

M I N U T E S

SERVICE COMMITTEE OF THE LEGISLATIVE COUNCIL

July 19, 1989

Preliminary Business

The July 19, 1989, meeting of the Service Committee of the Legislative Council was called to order at 10:33 a.m., by Representative John Connors, Chairman, in Room 22 of the Statehouse, Des Moines, Iowa. Members present, in addition to Chairman Connors, were:

Senator Calvin O. Hultman
Senator Bill Hutchins
Senator Joe J. Welsh
Representative Delwyn Stromer

Also present were: Senator Emil Husak; Ms. Diane Bolender, Acting Director, Legislative Service Bureau; Mr. Dennis Prouty, Director, Legislative Fiscal Bureau; Mr. Sandy Scharf, Director, Computer Support Bureau; Mr. William P. Angrick II, Citizens' Aide/Ombudsman; Mr. Joseph O'Hern, Chief Clerk of the House; Mr. John Dwyer, Secretary of the Senate; members of caucus and legislative staff agencies; and other interested persons.

Representative Stromer moved that the Committee dispense with the reading of the minutes and approve the minutes of the June 21 meeting, which had been previously distributed. The motion carried.

Personnel Guidelines for the Central Legislative Staff Agencies-- Parental and Family Leave Policy

Chairman Connors noted that except for guidelines relating to parental and family leave, personnel guidelines for the central legislative staff agencies had been adopted by the Legislative Council at its June meeting. He asked members to present their views concerning a parental and family leave policy. Materials, which had been distributed to the Committee members, contained information relating to parental and family leave which had been prepared by Mr. John Fatino of the Legislative Service Bureau. Chairman Connors recognized Mr. Fatino for presentation of the materials. Mr. Fatino summarized the parental leave provisions which are applicable to the House and Senate employees and reviewed the temporary provisions, contained in the personnel guidelines for the central legislative staff agencies, which apply to the central staff agency employees. He also explained the related leave provisions contained in several collective bargaining agreements, as well as the leave provisions of the

Department of Personnel, which are contained in the Iowa Administrative Code, certain Iowa Code provisions, other state provisions, federal law, and the provisions contained in the collective bargaining agreement between AT&T and its employees. He referred the Committee to a chart summary which was contained in the packet of information that the members had received at the meeting. A copy of the chart of leave provisions and other relevant materials are on file in the Legislative Service Bureau. Ms. Bolender noted that the chart entry under Iowa CLSA, which states that no pre-birth leave is allowed, is incorrect because the eight week leave contemplates inclusion of two weeks of pre-birth leave. Chairman Connors stated that he thought that the employees of the central staff agencies should receive at least the same amount of leave as can be received by those persons covered by the state collective bargaining agreements. Senator Hultman proposed that the Committee review the parental leave chart categories and make decisions as to which of the various leave options should be recommended. The proposal was accepted by the members and the Committee proceeded to review the chart categories.

The first category of discussion was whether an employee should be entitled to a right of return to the same or equivalent position upon cessation of parental leave. Senator Hultman moved that any parental leave policy recommended have a right of return component. The motion carried. Representative Stromer asked whether legislative employees can collectively bargain. Chairman Connors replied that they could not.

Representative Stromer noted that if there is a right of return, then an employee cannot be laid off while on pregnancy leave, and that anyone hired to replace that employee during the leave would only be a temporary employee. It was noted that this was current practice and that the federal legislation would probably require such a practice anyway. Representative Stromer queried whether such a practice would prevent an employer from being able to lay off. Senator Hultman and Chairman Connors both indicated that their interpretation of right to return would not require an employer to reemploy an employee who had taken parental leave if the position to which the employee was to return was no longer available due to lay-offs.

The next category of discussion was the types of leave available for use for parental leave. Chairman Connors noted that both the House and Senate employees were permitted to utilize all accrued leaves for pregnancy-related leaves of absence. Senator Hutchins moved that central legislative staff agency employees also be permitted to use all accrued leaves. Representative Stromer noted that the individuals covered by the bargaining agreement may only use leave without pay. Chairman Connors noted that the bargaining unit may well have given up leave with pay under collective bargaining in order to obtain some other benefit. There was a discussion relating to comparable worth implementation and it was noted that the employees covered by the bargaining

agreement and those of the central legislative agencies are all on similar pay matrixes. Representative Stromer noted that the addition of pregnancy leave with pay would provide a benefit above and beyond current pay levels. Chairman Connors called for a vote on Senator Hutchins' motion. The motion was adopted.

