

M I N U T E S

LEGISLATIVE COUNCIL MEETING

October 15, 1969

The fifth meeting of the 1969-1971 Legislative Council was called to order by the Council Chairman, Senator Elmer F. Lange, at 9:50 a.m., Wednesday, October 15, 1969 in the Speaker's Room, State House, Des Moines, with the following members present:

Representative Ralph F. McCartney, Vice Chairman
Lt. Governor Roger W. Jepsen
Speaker of the House William H. Harbor
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
Senator David M. Stanley
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, several representatives of the news media, and other interested persons.

Pursuant to roll call, the Chairman noted the presence of a quorum. The minutes of the September 10 Council meeting were unanimously approved as submitted to Council members.

Chairman Lange called for reports on the progress of study committees established by resolution of the General Assembly. A report on the Collective Bargaining Study Committee was submitted by Mr. Garrison and Mr. Burks, who stated that the Committee had initially prepared a master list of topics to be covered at each of its meetings, which are scheduled on the first and third Fridays of each month. To date, the Committee has succeeded in following the schedule which it established for itself; decisions are being made regarding various aspects of the overall topic of collective bargaining for public employees, and the Service Bureau staff attorney assigned to the Committee is working on legislative drafts to implement the Committee's decisions. Committee members presently feel that they will be able to present a report and recommendations for legislative action to the 1970 session.

Senator O'Malley, who serves on the Criminal Code Review Study Committee, presented a report of that Committee's work to date.

Individuals have been hired from The University of Iowa and Drake University to assist with the study, and federal funds have been obtained through the Iowa Crime Commission to help pay the cost of the study. Senator O'Malley expressed the view, based on previous experience of the Iowa Bar Association in working in the same area, that the target date set forth in the resolution establishing the Criminal Code Review Study Committee is not practical, and that one and one-half to two years will be required to complete the study.

Mr. Garrison added that the Criminal Code Review Study Committee has broken its overall topic into four major study areas; substantive criminal law, criminal procedures, statutes outside the regular criminal code, and sentencing and post-conviction procedures. The Committee is concentrating on the first two areas at this time. It has taken steps to assure that Committee members, and not the staff employed by the Committee, will make policy decisions. Mr. Garrison added that the first \$5,000 in federal funds to be allocated to this Committee to initiate the study had been received on the previous day, and that it is anticipated that an additional \$25,000 will be forthcoming in January, 1970.

Senators Briles and Frommelt and Representative Gannon reported that the Eminent Domain Study Committee had met on the two days immediately prior to the present meeting, and in the course of this meeting had completed hearing from all of the groups which might be affected by or are interested in changes in the eminent domain laws. The Committee has now begun to summarize the information received at the hearings, with a view to preparation of legislative proposals. Representative Gannon added that the Committee has found that over the years the right of eminent domain has been extended to a vast number of public, semi-public, and private entities, that the reasons for some of the grants of eminent domain power which have been made in the past are no longer valid, and that one of the Committee's major problems will be to determine which of these groups still have a valid need for the right of eminent domain.

Chairman Lange pointed out that Mr. Jack Frye of Charles City, who had originally been appointed as a nonlegislative member of the Eminent Domain Study Committee, had found it necessary to resign, and that the Council should at this time appoint a successor to Mr. Frye. Chairman Lange added that the names of several well-qualified persons have been suggested for this appointment, but that from the standpoint of preserving the desired geographical balance on the Committee he would recommend the appointment of Mr. William Pappas of Mason City. Representative McCartney briefly outlined the qualifications of Mr. Pappas, who is a practicing attorney and has represented landowners in condemnation proceedings. No objections being raised, Chairman Lange stated that Mr. Pappas is appointed to the Eminent Domain Study Committee succeeding Mr. Frye, effective immediately.

Representative Charles Miller inquired of members of the Eminent Domain Study Committee present whether there is a state tax

on pipelines. Mr. Gerald Bogan, representative of a major pipeline firm attending the meeting as an observer, replied that pipelines are centrally assessed by the state and are taxed as personal property. Representative Gannon commented that possibly pipeline companies should help pay general property taxes on land on which they hold easements.

