

M I N U T E S

LEGISLATIVE COUNCIL

September 12, 1973

The fourth meeting of the 1973-1974 Iowa Legislative Council was called to order by the Council Chairman at 10:10 a.m., Wednesday, September 12, 1973 in the Speaker's Room of the State House. Council members who attended the morning session were:

Senator Clifton C. Lamborn, Chairman
Representative Edgar H. Holden, Vice Chairman
Lt. Governor Arthur A. Neu
Senator James E. Briles
Senator Lucas J. DeKoster
Senator Willard R. Hansen
Senator Eugene M. Hill
Senator Carl Nolin
Senator James F. Schaben
Senator Roger J. Shaff
Senator Earl M. Willits
Representative Dale M. Cochran
Representative Donald V. Doyle
Representative Charles E. Grassley
Representative James I. Middleswart
Representative Arthur A. Small, Jr.
Representative David M. Stanley
Representative Delwyn Stromer

Legislative staff personnel present included Director Serge Garrison and Phil Burks of the Legislative Service Bureau, Legislative Fiscal Director Gerry D. Rankin, and Senate Law Clerk William B. Trent. A number of representatives of the news media and other interested persons also attended the meeting.

Chairman Lamborn announced that the first order of business would be personal interviews with the applicants for the position of Iowa Citizens' Aide whose names had been submitted to the full Council by the Legislative Service Committee, as finalists chosen from among applicants previously interviewed by the Service Committee. The minutes of the Service Committee's August 22 meeting, at which these interviews occurred, are attached to and by this reference made a part of these minutes. Chairman Lamborn stated that the applicants whose names had been chosen for submission to the full council from among those interviewed on August 22 were Douglas R. Carlson, Robert J. Eaton, and Thomas R. Mayer. In addition, one of the original applicants who had been selected to be interviewed on August 22, Mr. Roger B. Iverson, had been unable to appear on that date due to a military commitment and the Service Committee had therefore decided that he should also have an opportunity to appear before the full Council before a final selection is made.

The first and second applicants interviewed were Mr. Carlson and Mr. Eaton. At Chairman Lamborn's request, each made an opening statement concerning his personal background, qualifications, and reasons for seeking the position of Citizens' Aide. Each applicant responded to a number of questions from Council members before being excused from the meeting. Chairman Lamborn requested that each applicant make himself available at approximately 11:30 a.m., should the Council wish to address further questions to any of the applicants prior to making a final decision.

Following completion of the Council's interview with Mr. Eaton, Mr. Garrison noted that the Council was at that point running slightly ahead of the schedule set forth in the agenda prepared for the meeting, and that neither Mr. Mayer nor Mr. Iverson had yet arrived.

Senator Hansen stated that while awaiting their arrival, he had a matter to bring up in regard to the meeting held by Council members with the Iowa Congressional delegation and various federal officials in Washington, D.C. the previous week. Mr. Garrison noted that a summary report of this meeting had been prepared and distributed to Council members and other interested parties. A copy of the summary is attached to and by this reference made a part of these minutes.

Senator Hansen referred to the conversations with Undersecretary of Transportation John Barnum and Mr. James Falk, Associate Director of the White House Domestic Council and Coordinator of State-Federal Relations, reported in the third and fourth paragraphs on page three of the attached summary. Senator Hansen said that Mr. Falk had indicated to him that it would be most helpful to have telegrams from the Legislative Council to Mr. Falk and Undersecretary Barnum stating Iowa's position in the matter as expressed during the Washington meeting. Senator Hansen moved that the requested telegrams be drafted and dispatched as soon as possible. The motion was seconded by Senator Hill and unanimously adopted.

The Council then resumed interviews with applicants for the position of Citizens' Aide, interviewing Mr. Mayer and Mr. Iverson. Each of these applicants also presented an opening statement and then responded to questions from Council members before being excused.