Senator Hultman asked for discussion concerning the concept of family leave. He noted that, under the provisions covering Senate employees, forty hours of family leave is allowed each year and that the House provisions do not mention family leave.

Senator Hultman moved that the Committee recommend a forty hour per year provision for family leave. The Committee then recognized Mr. Greg Nichols, Administrative Assistant to the Senate Majority Leader, who mentioned that the temporary policy which the Committee adopted for the interim period, between the last meeting of the Committee and this meeting, provided for up to eight weeks of family leave per year. Senator Hultman asked what was generally understood to be encompassed by family leave. Representative Connors directed the Committee's attention to a list of questions on the subject of family leave that had been prepared by the Legislative Service Bureau, and noted that it includes a question of whether the leave should be subject to the approval of the employee's director. Senator Hutchins stated that he thought that leave should be subject to the approval of the director, but that there also should be some kind of due process if leave were not approved. It was noted that the grievance process would apply.

Chairman Connors noted that, many times in the public sector, family leave is used for death or serious illness in the family and that, in the granting of leave, a distinction is made between family and immediate family. He noted that usually a prescribed number of days is granted for a death in the family. He also stated that, if the leave policy includes leave for a variety of situations, then the policy should either define what situations should entitle an employee to leave or place the granting of leave in the discretion of the director.

Representative Stromer asked whether the Chief Clerk of the House and the Secretary of the Senate currently determine whether leave should be granted. Chairman Connors responded in the affirmative. Representative Stromer stressed the importance of the adoption of a uniform policy. Chairman Connors stated that he agreed with Representative Stromer that a uniform policy was needed. Chairman Connors also said that normally what is done is to define when leaves are to be granted and place extensions of leave authority in the discretion of the director. Senator Hultman suggested that, if such discretionary authority were given to a director, then the exercise of that discretion should be subject to Committee review and approval.

Mr. Greg Nichols provided the Committee with a brief description of the nature of most of the state short term leave

policies. He noted that most of the leave policies provide for emergency leave. Senator Hutchins mentioned that, in the leave policies with which he is familiar, leave of less than five days is described as emergency leave.

Representative Stromer asked how family leave would apply to single-parent families, as opposed to two-parent families. He posed the hypothetical of a child in a coma and asked the other members how leave should apply under those circumstances. He also questioned whether the leave should be the same for two-parent families under those circumstances. Chairman Connors stated that he thought that under the circumstances described the affected individual would use whatever sick leave the individual had available and then would have the option to apply for extended leave or to apply for leave without pay. Representative Stromer queried as to the definition of extended leave. Chairman Connors explained that this was discretionary leave that a supervisor could grant to an employee. Chairman Connors noted that because the supervisor would be familiar with the employee and the family situation, the supervisor could determine whether the application for extended leave was necessary. Representative Stromer asked whether extended leave was with pay or without pay. Chairman Connors responded that usually it was with pay for a certain period of time and without pay after that. Mr. Nichols suggested that if extended leave or leave without pay were granted in excess of six months by a director, the leave should be subject to the approval of the Service Committee. Mr. Nichols also suggested that leave with pay only be granted under specifically defined circumstances. Ms. Bolender noted that under the current proposal before the Committee, the only leave with pay was sick leave, but that sick leave could be used for the illness of a family member. Representative Stromer asked whether Senate policy permits the use of sick leave in order to care for an ill family member and received the response that all accrued leave may be used for such a purpose. Mr. Nichols suggested that the crux of the issue is whether an employee has to be ill in order to use sick leave but available vacation time could be used to accommodate circumstances in which a family member is ill.