There was a short discussion of eminent domain with particular reference to pipeline companies, and several Council members raised questions regarding specific practices followed by pipeline companies in planning and acquiring land for construction of pipelines within Iowa. Representative Gannon and Senators Frommelt and Briles stated that the Eminent Domain Study Committee is not yet prepared to make recommendations. Chairman Lange commented that the Committee and the Legislative Council must make every effort to achieve agreement on a workable legislative proposal which can be passed at the 1970 session, because eminent domain appears certain to be one of the major issues before that session.

Senator Frommelt raised the question whether it is necessary for the Legislative Council to approve recommendations of study committees before the recommendations may be submitted to the General Assembly. The answer was in the affirmative, although it was pointed out the recommendations of study committees become a matter of public record regardless of Council approval or disapproval.

Representatives Cochran and Varley reported that the general topic assigned to the Environmental Preservation Study Committee is proving to be broader than was originally expected. Major problems under consideration by the Committee include whether or not use of DDT in Iowa should be outlawed, how littering may best be controlled or prevented, and prevention of air pollution. It is hoped that whatever legislation is eventually proposed will offer sufficient flexibility to permit technical decisions to be made regarding such problems, rather than writing hard and fast requirements into law.

Representative Cochran added that he is serving on the Committee's Air and Water Pollution Subcommittee. One of the matters which has been considered by this Subcommittee is the prohibition of all open burning, other than that done by private individuals in their own yards, which will take effect next April. He expressed concern that this regulation will be unduly burdensome for small communities which rely on open burning at dump areas to dispose of trash, and which are unlikely to create as much air pollution as a large number of small backyard incinerators in an urban area.

Representative Varley, who serves on the Environmental Preservation Study Committee's Chemical Safety Subcommittee, briefly reviewed the most recent meeting of that Subcommittee. He stated that the DDT issue may become moot, because this is rapidly becoming an outmoded chemical and other less troublesome chemicals are available which will achieve the same results as DDT.

Representative Sorg briefly outlined problems which Linn County is experiencing with solid waste disposal. It appears that the Linn County Board of Health may have to take over this function, and support seven or eight regional dumps at various points within the county. Representative Sorg expressed concern about how such an operation could be supported, and whether the county has adequate zoning authority to establish the needed dumps. Chairman Lange expressed the opinion that a previous General Assembly had enacted legislation to solve the problems mentioned by Representative Sorg and suggested that it be determined whether this is correct.

Chairman Lange inquired whether the Air and Water Pollution Subcommittee is planning to investigate the relative degree of pollution of the portions of the Mississippi and Missouri Rivers adjacent to Iowa. Representative Cochran replied that, from information received to date by the Subcommittee, it appears that neither of the major border rivers is as badly polluted as some of the streams within the state. He explained that a major source of water pollution in Iowa is soil siltation, and that soil washed into lakes and streams from farms often carries with it nitrates which have been applied as fertilizers and which have an ultimate detrimental effect on aquatic life.

Senator Frommelt expressed concern about a reported statement to the effect that if the water in the Mississippi is no more polluted at the point at which it passes beyond Iowa's southernmost border, than it is at the point at which it passes Iowa's northernmost border, this should be satisfactory. Senator Frommelt pointed out that there are several sizable cities along the Mississippi River in Iowa, and that lack of adequate sewage treatment by one or more of these cities could result in severe pollution of the Mississippi River for some distance below the city which would not necessarily be detected by a test of the river's water at the southern border of the state. Senator Rigler commented that Senator Frommelt is apparently referring to a statement attributed to Iowa Water Pollution Control Commission Chairman Robert R. Buckmaster of Waterloo, adding that he believes Mr. Buckmaster is a highly capable individual and that he has been misunderstood on this particular matter.

Representative Gannon stated that the federal government apparently intends to require every sizable city along the Mississippi River to install secondary sewage treatment systems, and that all Mr. Buckmaster had stated was that individual determinations should be made in each case whether such facilities are actually needed. Representative Cochran agreed, explaining that Mr. Buckmaster's theory is that a city or town should not be forced to expend large sums of money to improve its sewage treatment facility unless tests show that the community is actually creating a water pollution problem in terms of a preset tolerance level.

