

M I N U T E S
LEGISLATIVE COUNCIL

June 12, 1979

The fifth meeting of the 1979-80 Legislative Council was called to order at 10:15 a.m., Wednesday, June 13, 1979 in Senate Committee Room 22 of the State House in Des Moines. Council members attending the meeting were:

Speaker Floyd H. Millen, Chairperson
Senator Calvin O. Hultman, Vice Chairperson
Lieutenant Governor Terry Branstad
Senator James E. Briles
Senator C. Joseph Coleman
Senator Willard R. Hansen
Senator Lowell L. Junkins
Senator John S. Murray
Senator Richard R. Ramsey
Senator Bob Rush
Senator Ray Taylor
Representative Robert T. Anderson
Representative Donald D. Avenson
Representative Gregory D. Cusack
Representative Roger A. Halvorson
Representative William H. Harbor
Representative Norman G. Jesse
Representative Delwyn D. Stromer
Representative Richard W. Welden

Other persons present for the meeting included Senator Forrest Schwengels, Director Serge Garrison, Bernie Koebernick and Phil Burks of the Legislative Service Bureau, Director Gerry D. Rankin and Thom Freyer of the Legislative Fiscal Bureau, Citizens' Aide Bill Angrick, Chief Clerk of the House David Wray and a number of other legislative staff members and interested persons.

Speaker Millen inquired if there were additions or corrections to the consolidated minutes of the Council's meetings of April 17 and April 19, 1979. None being requested, the minutes of those meetings were declared approved as submitted to Council members.

Speaker Millen noted that Mr. Garrison had addressed a memorandum to Council members regarding a question which arose during the tenure of the 1977-79 Legislative Council as to whether the practice of offering a substitute for a pending motion was in order under the rules of that Council. The practice had been questioned on a point of order during a Council meeting, although it has customarily been used during Council proceedings. Senator Coleman stated that the substitute motion is also used in standing committees of the Senate and House, and expressed the view that its use in Council proceedings is appropriate and desirable.

Representative Cusack moved that the Council's rules provide specifically for use of the substitute motion. The motion was seconded by Senator Coleman. No objection being expressed, the motion was declared adopted.

Senator Hultman moved that the temporary rules of the Council, as amended by the motion just adopted, be made permanent. The motion was seconded by Representative Harbor, and adopted by a unanimous voice vote.

Mr. Garrison was recognized and presented for Council approval the proposed rules for prefiling legislative bills for the 1980 Session of the General Assembly. He stated these rules are quite similar to those adopted in advance of the 1979 Session, but the proposed rules do provide an earlier deadline for submission of requests for prefiled bills, and also include language urging executive departments and agencies to submit proposals for bills prior to December 1, 1979, and substantially earlier than that if possible, in order to permit the bulk of this work to be completed before the main influx of legislative bill drafting requests begins.

In response to a question from Senator Hultman, Mr. Garrison stated that the proposed deadline for submission of requests for prefiled bills for the 1980 Session is December 15, 1979. This compares with a December 31, 1978 deadline in advance of the 1979 Session. Replying to a question by Representative Harbor, Mr. Garrison stated that all prefiled bills are necessarily predrafted, but when a requestor specifies a predrafted rather than a prefiled bill, the completed bill is submitted only to the requestor unless and until that individual elects to have it prefiled as provided in the proposed rules.

After a brief discussion, Representative Harbor proposed that the Council Chairperson direct a letter to executive department and agency heads setting forth the Council's prefiling rules and deadlines, and stating that it is unlikely that departmental bills will be given serious consideration during the 1980 Session if they are not submitted in compliance with the deadlines adopted by the Council. Representative Cusack stated he does not basically object to Representative Harbor's proposal, but wishes to assure sufficient flexibility to respond to any situations which may develop unexpectedly and which appear to require legislative action. Speaker Millen and Representative Harbor said such flexibility will be maintained.

On motion of Senator Hultman, seconded by Senator Taylor, the proposed prefiling rules were adopted by a unanimous voice vote.

