiling Legislative Bills be amended by inserting in line 9 of Proposed Rule 3, after the word "so" the words "with permission of the primary sponsor,"; also by striking from line 7 of Proposed Rule 1 under the heading "Departmental Requests," the

word "prefiled". Representative Charles Miller moved that the proposed rules be adopted with the amendments suggested by Senator Rigler. The motion was seconded by Representative Leroy Miller, and adopted on a voice vote.

Mr. Garrison pointed out that the Legislative Service Bureau is presently in the virtually unprecedented position of working simultaneously on completion of committee studies, preparation of committee reports, and drafting of bills which are already being requested for introduction in the 1970 session of the General Assembly. He therefore requested authority to hire at the earliest and most convenient opportunity, at salary levels comparable to those paid similar employees of the Senate and House of Representatives, four proofreaders, three typists, two bill clerks, one Xerox operator, and two bill drafters, if available, with the salaries of each of these employees to be paid out of the General Assembly appropriation pursuant to section 40, subsection 3, of H.F. 390. In response to questions, Mr. Garrison stated that it is his intent to hire all of these temporary employees, most of whom worked for the Bureau during the last legislative session, on a nonpartisan, nonpatronage basis, and to retain them so long as necessary during the 1970 Legislative session. Mr. Garrison pointed out that in the past temporary research and bill drafting employees had been approved by the respective patronage committees of the two houses of the General Assembly. He expressed disagreement with such procedure stating that it is his belief that Bureau employees should be hired through action of the Legislative Council on a nonpartisan basis, not through the patronage committees. House File 390 allows the hiring of such employees prior to and during the legislative sessions by the Council without regard to partisan politics. Chairman Lange assured Council members that all of the authorized temporary employees would be hired on a strictly nonpartisan basis.

Senator Rigler moved that the Council authorize Mr. Garrison to proceed immediately with the hiring of temporary employees in accordance with the terms of the requests he had just presented. The motion was seconded by Senator Neu. Representative Charles Miller inquired why the question of authority for appointment of temporary additional Service Bureau personnel prior to and during the 1970 session had not been presented to the Council's Personnel Committee. Mr. Garrison stated that he would accept full responsibility for the fact that the Personnel Committee had not been contacted in advance regarding this matter, and expressed regret for the oversight. Representative Sorg commented that he does not believe it is as important to consult the Personnel Committee about the hiring of temporary employees to handle the increased workload immediately prior to and during a session, as would be the case if the matter at hand were the employment of a new permanent staff member. Senator Rigler's motion was then adopted unanimously.

Copies of two separate letters addressed to the Legislative Council by Senator W. Charlene Conklin, both dated Novem-

ber 9, 1969, were distributed to Council members. A copy of each letter is attached to and by this reference made a part of these minutes.

Chairman Lange inquired what would be the Council's pleasure with regard to the matter presented in the longer of the two letters. Concern was expressed about the possibly undesirable precedent of after-the-fact approval of reimbursement for legislators who attend meetings or conferences without requesting prior authorization by the Council. It was pointed out that several legislators had inquired prior to the Nebraska meeting as to whether per diem and expenses were to be paid for attendance at the meeting. It appears that those who inquired may not have attended the meeting because no per diem or expenses had been requested or authorized. Representative Leroy Miller moved that the request of Senator Conklin for payment of expenses be denied because of the reasons previously noted. The motion was seconded by Representative Sorg and carried. Senator Rigler suggested that the chairman write Senator Conklin and explain the reasons for the Council's action, and Chairman Lange agreed he would do so.

In regard to Senator Conklin's second letter, pertaining to the meeting of a subcommittee to consider nonpublic school education, it was noted that the letter specified the meeting would be for the "purpose of beginning a comprehensive study of the problems of the nonpublic school in Iowa". Several members stated that the subject matter is certainly worthy of legislative consideration, but questioned the undertaking of a study at this time. Representative Cochran pointed out that approval of the meeting might in effect be an approval of the study. Senator Rigler expressed agreement with Representative Cochran. Representative Sorg moved to approve the request of Senator Conklin. Senator Neu made a substitute motion requesting that either Senator Conklin or Representative Grassley be invited to the next meeting of the Council for the purpose of explaining in detail the request. The substitute motion was seconded by Representative Varley and carried on a split vote.

Senator Hill reported on his attendance at the Washington, D.C. meeting of the Council of State Governments Intergovernmental Relations Committee. He noted the possibility of legislatures making requests for federal funds for research purposes and stated that apparently several states are exploring this possibility. Even though Iowa has financed its own research projects in the past, consideration might be made in the future in regard to applying for funds to carry out state legislative research and study projects. Senator Hill noted that he has requested that he be assigned to serve on the Government Operations Subcommittee of the Intergovernmental Relations Committee and is hopeful that he will be assigned to this committee because of the subject matter which might be of interest to Iowa. Senator Hill briefly mentioned that the Iowa General Assembly should consider establishing a better liaison with the Iowa congressional delegation. Mr. Garrison

distributed material relating to liaison efforts of other states and bills presently pending in Congress which Senator Hill noted will have a great impact upon state programs in Iowa.

Mr. Garrison distributed a budget report of the Bureau operations. A copy of the report is attached to and by this reference made a part of these minutes. He noted that the Bureau returned approximately \$12,000 from its first quarter allotment, but it appears that an additional \$18,000 will have to be requested in order to meet second quarter expenditures. Mr. Garrison stated that the great amount of legislative activity during the recent weeks has resulted in the expenditure of more funds for all budget items. During the legislative session a minimal amount will be expended for per diem and meeting expenses and this fact should allow the Bureau to return to the normal quarterly expenditures. If the Bureau would not be able to reduce expenditures during the third and fourth quarters of the year, as expected, there would not be sufficient funds to meet normal salary increments for staff members. Mr. Garrison stated that the Legislative Council should carefully consider study requests submitted during the next session of the General Assembly in order that funds will be adequate to carry out such studies, and that such studies, as well as those studies which will continue, can be completed by early fall of 1970.

Senator Hill commented that although Mr. Garrison termed the budget report "dismal", he does not view it in such light. The expenditure of funds appears to be necessary and the Council must know the status of the budget.

Senator Frommelt moved acceptance of the report. The motion was seconded and carried.

There being no further business, Chairman Lange adjourned the meeting.

Respectfully submitted,

Phil Burks
Senior Research Analyst

Serge Garrison
Director