Representative Leroy Miller stated that the Highway Commission Study Committee has not yet formulated any concrete proposals or recommendations. Senator Hill added that this Committee

has been divided into three subcommittees, which are concerned with employment policies, land use policies, and general Highway Commission operations, respectively. It is anticipated that each of these subcommittees will report back to the full Study Committee at a meeting to be held on October 22.

Speaker Harbor stated that he is Chairman of the Employment Policies Subcommittee, and that the Subcommittee has found that the Highway Commission employees, while expressing support for the concept of merit employment, are in many cases quite unhappy over implementation of the present merit employment system. Representative Gannon inquired whether the Highway Commission's employees' dissatisfaction with the merit employment system relates primarily to salaries. Speaker Harbor replied in the negative, explaining that the dissatisfaction appears to be primarily concerned with the job descriptions utilized by the merit employment system. Representative Gannon then asked if this dissatisfaction has been expressed to the Subcommittee by department heads. Speaker Harbor replied that the dissatisfaction had been expressed by rank and file employees and their representatives with whom the Subcommittee had met.

Representative Leroy Miller stated that he has had complaints from many state employees in many different departments regarding the job standards being utilized by the merit employment system, particularly as regards the relative weight given to formal education and to on-the-job experience. He expressed the view that too little emphasis is given to actual experience on the job. Senator Frommelt responded that he believes the merit employment system is being blamed for some things which are not its responsibility, such as the fact that the General Assembly did not appropriate funds to continue the policy of providing longevity pay in some state agencies. Senator Hill commented that, in retrospect, it was probably a mistake to attempt to bring virtually all state employees under the merit employment system immediately upon establishment of the system. There was a brief general discussion of the implementation of the merit employment system in Iowa, and the recent dismissal of State Merit Employment Director Gerald Howell.

Chairman Lange called for the report of the Federal Highway Programs Study Committee. Mr. Garrison reported that at its most recent meeting, this Committee considered the relocation and assistance bill which was introduced during the 1969 session. He added that the Committee is now preparing an amendment to the bill which will (1) meet mandatory standards for relocation and assistance on federal-aid highway projects in Iowa, (2) make a start in the area of relocation and assistance on state-funded highway projects, and (3) allow political subdivisions to implement a relocation and assistance program. Representative Leroy Miller pointed out that implementation of a state relocation and assistance program by July, 1970, for persons displaced by highway projects is mandatory under federal law, and therefore it is vital that the next session of the General Assembly act on this matter.

Representative Charles Miller outlined the hearings held on September 16-17 by the Medicaid Study Committee with representatives of groups providing health care services and supplies under the Medicaid program. All of these vendor groups were represented at the hearings, except the pharmacists. It is anticipated that the pharmacists will appear at the Committee's next meeting, and also that a further meeting will be held with the nursing home operators, who appeared to have the most numerous complaints regarding the Medicaid program. The Committee will also hold discussions at its next meeting with federal, state, and county welfare officials involved in administration of the Medicaid program.

Several Council members suggested specific matters which they feel should be considered by the Medicaid Study Committee. In addition to the many problems relating to nursing homes, the items suggested included the different types of limitations placed on fees of various professional groups providing health care services and supplies under the Medicaid program, and the possibility of the state itself taking over the functions presently being performed by Blue Cross-Blue Shield in administration of the program. Chairman Lange stressed that this is also an area in which it is hoped that meaningful legislative recommendations will be forthcoming prior to the 1970 session.

Representative Sorg reported that the Municipal Laws Review Study Committee has also divided itself into a number of subcommittees. It has been concluded that a number of existing Code chapters can be consolidated, and some present sections entirely eliminated. It is anticipated that drafting of legislation will begin after the next full Committee meeting, however it is unlikely that the Committee will have more than a preliminary report and possibly one bill of limited scope for the 1970 session. The bulk of the recommendations relative to updating of municipal laws, including an overhaul of present bonding provisions, are expected to be ready for the 1971 session.