Chairman Connors noted that sometimes in employment contracts various types of sick leave are defined in terms of employee illness and the illness of a family member. Mr. Nichols noted that use of sick leave for family illness is usually termed emergency leave and that under the current proposal, such emergency leave is restricted to forty hours. Mr. Joseph O'Hern, Chief Clerk of the House, stated it was his understanding that under the Department of Personnel guidelines an employee must be sick in order to utilize sick leave, except that forty hours of sick leave may be used as emergency leave for the purpose of caring for an ill family member. He noted that, subsequent to the use of the forty hours, in order to remain on leave with pay, an employee would have to use accrued vacation time, subject to the discretion of the employee's director. He also mentioned that leave without pay is an option, but that this is also subject to

the discretion of the director. Representative Stromer expressed concern that such a policy would still pose a problem because the current use of compensatory time and other accrued leave plus the addition of permitting the use or creating new leave for care of family members could cause the General Assembly to be short staffed, especially if there is an inability to hire temporary staff.

Senator Hultman moved that the Department of Personnel policy stated by Mr. O'Hern be recommended as the central staff policy, and that the following also be recommended: That the first forty hours of sick leave be permitted to be used as family leave, that, after the forty hours are exhausted, an employee be permitted to use accrued vacation, and that leave without pay be made available after vacation is used, subject to the discretion of the director. Chairman Connors asked whether the forty hours could be used for illness of both an employee and of a family member. Senator Hultman clarified that the leave could be used either for personal illness or for the illness of an immediate family member. Chairman Connors called for discussion on the motion, and there being none, called for a vote. The motion was adopted by unanimous voice vote.

The next category of discussion was the subject of accrual of seniority during parental and family leave. Senator Hutchins moved that the Committee recommend that seniority accrue during leave. The motion passed on a voice vote.

The next category of discussion was the subject of insurance benefits. Chairman Connors and Representative Stromer discussed the provisions of the House and Senate plans and noted that the Legislative Council had already adopted a provision that requires the State to pay the first thirty days of benefits if an employee is on leave without pay. Mr. O'Hern noted that there are two different aspects of the insurance issue. One is the payment of insurance during maternity leave and the other relates to other leave without pay situations. He noted that, in the House, the state pays the state share of benefits during the entire leave. Mr. O'Hern said, however, that in the case of other leaves without pay, the state only pays the state's share for the first thirty days of leave. He mentioned that the reason for the thirty days of coverage is that it is more cost effective to pay the benefits than to pay the start-up costs if the leave is shorter than thirty days. Senator Hutchins moved that the Committee recommend, as the Committee had previously recommended, that the state pay the first thirty days of benefits during leave without pay. Chairman Connors asked whether, in the case of maternity or adoption, the state would pay benefits during the entire leave. He was answered in the affirmative. Representative Stromer asked whether the state would pay all benefits for four months. Senator Hultman and Chairman Connors replied that the specific term of maternity leave had not yet been determined.

Mr. Fatino read language contained in the revised version of the Guidelines to the Committee members which states: "The employee's benefits and seniority, while on maternity leave, continue as though the employee had not taken leave." Representative Stromer asked whether the continuation of benefits would apply only to maternity leave or to any employee taking leave. Senator Hultman explained that there were two different issues, maternity and leave without pay. Representative Stromer asked if the maternity leave could extend for four months and Senator Hultman again stated that the length of maternity leave had not been determined. Chairman Connors expressed some concern as to what the agreement was that was before the Committee and Senator Hultman moved to continue to recommend the Guidelines language that Mr. Fatino had read to the Committee. Senator Hutchins indicated that this was basically what he had understood to be the Committee's previous position. A vote was taken on Senator Hultman's motion and the motion passed.

The next topic of discussion was family leave and the continuity of benefits. Mr. Fatino was again asked to recite the provisions relating to continuity of benefits for family leave. He read the following: "The employee's benefits and seniority, while on family leave, continue as though the employee had not taken leave." Senator Hultman moved that the language read by Mr. Fatino be recommended by the Committee. Representative Stromer asked for the extent of family leave. Chairman Connors mentioned the forty hours of emergency sick leave that the Committee had previously discussed. He also noted that a specific time limit had not been set for family leave. Representative asked whether the continuity of benefits under family leave would apply to leave without pay. Senator Hultman indicated that the continuity of benefits that the Committee was currently addressing would apply to leave with pay and Chairman Connors affirmed Senator Hultman's statement. Chairman Connors called for a vote on Senator Hultman's motion and the motion was unanimously adopted on a voice vote.