Following completion of the interviews with the four applicants, Senator Briles stated that it appeared desirable to make a decision in regard to the salary to be paid the individual appointed to the office of Citizens' Aide prior to selecting an appointee. He added that in his opinion it would be appropriate to set the salary at a level somewhat below the \$20,000 per year which former Citizens' Aide Lawrence Carstensen was receiving at the time he left the office, with the understanding that salary increases would be forthcoming upon satisfactory performance by the new

appointee. There was some discussion of how setting a salary level at less than \$20,000 would affect Mr. Mayer should he be the appointee, since he has been paid at the \$20,000 rate since becoming acting Citizens' Aide subsequent to the resignation of Mr. Carstensen. Senator Shaff expressed opposition to establishing a salary before deciding upon an appointee.

Representative Cochran moved that the salary for the position of Citizens' Aide be set at \$20,000 per year. The motion was seconded by Senator Nolin and, after further discussion, was adopted by a voice vote, Senator Shaff voting no.

Chairman Lamborn inquired whether any member of the Council wished to further question any or all of the applicants for the position of Citizens' Aide who had appeared during the morning. There being no request to do so, Chairman Lamborn stated that the selection of an appointee would be by means of secret ballot, and that pursuant to the rules of the Council a minimum of eleven votes would be required in order to select an appointee.

The ballots were gathered and tabulated by Mr. Garrison and Mr. Burks. At the conclusion of the tally, Chairman Lamborn announced that Mr. Mayer had received the necessary number of votes for selection as the Council's appointee to the office of Citizens' Aide. He instructed Mr. Garrison to immediately notify Mr. Mayer, and further requested that Mr. Garrison inform the other three applicants that the selection had been a difficult one and that the Council was very favorably impressed by the qualifications and attitude of all of the applicants who had appeared during the morning.

The meeting was recessed at 11:45 a.m., and reconvened at 1:30 p.m. in the Speaker's Room. All Council members and legislative staff personnel who had been present for the morning session were again present. Speaker of the House Andrew Varley attended a portion of the afternoon session. Also present were Consulting Engineer Frank Pulley, Architect Frank Bunker, Consulting Engineer Kenneth R. Brown, Director of General Services Stanley L. McCausland, and Superintendent of Buildings and Grounds John Drummond.

Mr. Pulley pointed out that on August 15 the Council had awarded a contract for air conditioning of the legislative chambers and certain related work to the Waldinger Corporation "contingent upon the approval of the Executive Council for air conditioning of the law library." Mr. Pulley stated that the Waldinger Corporation was very desirous of having a decision at the earliest possible time whether the law library will or will not be included in the project. Chairman Lamborn noted that the Council's August 15 action in effect left the decision with the Executive Council, which had not yet acted on the matter.

There was some discussion of the matter, in the course of which it was noted that the total additional cost of air con-

ditioning the law library in conjunction with the legislative chambers under the contract with the Waldinger Corporation would be \$29,800. At the conclusion of the discussion, it was agreed that Mr. McCausland would bring the matter before the Executive Council on the following Monday, and urge that an immediate decision one way or the other be made. Pursuant to the Executive Council's decision at that time, one or the other of two alternative change orders prepared by Mr. Pulley would be signed. (NOTE: On September 17, 1973 the Executive Council approved allocating funds for air conditioning the law library.)

Chairman Lamborn then signed three copies of each of the agreements and contracts with the Waldinger Corporation drawn up pursuant to the Council's August 15 action. Two copies of each of these documents were turned over to Mr. Pulley and one copy was retained for filing in the Legislative Service Bureau office.

Mr. Bunker reported to the Council on preparation of plans and specifications for the Legislative Service Bureau mezzanine construction and remodeling, pursuant to House File 784 of the 65th General Assembly, including alternatives prepared pursuant to the direction of the Council on August 15. A copy of a letter from Mr. Bunker to Mr. Garrison, setting forth the information reported by Mr. Bunker to the Council, is attached to and by this reference made a part of these minutes.

Representative Holden moved that the Council proceed to seek bids on the basis of the plans and specifications prepared by Mr. Bunker. The motion was seconded by Senator Briles, and adopted by a voice vote, Representative Grassley voting no.