Mr. Garrison called to the attention of Council members section 18 of House File 757 of the 1979 Session of the Sixty-eighth

General Assembly. That section establishes a nine-member County Finance Committee, and subsection 1, paragraph e of that section provides that one member of this Committee shall be "an operations analyst experienced in cost effectiveness analysis of county services appointed by, and to serve at the pleasure of, the Legislative Council." Speaker Millen noted that no Council action is required at the present meeting, but that the matter should be taken under advisement.

Senator Hultman was recognized to present the report of the Council's Administration Committee, pursuant to that Committee's meeting of the previous day. (See minutes of Administration Committee's meeting of June 12, 1979.) He noted that the Committee had not had time to take up the proposals submitted by Chief Clerk Wray and Secretary of the Senate Frank Stork regarding refurbishing of the rotunda area.

Chief Clerk Wray was recognized to present this proposal. He distributed to Council members present copies of a letter from Superintendent of Buildings and Grounds John Drummond stating that the needed refurbishing work will be carried out by State Buildings and Grounds personnel if the General Assembly will provide the funds needed to rent scaffolding and purchase paint, lumber and other supplies. Mr. Wray recommended that this expenditure be authorized, explaining that what is proposed is a general restoration and repair of the second floor rotunda area, with some rearrangement of the equipment assigned to the Legislative Copy Center so as to make better use of the space assigned to that facility, but with no basic structural change involved.

Representative Halvorson moved that the Legislative Council authorize the expenditure of \$2,862 for the purposes recommended by Mr. Wray, in accordance with the proposals set forth in Mr. Drummond's letter. The motion was seconded by Representative Welden, and adopted by an unanimous voice vote.

Mr. Garrison observed that there had been distributed to Council members present, copies of a compilation of educational leave reports received by the Legislative Service Bureau pursuant to the requirements of Section 79.1 of the Code, during the period since the last compilation of such reports had been distributed to Council members. He noted that a special subcommittee of the Council had been established to review the educational leave statute and suggest a uniform policy on educational leave, pursuant to the Council's action on February 22, 1979. Senator Hansen, who had been designated temporary Chairperson of the special Subcommittee on Educational Leave, stated that the Subcommittee would hold a meeting later on the present date if the Council meeting was completed early enough to permit doing so.

Representative Harbor was recognized to present the report of the Legislative Council's Service Committee, pursuant to that

Committee's meeting on the previous day. He reviewed and commented briefly upon the nine specific recommendations made to the Council by the Service Committee in its report, covering various aspects of the Committee's area of responsibility.

After noting that the Service Committee had recommended that the salary proposals for employees of legislative staff agencies be approved as previously distributed to Council members, Representative Harbor yielded to Representative Stromer, also a member of the Service Committee. Representative Stromer remarked that he has been a Service Committee member for a number of years, and that the Service Committee's approach to review of salaries of legislative staff agency personnel has become considerably more sophisticated in recent years. He expressed concern about the practice of advancing individuals to a higher grade who have arrived at the top step of their respective current grades. He said he has been told by the Merit Employment Department that this practice is not advisable unless the individual's job description is altered to reflect his or her longer experience or greater responsibility.

In further comment on the matter of salary adjustments, Mr. Garrison pointed out that in applying the requirement of Section 27 of Senate File 499 of the 1979 Session, the Merit Employment Department appears to have treated the entire Executive branch of state government as one "department" for the purpose of computing the average salary increase for all employees who are not included in a collective bargaining agreement. This average increase is limited by S. F. 499 to 5.2%. Mr. Garrison added that this combination of circumstances had created some difficulties for the Legislative and Judicial branches because each of these branches has far fewer employees than the Executive branch, and the Legislative and Judicial branch employees tend to be concentrated at relatively high salary levels. Although an attempt has been made in recent years to tie legislative staff salaries to those established for particular grades and steps under the Merit Employment System, it is proving very difficult--and may in some cases be impossible--to continue that practice and still comply with the overall 5.2% limit imposed on salary increases for such employees by S.F. 499.

Representative Cusack expressed support for the last of the Service Committee's recommendations, which expresses the need for discussions aimed at resolving difficulties the Legislative branch has faced in attempting to obtain information and services through the Executive-controlled state computer system. Representative Cusack observed that the persistence of these difficulties during the recent session indicates that the similar difficulties earlier experienced by the General Assembly when it was under Democratic control were not the result of either partisanship or friction with the individual who formerly served as State Comptroller.