The next topic of discussion was continuity of benefits for leaves of absence without pay. Senator Hultman moved that the Committee recommend that for all leaves without pay the state pay for the first thirty days of leave without pay benefits, with the caveat that the leave without pay be at the director's discretion. Chairman Connors asked Senator Hultman whether his motion applied to all leaves without pay, including both maternity and family leaves without pay. Senator Hultman responded in the affirmative. Chairman Connors called for a vote on the motion and the motion was adopted on a unanimous voice vote.

The next topic of discussion was the term of leave. Chairman Connors suggested four consecutive months for maternity leave. Senator Hultman moved that the term of leave recommended be eight weeks. Representative Stromer asked whether the eight weeks would include maternity leave. Senator Hultman replied that would be the length of maternity leave. Mr. Nichols noted that what the

Committee had temporarily adopted called for eight weeks of maternity leave and eight weeks for adoption of a child. He stated that, as he understood the House policy, sixteen weeks leave was possible with eight weeks of maternity leave and an additional possible eight weeks of family leave. Representative Stromer posed a hypothetical concerning a new state employee who, after one year of employment, becomes pregnant. He asked how much leave the employee would have accrued, how much the employee would be required to use for maternity leave, and whether benefits would accrue during the entire period of maternity leave. He was informed that, under the House policy, the employee would have accrued three weeks and three days of sick leave and two weeks and two days of vacation and personal leave under the personnel guidelines, but would not be required to use all of either of those leaves for maternity leave, since the employee is allowed to retain one week of sick leave and one week of vacation out of the employee's accrued leave. Mr. O'Hern stated that under the House policy, the state would continue to pay benefits during the entire sixteen weeks of maternity leave whether that leave is with or without pay. Mr. Nichols added that this leave policy would, however, only apply to females since the policy was phrased in terms of maternity/pregnancy leave.

Chairman Connors restated both chambers' maternity policies and then proposed that the Committee recommend three months of maternity leave, not to exceed nine additional months or a year of leave total, as is done under the collective bargaining agreements. Senator Hutchins asked how the three-month policy would work. Mr. Fatino explained that, under the collective bargaining agreements, an employee is entitled to three months of maternity leave. At the end of those three months, he said, the person comes back to work and may then take another three months of leave in thirty day increments, provided that the person can meet the other terms of the agreement. A person, he said, cannot take more than a total of one year of leave. Senator Hutchins moved that maternity leave, as described by Mr. Fatino for collective bargaining agreements, be recommended for adoption by the Legislative Council for the central staff agencies. The motion passed over Representative Stromer's "no" vote.

Chairman Connors asked if there were any further details on the issue of parental and family leave. He directed staff to assimilate what had passed and inform the Committee of any details that needed refinement. Senator Hutchins requested that staff define and set out in the policy what was meant by the term "family". The Committee decided that it will recommend what had been recommended as policy to supersede the previous interim policy. Mr. Nichols then asked the Committee whether maternity leave would also apply to males. Chairman Connors asked whether any of the members had any objection to changing the term "maternity" to "parental", so that leave could also be taken by male employees. There were no objections to the change in terminology, and the change was adopted.

Ms. Bolender then asked the Committee whether, under the new policy, an employee might retain some vacation and sick leave before being required to use unpaid leave. She noted that, under the interim temporary agreement, an employee taking unpaid maternity leave may retain up to forty hours of sick and vacation leaves. There was discussion on the concept of retention of leave, where it was disclosed that the concept did not include accrual of leave during parental unpaid leave, although insurance benefits would be paid, but merely allowed an employee to take unpaid parental leave without exhausting all of the employee's previously accrued leave. Senator Hutchins moved that the Committee recommend that the Legislative Council permit retention of leave, as was previously the case under the temporary policy, even though the employee was taking unpaid parental leave. Representative Stromer asked, under his hypothetical first year employee situation, whether, for the three months of parental leave, all insurance benefits would be paid and whether the employee would still be allowed to accrue sick and vacation leave. He was answered in the affirmative by Chairman Connors. Senator Hultman asked whether the parental leave provisions would apply equally to all employees, male and female, even if the employee's spouse stayed home. Senator Hutchins expressed the opinion that it should not and that how the policy should apply should be incorporated into the policy definitions.