There was some discussion of concerns which had been expressed by various parties regarding the capacity of the State House electrical wiring system to handle the air conditioning project which had been contracted for with the Waldinger Corporation. Mr. Drummond stated that he felt personnel in his Division bore some responsibility in the matter, and that he wished to offer an appology for any erroneous information which might have been dissiminated from that source. Mr. Pulley assured the Council that the State House wiring is adequate to handle the project which has been contracted for with the Waldinger Corporation.

Mr. Brown presented the results of a review of the State House electrical system which had been made by his consulting firm, with a view to means of serving various contemplated air conditioning loads. A copy of a letter from the Brown Engineering Company directed to Mr. Drummond, signed by Joseph S. Veteransneck, is attached to and by this reference made a part of these minutes.

At the conclusion of this discussion, Senator DeKoster summarized his understanding of the matter as follows: There is no question that sufficient power is available to air condition the legislative chambers and to handle the revised air conditioning system contemplated for the Legislative Service Bureau office area,

however addition of the law library to the project now under contract to the Waldinger Corporation would make the sufficiency of the presently available power supply questionable. Acceptance by the Legislative Council of either or both of the items labeled Alternate No. 1 and Alternate No. 2 in the attached letter from Mr. Bunker would necessitate, at a minimum, the expenditure of an estimated \$4,000 to make the State House power supply adequate for all of the demands which would thereby be placed upon it, however, this minimum expenditure would leave no reserve capacity. Expenditure of an estimated \$26,000 for an additional transformer would provide both adequate power to handle all air conditioning equipment presently committed or under consideration by the Legislative Council and adequate reserve capacity for all additional needs which can now be foreseen. Senator DeKoster added that under those circumstances, it would appear to be more economical to install the \$26,000 transformer at this time.

Mr. Pulley confirmed Senator DeKoster's analysis and expressed agreement with his conclusion that the new transformer should be installed at this time. After a conference with Chairman Lamborn, Mr. Pulley agreed to compute a proration of the \$26,000 cost of the contemplated transformer, based on the extent to which it would serve equipment in the parts of the building under the respective jurisdictions of the Legislative Council and the Executive Council, and report this proration to the Executive Council on the following Monday.

Senator DeKoster moved that the Legislative Council go on record as approving purchase of the additional transformer if the Executive Council approves. The motion was seconded by Senator Nolin, and adopted by voice vote, Representative Grassley voting no. (NOTE: On September 17, 1973 the Executive Council approved allocating a pro rata share of funds to purchase a new transformer.)

Representative Grassley inquired whether the Legislative Council contemplates any further major capital expenditures, in addition to the actions taken at the present meeting. Chairman Lamborn responded that he foresaw no additional major capital expenditures beyond what had been discussed at the present meeting, although he pointed out that the Council would presumably be awarding a contract for the work described in the attached letter from Mr. Bunker.

Representative Grassley presented the report of the Legislative Fiscal Committee's meeting of the previous day. A copy of the report is attached to and by this reference made a part of these minutes.

There was considerable discussion of the estimated cost of complying with requirements of the federal Occupational Safety and Health Act, as applied to various public facilities owned by the state and its political subdivisions, set forth on page two of the Fiscal Committee report. Several Council members expressed

particular irritation over the fact that, as the federal OSHA law is written, if the state undertakes to enact a state law complying with federal standards in this area, the state must make its statute applicable to public buildings; however if a state chooses not to act in this area and thereby forfeits jurisdiction to the federal government, the federal statute exempts public buildings. Some sentiment was expressed in favor of simply allowing the federal government to take jurisdiction under these circumstances, and thereby saving the cost of bringing public buildings into compliance with OSHA standards. Senator DeKoster cautioned that whatever might be decided about retaining state jurisdiction or forfeiting jurisdiction to the federal government under OSHA, the state should not lose sight of the importance of eliminating whatever safety hazards actually do exist in public buildings.