On motion of Representative Harbor, seconded by Senator Hansen, the report of the Service Committee was accepted by a unanimous voice vote.

Legislative Fiscal Director Rankin was recognized, and noted that House File 742 of the 1978 Session places upon the Legislative Fiscal Bureau the responsibility for conducting program evaluations of any agency of state government at the direction of the General Assembly or the Legislative Council. He distributed to Council members present copies of two documents, a Program Evaluation Division Proposal consisting of seven pages plus three attachments, and a much briefer outline summary of the proposal. Copies of these documents are available from the Legislative Fiscal Bureau.

After summarizing the proposal, Mr. Rankin was asked by Representative Halvorson to distinguish between the terms "program evaluation" and "performance auditing." Mr. Rankin stated that he views program evaluation as being tied more directly to the appropriations process than is what he customarily thinks of as performance auditing.

Representative Cusack commented that the present Council meeting is being held under somewhat unusual circumstances in that the 1979-80 Legislative Fiscal Committee has not yet met during the current interim. He added that he would have expected the Program Evaluation Division Proposal to be presented to the Fiscal Committee before being brought to the Council. Speaker Millen replied that he assumes the Council will want some comment from the Fiscal Committee on this proposal.

Representative Anderson inquired what the General Assembly may expect will result from the work of the program evaluation division. Mr. Rankin replied that it is difficult to answer that question in any specific way until it is known which particular agencies are going to be evaluated. He then introduced Mr. Freyer, who described in somewhat greater detail some aspects of the Program Evaluation Division proposal.

In the course of his presentation, Mr. Rankin noted that the addition of the Program Evaluation Division to the Fiscal Bureau is going to create fairly serious space problems, because there simply is not room for the additional staff who will be needed in the office space currently allocated to the Fiscal Bureau. Mr. Rankin said he believes the most logical place to get the needed additional space is in the portion of the Legislative Fiscal Director's Conference Room on the second level of the second floor, used as a committee or subcommittee meeting area during the 1979 Session. Speaker Millen and Senator Coleman indicated they are inclined to agree with Mr. Rankin on this point.

In the discussion which followed, Senator Hultman noted that the Legislative branch apparently will acquire two office spaces immediately south of the east entrance to the State House when the Attorney General's staff moves to the Hoover Building but indicated that it might be necessary to consider locating the Code Editor in that area. Representative Avenson said that the House Democratic Caucus staff offices immediately north of the Legislative Fiscal Director's Conference Room are currently severely overcrowded, and asked that a portion of the space used for committee or subcommittee meetings during the 1979 Session be assigned to the Democratic Caucus. He added that if this space were provided with a table, a few chairs and a telephone, it could be used both by caucus staff members and, on occasion, small groups of legislators holding informal conferences. Mr. Rankin replied that he does not believe there is sufficient space remaining in the Fiscal Director's Conference Room area to meet both the needs of the Fiscal Bureau and those outlined by Mr. Avenson.

After some additional discussion, Speaker Millen referred the space allocation matter to the Council's Administration Committee. Senator Hultman, Administration Committee Chairperson, noted that the Committee would again be discussing the entire matter of State House space allocation at its next meeting.

Senator Hultman was then recognized to present the report of the Council's Studies Committee, pursuant to that Committee's meeting on the previous day which had been concluded earlier on the present date. Copies of a list of 1979 interim studies recommended by the Studies Committee for approval by the Council were distributed to Council members present and the list was reviewed by Senator Hultman.

With respect to recommended studies under the jurisdiction of the standing Committees on Human Resources, Representative Cusack expressed concern that the Studies Committee had passed over HCR 43 and HCR 44. The first of these resolutions requests a study intended to develop a statement of legislative goals regarding families in Iowa by which proposed legislation can be evaluated, and the second was intended to examine and make recommendations for improving the scope and coordination of services for the elderly in Iowa. Senator Hultman commented that the Studies Committee had been uncertain of the exact intent of HCR 43, and had felt that the matter of scope and coordination of services for the elderly might well be addressed through the Legislative Fiscal Committee.