Representative Stromer asked about the employee who, after taking three months of leave, decides not to return to work. Chairman Connors said that, unless the employee stated that he or she did not intend to return ahead of time, the employee would receive thirty days of benefits after the three-month leave. Representative Stromer suggested the holding of money in escrow, as is done under some agreements. There was no expression of support for the concept.

Senator Hultman asked Chairman Connors about parental leave during the interim period between this meeting and the next meeting of the Committee. Chairman Connors replied that the policies that were adopted would be in effect, and in the absence of a provision, the remaining guidelines would be those of the interim policy.

Chairman Connors then suggested that the Committee recess. Following the recess, Senator Hutchins moved that, with reference to family leave, the Committee recommend that an employee be permitted to take four weeks of leave after taking forty hours of enforced sick leave. Representative Stromer expressed reservations about adopting such a leave policy without defining the term "family." Chairman Connors called for a vote on the motion and the motion was adopted over Representative Stromer's "no" vote.

It was determined that the staff will provide a draft of the proposed parental and family leave policies at the Committee's September meeting. Staff will also gather additional information

relating to the definition of "family" and to the uses of emergency leave.

Authority of the Citizens' Aide/Ombudsman Office

Chairman Connors noted that the Office of the Citizens' Aide/Ombudsman currently has a civil case pending and asked that any person presenting or speaking at the meeting be cognizant of that fact when asking questions or addressing the Committee, so as not to jeopardize the case.

Chairman Connors then recognized Ms. Leslie Workman of the Legislative Service Bureau for presentation of a memorandum relating to the authority of the Citizens' Aide which had been previously distributed. The memorandum is on file in the Legislative Service Bureau. Ms. Workman summarized the contents of the memorandum, highlighting concerns relating to statutory language, language contained in the Citizens' Aide's rules, and attorney general opinions. At the close of Ms. Workman's presentation, Chairman Connors asked if there were any questions and there were none.

Chairman Connors next recognized Ms. Mary Whitman, Staff Attorney for the Iowa State Association of Counties. Ms. Whitman noted that I.S.A.C. became involved with the Office of Citizens' Aide/Ombudsman as a result of a request by the Osceola County Sheriff, that her association assist in his defense against an investigation of his activities as County Sheriff that was being conducted by the Citizens' Aide of his activities as County Sheriff. She mentioned that the board of directors of I.S.A.C. declined to become financially involved in the matter, although they did choose to remain apprised of the situation. Ms. Whitman noted that sometime during 1988, the investigation was initiated by the Office of Citizens' Aide. In late July or early August, she said, the case was referred to a grand jury for investigation by the Office of Attorney General. She noted that ultimately the grand jury came back with a "no true bill" finding. Ms. Whitman said that the primary objection raised was that the Office of Citizens' Aide continued its investigation while the grand jury was convened. The Iowa State Association of Counties, she said, would suggest that investigation be terminated once a matter has been referred. For example, she said, if criminal charges are filed, or a grand jury convened, the Citizens' Aide should cease its investigation. Otherwise, she noted there would be duplication of effort and possibly a waste of resources. She noted further that this concern, and the applicability of Chapter 17A relating to contested case procedures, were the subjects of the district court ruling in the civil matter currently pending.

Chairman Connors summarized the I.S.A.C. position by saying that I.S.A.C. was of the opinion that, once charges had been filed, the Office of Citizens' Aide should cease its investigation of the matters related to the criminal charges. Ms. Whitman

affirmed his summary of their position. Chairman Connors asked whether there were any questions regarding Ms. Whitman's presentation and there were none. Chairman Connors then asked Ms. Workman whether she had any comments regarding Ms. Whitman's presentation. Ms. Workman replied that the only comment that she had was that her statutory research had caused her to arrive at the conclusion that, prior to the specific exemption of the Citizens' Aide's Office for the operation of chapter 17A, chapter 17A probably did apply to that office. She noted that this conclusion was based in part on a specific exemption that was granted to the components of the judiciary from chapter 17A, in part on the addition of the exemption language in Senate File 141, and in part on the references to chapter 17A contained in the rules adopted by the Citizens' Aide.