There was a short discussion of staff arrangements relative to the Municipal Laws Review Study Committee. Mr. Garrison explained that Mrs. JoAnn Brown, Service Bureau attorney assigned to the Committee, is also one of the Bureau's most knowledgeable staff members in the areas of school aid formula and in respect to certain aspects of taxation. For this reason, it is difficult to arrange matters so that she can devote her entire time to the Municipal Laws Review Study Committee, however it is hoped that after approximately the first one and one-half months of the 1970 session, it will be possible for Mrs. Brown to do so. Representative Sorg added that because this Committee was provided its own funds by the General Assembly, it has authorized Mr. Garrison to hire an additional clerk to assist with the clerical work related to the Committee, and this has been done.

In response to questions from Council members, Mr. Garrison stated that the magnetic tape code has been quite valuable in connection with the Municipal Laws Review Study. The Service Bureau's most pressing professional staff need at this time is

for an additional attorney to work on bill drafting requests now beginning to be received which do not relate to any of the presently functioning special study committees or standing committees and subcommittees. It is hoped that it may be possible to rehire Mr. James Ausberger, a former Bureau staff attorney who has just completed military service.

Senator Rigler inquired whether the series of hearings being held at various points in the state by Chairman John Walsh of the Senate Cities and Towns Committee is related to the Municipal Laws Review Study. Mr. Garrison replied in the negative, but pointed out that Senator Walsh is a member of the Municipal Laws Review Study Committee. He added that on July 9, the Council had approved establishment of six joint interim subcommittees of the Standing Senate and House Cities and Towns Committees, and that Senator Walsh had made his appointments to these authorized subcommittees, but that Chairman Ray C. Cunningham of the House Cities and Towns Standing Committee had not done so and therefore none of these subcommittees are functioning.

Copies of a document entitled Progress Report, relating to interim activities of standing committees and their subcommittees, were distributed to Council members. Mr. Garrison explained that the document had been prepared for the Council at the request of Chairman Lange, and briefly reviewed the document for the Council.

In connection with comments on the September 8 hearing by the Standing County Government Committees, Chairman Lange stated that Lt. Governor Jepsen had received from the Iowa County Treasurers Association a resolution adopted at a meeting held by the Association on October 11, requesting that the Legislative Council go on record at the present meeting as favoring "legislation to correct the oversight in Senate File 614" (The 1969 county officers salary bill). A copy of the resolution and the covering letter to Lt. Governor Jepsen are attached to and by this reference made a part of these minutes. Chairman Lange stated that he felt the fact the communication has been received should be formally brought to the Council's attention, but that he does not feel that it is within the Council's jurisdiction to take the requested action.

With reference to the School Transportation Subcommittee of the joint standing Senate and House Schools Committees, Chairman Lange inquired whether use has been made of information available in the Great Plains study. He added that he does not agree with all of the conclusions expressed in this study, but that valuable information may be available from it.

Senator Hill inquired whether the bill being considered by the Functional Classification of Highways Subcommittee of the joint standing Senate and House Transportation Committees would change the present method of allocating road use tax funds. There was a brief discussion of this point. Senator Hill explained that he is opposed to changing the method of allocating road use tax funds, although he supports reclassification of roads within the existing allocation formula.

Following review of the progress to date of the Reciprocity Subcommittee of the joint Transportation Committees, Representative Leroy Miller stated that as Chairman of the House Transportation Committee he had joined with Senate Transportation Committee Chairman Clifton Lamborn in presenting to the Council a request for authorization of two additional meetings of the Reciprocity Subcommittee. He explained that these meetings are needed in connection with the review of the current status within the Western States Compact, referred to in the attached progress report. Senator Hill expressed his support for the request. It was moved that the request be granted, and the motion was seconded and unanimously adopted.

In connection with the progress report of the Taxation of Banks and Other Financial Institutions Subcommittee of the joint standing Senate and House Ways and Means Committee, Chairman Lange stated that he is Chairman of this Subcommittee. The Subcommittee has reviewed a bill introduced in the 1969 session by Representative Maurice Van Nostrand, which would substitute an income tax for the present millage levy on banks. However, Representative Van Nostrand's bill would send the proceeds of this income tax to the state general fund, and the Subcommittee prefers to allocate the proceeds of the income tax to the local governments which collect the bulk of the presently prescribed millage levy on banks. There was a brief discussion on the degree to which school districts would benefit from an income tax imposed on banks in lieu of the present millage levy, and of the taxation of various types of financial institutions other than banks.