Representative Holden, referring to the first paragraph on page four of the attached summary of the state legislators' meeting with federal officials in Washington, pointed out that the only significant difference between the federal OSHA law and Iowa's statute is the lack of a penalty for a first violation under the Iowa statute. Representative Holden added that if the federal government is going to insist on elimination of this one discrepancy, which he views as relatively minor, he would prefer to just repeal the Iowa statute and allow the federal government to take jurisdiction.

Senator Hill stated that before concluding discussion on the Fiscal Committee's report, he wished to call particular attention to item two on the list of topics discussed by the Fiscal Committee with State Comptroller Marvin R. Selden, Jr. Mr. Selden had informed the Fiscal Committee that the computer format presently being used by his office in maintaining the accounts of state departments has the capability of assigning every expenditure to a designated cost center, so that cost analysis data would be readily available for program budgeting purposes, however only a few of the larger state departments are presently aware of and utilizing this capability. Senator Hill added that the Comptroller had indicated that he has not made any effort to make state departments generally aware of this capability. The Fiscal Committee wishes to have state departments made aware of and encouraged to use the program budgeting capability, and plans to work with the Comptroller's office toward this end.

Representative Grassley moved that the report of the Legislative Fiscal Committee be accepted. The motion was seconded by Senator DeKoster and unanimously approved.

The Council next considered the request of Senator Warren Curtis, Chairman of the Senate Committee on State Government, that the Council approve establishment of an interim subcommittee to study pending legislation regarding special liquor distributorships, and in particular HF 722. Senator Briles moved that the request be approved, and the motion was seconded by Senator Shaff.

Representative Cochran expressed concern that the Legislative Council may already have approved more interim work than the Service Bureau staff can adequately handle. Lt. Governor Neu said that the Senate staff should be able to provide whatever assistance the proposed State Government subcommittee would require, without further burdening the Legislative Service Bureau staff. After a brief further discussion, Senator Briles' motion was adopted by a voice vote, Senator Hill and Representative Grassley voting no.

The Council then considered requests of various study committees for citizen members, and other related requests, a list of which is attached to and by this reference made a part of these minutes.

Some Council members expressed concern about the composition of the proposed advisory membership of the Local Funding and Budgeting Study Committee. This led to an extended general discussion of the desirability of the broad use of citizen advisory members on legislative study committees, and under what circumstances, if any, such members should be appointed. During the discussion, three basic alternative points of view were expressed, as follows: (1) No citizen members should be appointed at any time, because this device is not necessary to obtain technical expertise from nonlegislators and the appointment of certain individuals as advisory members of study committees may tend to discourage participation by other individuals not appointed; (2) there are some circumstances in which the appointment of citizen advisory members to legislative study committees may be of great value, particularly where technical expertise is needed on a continuing basis and is not readily obtainable in the traditional format of hearings, but citizen advisory members should not be appointed to represent particular interests and particularly should not be appointed in those situations where the same individuals would probably attend committee meetings in their capacity as interest group representatives if they were not appointed as advisory members; and (3) broad use of citizen advisory members on legislative study committees is desirable as a means of assuring a variety of points of view on legislation under consideration, even though in some situations persons appointed as advisory members may be known to represent a particular point of view or interest group, and legislators should not find it difficult to utilize the technical expertise of such individuals while recognizing and allowing for their biases and interests.

Senator Shaff moved that the Council authorize the appointment to the Local Funding and Budgeting Study Committee, in addition to the five advisory members listed on the attached request, of three other citizen advisory members not representing any unit of government or related group or association. The motion was seconded by Senator Hansen, but lost on a vote by show of hands.

On motion of Senator Briles, seconded by Representative Stromer, item A of the attached list of requests was approved by a voice vote, Chairman Lamborn, Senators Hansen, Nolin and Shaff and Representative Small voting no.