Chairman Connors then recognized Mr. William Angrick, Citizens' Aide, as the next presenter to the Committee. Mr. Angrick prefaced his remarks by saying that he felt that he could respond to the matters raised at the meeting today without jeopardizing either the civil litigation in which his office was involved or violating any confidentiality requirements that are imposed upon his office. He did say, however, that if the members wished to discuss the matter which Senator Husak raised at the last Council meeting, he would request that the Committee go into closed session, since the matter included items that are expressly confidential by statute.

Mr. Angrick noted that the Ombudsman's Office is required to turn over to the proper authorities matters in which criminal activity is believed to have occurred. He noted that, in the Osceola County sheriff matter, the investigation involved a number of issues, not all of which were criminal in nature. He stated that his office turned all criminal issues over to the Attorney General's Office, since his office had challenged the authority of the local county attorney to act, because the county attorney's private office was representing the sheriff. Upon referral of the criminal issues, Mr. Angrick said, his office no longer investigated those issues, but did go forward with the other remaining issues. He also noted that currently a suit has been filed in federal court against his office and several of his staff members individually. He stated that this litigation and the litigation pending before the Iowa Supreme Court has effectively prevented the conclusion of the investigation, since some of the litigation involves the authority of the Office of Citizens' Aide to obtain certain information.

Chairman Connors asked whether there were any questions. Senator Welsh asked Ms. Workman about the applicability of chapter 17A to action taken by the Citizens' Aide. She indicated that she believed that chapter 17A is applicable to certain agency action. She noted the specific exemption that was made was for the Office's rulemaking authority and stated that, because chapter 17A only specifically regulates rulemaking and contested cases, the only requirement that would be effectively imposed upon the Office

was that of reasonableness of action. She noted that the Citizens' Aide is an appointed official, not elected, the Office is created by statute, and that the Citizens' Aide exercises authority that has been delegated to him by the Legislature. Senator Welsh asked whether chapter 17A also applies to the Legislative Service Bureau and other central staff agencies, to which Ms. Workman replied that it probably did, but that, since their rules are made by the Legislature, which is exempt from chapter 17A, the problem of application of chapter 17A to the rules of the central staff agencies does not exist.

Chairman Connors asked Mr. Angrick to respond to the concern expressed by I.S.A.C. Mr. Angrick responded that where his office had turned over an issue, the office ceased its investigation of the matter. He said that the only issues that he had remaining were those issues which he believed not to be criminal in nature. Representative Stromer asked how the Citizens' Aide became involved in the matter, to which Mr. Angrick replied that a confidential complaint had been filed. Upon questioning by Representative Stromer, Mr. Angrick again stated that his office had turned over all criminal matters to the Attorney General and added that his office's remaining investigatory work did not include active information gathering, but instead involved the litigation relating to the failure to comply with the Citizens' Aide's subpoenas. Chairman Connors asked Ms. Whitman whether she was satisfied with Mr. Angrick's explanation. Ms. Whitman stated that I.S.A.C. was not as concerned with the present case, but rather with prospective problems. She stated that her organization thought that more specific legislative direction should be made in order to clarify what the duties of the Citizens' Aide are under circumstances where criminal allegations are involved. Chairman Connors asked whether I.S.A.C. had any problems with the Citizens' Aide continuing investigation into noncriminal matters where it has turned over the criminal allegations. Ms. Whitman stated that many times civil matters have criminal overtones, so that it was difficult to make specific recommendations, but she suggested either that investigation be suspended totally upon referral of criminal matters or only the investigation of the criminal issues be suspended. Senator Hutchins asked Mr. Angrick how his office receives complaints and Mr. Angrick explained that there are several ways in which complaints are taken. Senator Hutchins expressed concern that if the authority of the Citizens' Aide were limited, then the General Assembly would not receive as much information as it wishes to receive, especially where the Citizens' Aide is required to refer certain matters.

Mr. Angrick noted that the particular investigation involving the Osceola County sheriff was an unusual case in that it involved so many different issues, and noted that, usually when a matter is referred, the Citizens' Aide is no longer involved in the matter, except to the extent of cooperating with the agency of referral.