Senator Rush asked why the corrections study had been placed under the jurisdiction of the Committees on Human Resources rather than the Judiciary and Judiciary and Law Enforcement Committees or the joint Social Services Appropriations Subcommittee. Representative Welden indicated that he believes the Legislative Fiscal Committee might wish to have a role in any study conducted in this area. Senator Hultman then suggested that the matter might

be deferred until after the Fiscal Committee has held its first meeting of the current interim.

Representative Harbor moved that the question of a corrections study be so deferred. The motion was seconded by Representative Welden, and adopted by a unanimous voice vote.

Senator Murray inquired why the study of funding of the Conservation Commission is under the standing Committees on Natural Resources rather than the Appropriations Committees or Legislative Fiscal Committee. Senator Hultman replied in terms of the Conservation Commission's apparent intent to request increases in certain license and other fees, a matter which would be considered by the standing Committees on Natural Resources.

After a brief discussion, Representative Avenson moved to transfer one of the meeting days authorized for the combined joint subcommittee to study truck weight, length and fee schedules to the joint subcommittee of the standing Committees on Commerce which is to study public utility rate regulation and policy. The motion was seconded by Representative Cusack.

Senator Coleman moved, as a substitute for Representative Avenson's motion, that the Legislative Council increase the initial authorization for meetings of the Public Utility Rate Regulation and Policy Subcommittee from 3 to 4. The substitute motion was seconded by Representative Harbor, and adopted by a divided voice vote.

Representative Welden expressed objection to combining the study of soil conservation and drainage laws, and also questioned the advisability of assigning a subject as complex as drainage law revision to a combined 20 member joint subcommittee. Several alternative suggestions for dividing and reassigning the subject matter of this combined joint subcommittee were suggested and briefly discussed by Council members.

Representative Welden moved to delete the subject of drainage laws from the matters to be assigned to the combined joint subcommittee which will study soil conservation matters, and to substitute a 6 member joint subcommittee under the standing Committees on Agriculture with an initial authorization of 2 meeting days to study specific drainage law revision proposals already drafted. The motion was seconded by Senator Coleman and, after some discussion, adopted by a unanimous voice vote.

Senator Junkins moved to make the Senate subcommittee which will study procedures for confirmation of the Governor's appointees a combined subcommittee of the Committees on Rules and Judiciary, rather than a subcommittee of the Rules Committee only. The motion was seconded by Senator Coleman, and adopted by a unanimous voice vote.

Senator Junkins and Representative Avenson raised the question of whether the number of meeting days authorized for the respective interim study subcommittees is adequate, and if not, how it is contemplated that adjustments will be handled. Senator Hultman replied that while the majority leadership hopes to place some kind of reasonable limitation on the total number of person-days of legislative interim activity during 1979, it is not their intent that the initial allocation of meeting days to joint interim subcommittees should be an inflexible limitation for the entire interim. The respective subcommittee chairpersons should approach their assignments with a view to completing them within the allotted time if possible, however if after a particular subcommittee begins its project it appears that additional time will be needed to complete that project satisfactorily, the subcommittee should ask the Council for authority for additional meeting days. Senator Hultman indicated that the Council will give such requests reasonable consideration, as it has done in the past.

Representative Anderson questioned the authorization of only six members for the joint subcommittee of the standing Committees on Natural Resources which is to study land use. Senator Hultman replied that it had been believed that a small subcommittee would be adequate, since the issue is fairly well defined at this time. Representative Anderson and some other Council members expressed the view that the significance of the land-use issue merits a ten-member subcommittee.

Representative Anderson moved to increase the authorized size of the Land-Use Subcommittee to ten members. There being no objection, the motion was declared adopted.

Representative Harbor expressed serious concern that there has been no provision for an interim study of Iowa's water rights laws. He explained that on the basis of experience of states to the west of Iowa, he is convinced that it is only a matter of time until the issue of water rights and availability of water will become a very significant one in Iowa. Senator Hultman replied that no request for such a study was received by the Council's Studies Committee.

Representative Avenson moved to establish a ten-member joint interim subcommittee of the standing Committees on Natural Resources to study water rights laws. Representative Welden expressed belief that the subject of water rights should be considered within the context of the proposed land-use law. After some further discussion, Representative Avenson withdrew his motion and it was informally agreed to defer the matter of a possible water rights law study until the next meeting of the Council.