Representative Cochran moved that item B on the attached list of requests be approved. The motion was seconded by Representative Middleswart. After some discussion, Representative Small moved as a substitute for Representative Cochran's motion that no further citizen advisory members be appointed to any legislative study committee. Senator Stanley expressed the view that Representative Small's substitute motion would be out of order unless it were worded so as to include reconsideration of the action just taken to approve appointment of citizen advisory members to the Local Funding and Budgeting Study Committee, and some other Council members objected that the substitute motion was too broadly worded. Representative Small withdrew his substitute motion.

Representative Cochran's motion was defeated on a roll call vote of seven to nine. Those voting yes were Senators Briles and Hill and Representatives Cochran, Doyle, Middleswart, Stanley, and Stromer; those voting no were Chairman Lamborn, Vice Chairman Holden, Senators DeKoster, Hansen, Nolin, Shaff and Willits, and Representatives Grassley and Small.

Representative Cochran then moved that the Council approve the appointment of Mr. Frank Mendell, the first person listed under item B of the attached list of requests as the only citizen advisory member of the Land Use Policies Study Committee. The motion was seconded by Representative Middleswart. Representatives Cochran and Middleswart stated that Mr. Mendell, the retired former Director of the federal Soil Conservation Service in Iowa, is one of the most distinguished conservationists in the state and has rendered great service to the Study Committee in the past.

Representative Small renewed his previous substitute motion as a substitute for the second Cochran motion. After further discussion, the substitute motion was defeated by a voice vote, and Representative Cochran's motion to approve the appointment of Mr. Mendell was then adopted by a voice vote.

With reference to item C on the attached list of requests, Representative Doyle explained the reasons why it is felt that a broad representation of citizen advisory members is needed on the Penal and Correctional Systems Study Committee. He emphasized that it is not intended that every citizen member attend every meeting of the Study Committee, but that these members should attend only the meetings relating to their respective areas of expertise as requested by the Chairman. He then briefly explained the respective areas of expertise of each of the proposed citizen members of the Study Committee, and added that the Study Committee also has initiated a policy of inviting to any meeting it holds

outside Des Moines the legislators who represent the area where that meeting is being held.

Senator Shaff moved that the Council approve item C of the attached list of requests. The motion was seconded by Representative Stromer and adopted by a roll call of twelve to three, the negative votes being cast by Senators Hansen and Nolin and Representative Grassley; Speaker Varley and Representative Cochran were not in the room when the roll call was taken.

Representative Stanley moved that the Council approve item D of the attached list of requests. He explained that the study of the Uniform Commercial Code is very complicated, particularly with respect to Article 9 which he termed the heart of the study. He noted that when the Council approved establishment of this Study Committee it was understood that the major share of the staff work would be performed by faculty and students of the University of Iowa College of Law, and added that Professor Dole, who teaches the Uniform Commercial Code course at the Law College had presented a long list of proposed citizen advisory members for the Study Committee, which Representative Stanley had reduced to the list presented as item D. He added that while it might appear that there are an excessive number of persons representing financial institutions, it should be understood that one of the problems involved in the study is the conflicting interest of different lender groups.

Representative Small asserted that item D represents the worst example of the entire list of requests for appointment of citizen advisory members presented to the Council at the present meeting, in terms of lending added status to representatives of certain interest groups. He moved, as a substitute for Representative Stanley's motion, that the Council approve only the appointments of the fifth, sixth, and seventh persons listed under item D, deleting from that item the names listed as numbers one through four inclusive. Senator Willits then moved to amend Representative Small's substitute motion by also deleting the name listed as number six under item D. After further discussion, Senator Willits' motion to amend was adopted by a voice vote.

Representative Small's substitute motion, as amended, was then adopted by a roll call vote of twelve to four, the negative votes being cast by Vice Chairman Holden, Senator Briles, and Representatives Stanley and Stromer; Speaker Varley was not in the room when the vote was taken.

On motion of Senator Hill, seconded by Senator Staff, item E on the attached list of requests was approved by a unanimous voice vote.