The meeting was adjourned for lunch at 11:50 a.m., and reconvened at 1:25 p.m. with all Council members present except Lt. Governor Jepsen. Mr. Garrison, Mr. Burks, and several other interested persons were again present.

Copies of the report of the previous day's meeting of the Council's Legislative Procedures and Facilities Committee were distributed. A copy of the report is attached to, and by this reference made a part of these minutes. The five items included in the report were each taken up in order.

Copies of the Brown Engineering Company's Preliminary Report on Power Study--Iowa State Capitol, were also distributed. There was a brief discussion of what action the Executive Council may be expected to take on this study. Senator Rigler moved that the Legislative Council go on record as urging the Executive Council to proceed with improving the wiring so as to bring the electrical system for the State House up to the level of optimum operation, in accordance with the needs identified in the Brown Engineering Company's study. The motion was seconded by Senator Neu. After discussion, the motion was adopted by a voice vote.

Senator Frommelt inquired whether the Legislative Procedures and Facilities Committee had determined that the renovation of the original State House duct system, referred to in item two of the Committee's report, would be effective in humidifying the un-

comfortably dry air which often occurs in the State House during the winter months. He also inquired what is proposed to be done toward following up the limited study which has been done to date with respect to installation of a central air conditioning system for the entire State House. After discussion, Chairman Lange suggested that the Procedures and Facilities Committee pursue these matters further, and recommend a bill to appropriate funds for air conditioning the entire State House if that appears necessary in order to bring about achievement of this improvement.

The Council briefly discussed items four and five of the Legislative Procedures and Facilities Committee's report. Senator Hill made reference to his comments of the previous day regarding transfer of the present functions of the Budget and Financial Control Committee, Departmental Rules Review Committee, and standing Appropriations Committees to other standing committees of the General Assembly. (See minutes of Legislative Procedures and Facilities Committee meeting of October 14, 1969, pages 6-10.)

Chairman Lange stated that it had been concluded that meetings of the Legislative Council could and should be called during legislative sessions if events, such as pending consideration of interim study requests or similar matters, should make such meetings desirable. Senator Hill expressed the view that the Council should follow the practice of holding regular periodic meetings during legislative sessions, just as it has been doing during the current interim, in order to give the Legislative Service Bureau more effective policy direction and to be in a position to deal on a continuing basis with any other matters which may come before it.

The Legislative Procedures and Facilities Committee's September 10 recommendation that the Council consider recommending a reduction in the number of standing committees for the Sixty-fourth General Assembly was again deferred until a later meeting of the Council. The Committee's September 10 recommendation that the Council determine the feasibility of establishing a legislative public information service was also deferred.

It was pointed out that the Council had, on September 10, deferred action on the proposed contract with Aspen Corporation for revision of the magnetic tape Code of Iowa to reflect the actions of the 1969 and 1970 sessions of the General Assembly. Mr. Garrison had been directed to contact Aspen to determine exactly what interpretation the Corporation would place on the first sentence of the last paragraph of the proposed contract and whether Aspen would be willing to consider modifying this particular clause of the contract. Mr. Garrison distributed copies of a letter of reply received from Mr. Harvey B. Feinman, Sales Manager for Aspen Systems Corporation, a copy of which is attached to and by this reference made a part of these minutes. Copies of the contract signed with Aspen Corporation for updating of the magnetic tape Code of Iowa following the 1967 session of the General Assembly were also distributed. (Copies of the proposed new contract had been distributed at the September 10 Council meeting, and are attached to the minutes of that meeting.)

Senator Frommelt reiterated his concern that the proposed new contract appears to give Aspen the right to sell copies of the magnetic tape Code to any law firm or other agency or individual which might wish to obtain one, or to sell searches of the magnetic tape Code. He added that it had always been his understanding that the Council, or its predecessor body, would control the magnetic tape Code and would sell searches to law firms or other persons who might so request. Mr. Garrison agreed that the Council had adopted a policy that it would sell searches to any other state agency or private individual or firm which might so request, but no request for a search has ever been received from outside the state government.