Representative Avenson moved that the joint interim subcommittee of the Committees on Education which will study K-12 curriculum and the joint interim subcommittee of the Senate Judiciary and House Judiciary and Law Enforcement Committees which will study the

involuntary committment statute and the rights of the mentally retarded each be increased in size from six to ten members. The motion was seconded by Senator Junkins and approved by a voice vote.

Senator Hansen moved that the formal title of the other joint interim subcommittee to be established under the standing Committees on Education be changed to "Educational Services and Funding Subcommittee." The motion was seconded by Representative Stromer, and adopted by a unanimous voice vote.

On motion of Senator Hultman, seconded by Representative Cusack, the report of the Studies Committee as amended by the Council, was adopted by a unanimous voice vote.

Speaker Millen stated that before proceeding to the few items of business remaining on the agenda for the current meeting, he would like to establish a date for the next meeting of the Legislative Council. He noted that in July, the Council's customary second Wednesday meeting date will conflict with the annual meeting of the Midwestern Regional Conference of the Council of State Governments, which some Council members expect to attend. In order to expedite the selection of members and organization of the 1979 interim subcommittees, he suggested that the Council advance rather than postpone its July meeting, although the first Wednesday will be the 4th of July. After a short discussion, it was agreed that the Legislative Fiscal Committee will meet at 1:00 p.m. on Thursday, July 5th, the Council's Administration Committee will meet at 9:00 a.m. on Friday, July 6th, the Council's Studies Committee will meet at 11:00 a.m. on July 6th to review recommended appointments to interim subcommittees, and the Legislative Council itself will meet at 1:00 p.m. on Friday, July 6th.

Senator Rush noted the item vetoes by the Governor of section 8 of Senate File 471 and section 2 of Senate File 497 of the 1979 Session, which specifically prohibited the transfer or expenditure under section 8.39 of the Code of any of the funds appropriated by S.F. 471 and by S. F. 497 for any purposes other than those specified by those Acts respectively. Senator Rush suggested that these item vetoes are not consistent with the Iowa Supreme Court's decision in Welden v. Ray, and said he believes it is important that the precedent established in that decision be maintained. He therefore proposed that the Legislative Council seek an opinion or analysis of the status of these particular item vetoes in the light of Welden v. Ray. In response to questions, Senator Rush said it is his intent that this effort should be undertaken initially by the Senate and House Legal Counsels.

Senator Hultman suggested that it would be more appropriate for Senator Rush to seek an Attorney General's opinion on the point if he so desires. Senator Rush replied that while he might eventually choose to do that, he would prefer to first have the matter

reviewed by legal counsel employed by the General Assembly. In response to a question from Senator Hultman, Speaker Millen indicated that the House Legal Counsel's position is presently vacant. Senator Hultman expressed concern that the question proposed by Senator Rush is not an appropriate one for the Senate Legal Counsel to determine.

Senator Rush moved that the Council request the Legislative Service Bureau to prepare an analysis or memorandum relative to the authority of the Governor to item veto section 8 of Senate File 471 and section 2 of Senate File 497 of the 1979 Session, in view of the Iowa Supreme Court's prior interpretation of the item veto power in the case Welden v. Ray. The motion was seconded by Senator Junkins, but was defeated on a divided voice vote.

Mr. Garrison called to the attention of Council members the June 4, 1979 opinion of the Attorney General to Senator James V. Gallagher with respect to the statute purporting to enable the General Assembly to veto a proclamation of emergency by the Governor in case of an acute energy shortage. The second paragraph of the opinion includes the statement "section 93.8 is unconstitutional to the extent that it grants veto power over a proclamation of emergency to the legislative branch by means other than enactment by statute."

Senator Hansen called a meeting of the Council's special Committee on Educational Leave for 1:30 p.m. on the present date.

There being no further business to come before the Council at the present meeting, Speaker Millen declared the meeting adjourned at 12:15 p.m.

Respectfully submitted,

PHILIP E. BURKS
Senior Research Analyst

SERGE H. GARRISON
Director