With reference to item F on the attached list of requests, some Council members commented that in the past legislators have always been paid per diem when they devote a day to legislative business, and that to do otherwise might set an

unfortunate precedent. Senator Shaff therefore moved that item F be amended to provide for payment of per diem to Representative Mennenga, and that the Council approve the item as so amended. The motion was seconded by Representative Cochran and adopted by a unanimous voice vote.

Senator DeKoster noted that adoption of the Uniform State Administrative Procedures Act could have a significant effect upon the work of the present Departmental Rules Review Committee. Senator DeKoster therefore moved that the Council authorize one member of the Departmental Rules Review Committee, to be designated by that Committee, to attend all meetings of the Uniform State Administrative Procedures Act Subcommittee. The motion was seconded by Representative Grassley, who expressed the view that the Departmental Rules Review Committee is perhaps the most important of all legislative interim committees and urged that no legislation affecting its work be recommended without consultation with its members. The motion was adopted by a unanimous voice vote.

Mr. Garrison suggested that it would be desirable for the Council to adopt a policy with respect to reimbursement to legislators for the cost of air travel to legislative meetings held within the state. After a brief discussion, it was unanimously agreed by the Council members present that such reimbursement should not exceed an amount "about the same" as the mileage allowance for travel by automobile.

Representative Stanley urged that, pursuant to the discussions reported on page two of the attached summary of the Washington meeting with members of Congress and federal officials, the Council have drafted and send to Associate Director James Falk of the White House Domestic Council and Undersecretary of Transportation John Barnum a strongly worded letter in support of Iowa's effort to obtain control over allocation of at least a portion of its allotment of propane and heating oil for the coming winter. He suggested it might be desirable for the letter to be accompanied by supporting letters from Commerce Commission Chairman Maurice Van Nostrand and State Geologist Sam Tuthill. Representative Stanley's suggestion was unanimously agreed to, and the Service Bureau staff was directed to prepare the letters to Mr. Falk and Mr. Barnum.

Senator Hansen read to Council members the text of the telegram prepared pursuant to the motion adopted during the morning session as follows:

Mr. James Falk
Associate Director
White House Domestic Council
White House
Washington, D.C.

The Honorable John Barnum
Undersecretary of Transportation
United States Department of Transportation
400 7th Street, S.W.
Washington, D.C. 20590

As indicated at the September 5, 1973 meeting of Iowa legislators with you and members of the Iowa Congressional delegation, it is our position regarding the impoundment of federal highway trust funds that Iowa should not have to file a law suit to recover Iowa's \$31,000,000 share of these trust funds. Since the facts of the Iowa case are almost identical to those of the Missouri case and the federal judicial district in which the Missouri case was decided will also have jurisdiction over the Iowa case, the United States Department of Transportation should immediately release these funds. The costs of initiating a law suit to resolve a legal question which has already been determined appears unnecessary and a waste of taxpayers' money and deters from the further enhancement of state-federal relations.

IOWA LEGISLATIVE COUNCIL
By Clifton C. Lamborn, Chairman

There was no objection to the text of the telegram.

Chairman Lamborn expressed general satisfaction with the Washington meeting, and suggested that a followup meeting with the Iowa Congressional delegation be arranged, this time in Iowa, in order to continue the efforts begun in Washington. Representative Grassley supported the suggestion, adding that systematic efforts should also be made to improve communications between members of the Iowa Congressional delegation and Iowa legislators, and also between their respective staffs. At the suggestion of Senator Shaff, it was agreed to try to schedule a meeting with Iowa's congressional delegation during the contemplated October congressional recess.

On motion of Senator Shaff, seconded by Representative Holden, the minutes of the Legislative Council meetings of July 25 and August 15 were approved as submitted to Council members.

Representative Small noted that he was unable at this time to present a report in regard to utilization of computerized lists of licensed drivers, as requested at the July 25 Council meeting, because the subsequent meeting of the Confidential Records Council had conflicted with the Council members' Washington meeting.

There being no further business to come before the Council, the meeting was adjourned at 4:30 p.m.

Respectfully submitted,

SERGE H. GARRISON
Director

PHILIP E. BURKS
Senior Research Analyst