Mr. Garrison also pointed out that, as mentioned in Mr. Feinman's letter, Aspen maintains the statutes of all fifty states on magnetic tape, and is thus in a position to perform searches of the statutes of all states for laws relating to a particular topic. Representative Varley pointed out that the statutes of Iowa are a matter of public record, and that if the Council were to insist on deletion of the clause in the proposed contract about which Senator Frommelt is concerned, the only actual effect would be to require Aspen to update Iowa's magnetic tape Code, and then repeat the same operation for its own internal purposes. He added that if the Council were to insist on such a procedure, the effect might be to increase the cost to Iowa of having its magnetic tape Code updated.

Senator Stanley moved that the Council authorize Mr. Garrison to execute the proposed contract with Aspen Corporation for updating of the magnetic tape Code of Iowa to reflect the action of the 1969 and 1970 sessions of the General Assembly. The motion was seconded by Representative McCartney, and adopted by a voice vote.

Senator Hill stated that he has recently been contacted and offered an appointment to the Intergovernmental Relations Committee of the Council of State Governments. He said that he would like to accept the appointment, but felt that he should not do so without consulting the Council since there will be some expense involved. Chairman Lange stated that he had previously been contacted regarding this matter, that he considers the Intergovernmental Relations Committee a very prestigious body on which Iowa would be fortunate to have a member of its Legislative Council serving, and that the Council should approve the payment of per diem and reimbursement of Senator Hill's expenses for attending meetings of this Committee. Several Council members expressed agreement with the Chairman's views. Representative Varley moved that the Council authorize the payment of per diem and reimbursement of expenses incurred by Senator Hill in connection with his service as a member of the Intergovernmental Relations Committee of the Council of State Governments. The motion was seconded by Representative Gannon, and adopted unanimously.

It was pointed out that, at the September 10 meeting, the Council had deferred the request of the joint standing County Government Committees for authorization of two special interim

subcommittees, as it was felt that the areas to be studied by the proposed subcommittees were related to the jurisdiction of the Ways and Means Committees, and that the Chairmen of these Committees should therefore be consulted. Letters had been sent to the Chairmen, and a copy of a letter of reply received from Senate Ways and Means Committee Chairman Roger J. Shaff is attached to and by this reference made a part of these minutes. With respect to the taxation of mobile homes, the subject to be studied by one of the proposed special interim subcommittees, Mr. Burks reported that Representative Van Nostrand had recently pointed out to the Service Bureau a Wisconsin statute which it is hoped will meet the problems developing in Iowa in this area. Representative Van Nostrand has requested the Service Bureau to proceed with drafting of a bill based on the Wisconsin statute. In view of this fact, and the comments in the first paragraph of Senator Shaff's letter, no further action was taken on the County Government's request.

Mr. Garrison requested that the Council authorize Mr. Burks to attend a seminar on use of 1970 census data for reapportionment purposes, being sponsored by the National Legislative Conference in Washington, D.C. on November 3, 1969. Mr. Burks briefly outlined the agenda for the one-day seminar, which includes a presentation on computer redistricting in the 1970's. Mr. Burks commented that it would therefore appear desirable for Professor John Liittschwager of The University of Iowa College of Engineering, who supervised the computer work in connection with Iowa's legislative redistricting in 1967 and 1969, to attend the seminar. Chairman Lange endorsed the suggestion that Mr. Burks and Professor Liittschwager attend the seminar. Senator Rigler inquired whether the General Assembly had compensated Professor Liittschwager for the time he devoted to work in connection with legislative redistricting in 1967 or 1969. Mr. Burks replied that The University of Iowa computer center had been paid for the computer machine time used in this work, but that Professor Liittschwager himself had not been compensated for the time he devoted to redistricting. Representative McCartney moved that Mr. Burks and Professor Liittschwager be authorized to attend the November 3 seminar on use of 1970 census data for reapportionment purposes in Washington, D.C., and that the Council pay the expenses incurred thereby. The motion was seconded by Representative Sorg and unanimously adopted.

No further business appearing, the meeting was adjourned at 2:10 p.m.

Respectfully submitted,

PHIL BURKS
Acting Secretary

SERGE GARRISON
Director