Chairman Connors asked Mr. Angrick to respond to the concern that Ms. Workman had expressed relating to the authority of the Citizens' Aide to hold a public hearing. Mr. Angrick replied that it was his interpretation that the permissive language in the statute does include the possibility of a public hearing.

Chairman Connors asked Mr. Angrick to respond to a letter that had been written to Senator Vande Hoef about the Osceola investigation and which had been previously distributed to the members. The letter is on file in the Legislative Service Bureau. Mr. Angrick asked that his legal counsel, Mr. Michael Elliott be permitted to respond in his stead. Mr. Elliott stated that the allegations that the investigation was conducted in a "circus atmosphere" were not correct. He noted that although the interviews were conducted in the courthouse, they were private hearings. He denied that any Citizens' Aide staff showed any of the materials disclosed during the investigation to the press. He also noted that any of the purported "searches" were conducted with the consent of the person to whom the property belonged. He also noted that the office had been careful not to commence the investigation at the inception of the primary election as was alleged, but instead conducted their proceedings at a time when it was thought that there would be no interference. He noted that the sheriff was afforded the right to counsel, which the sheriff did exercise.

Chairman Connors asked if there were any further questions. Chairman Connors then said that the proposal that was before the Committee was the request by I.S.A.C. that legislation be introduced to require the Citizens' Aide to desist from further investigation once a criminal proceeding has been initiated. He asked Ms. Whitman whether there should be a total suspension of investigation or whether only suspension of further investigation into criminal matters was being called for and she replied that she was not certain, since there was a division of opinion among I.S.A.C. members. She did say that at least suspension of investigation into criminal matters cease. Chairman Connors noted that this was current Citizens' Aide policy.

Chairman Connors recognized Senator Husak and asked him to relate to the Committee the concerns that he had previously expressed to the Legislative Council. Senator Husak had expressed concern about an investigation the Office of Citizens' Aide had conducted at the Iowa Juvenile Home in Toledo. Senator Husak stated that he had contacted Mr. Angrick and asked him to intervene to clear up matters and that Mr. Angrick had done so. Senator Husak said that the officer who was causing the trouble was gone but the Department of Inspections and Appeals and the Department of Human Services are visiting the Iowa Juvenile Home. He said that the administration was now having difficulties with its employees. He also said that the Citizens' Aide's duties and responsibilities should be different from the Civil Rights Commission and that, in his opinion, if there were problems they were a matter for that Commission. Senator Welsh questioned Mr.

Angrick about the reasons for the Citizens' Aide's presence at the facility. Mr. Angrick responded that his office had received complaints of use of disciplinary procedures for child in need of assistance cases that may be in violation of federal law. He described what course of action his investigator took and mentioned that there had been a declaratory ruling request, which he had recently denied. He also noted that the information that his investigator had uncovered had been turned over to the director of the institution and the Attorney General's Office and that the institution itself had invited the Department of Inspections and Appeals to conduct an investigation. He also noted that one result of the investigation had been the revising of a procedures manual for the institution.

Senator Hutchins moved that the Committee receive and file the various reports and the request by I.S.A.C. The motion passed on a voice vote.

Research Policy of the Legislative Service Bureau

Ms. Bolender noted that in each of the members' packets was a memorandum, which sets out a proposed research policy for the Legislative Service Bureau. The proposed research policy reads as follows: The Legislative Service Bureau may accept from legislators all legal research requests which request information regarding the law relating to a particular subject matter, provided that the request does not ask that the Bureau apply the law to a particular fact pattern. This policy is intended to allow the Bureau to investigate the area of law and to make general findings in regard to particular subject matters but to prevent the Bureau from making conclusions as to the legality of any particular behavior or set of circumstances. Legal research findings shall be reviewed internally by a Bureau attorney licensed to practice law in Iowa.

Ms. Bolender noted that this policy was suggested in response to requests for research which had been received in the past. She also noted that the policy was suggested since the statute prohibits the Legislative Service Bureau from making recommendations. Senator Welsh asked about the nature of some of the requests. Ms. Bolender described them to Senator Welsh. Representative Stromer noted that he usually directs fact specific requests for legal opinions to House Legal Counsel. Senator Welsh moved that the Committee recommend that the Legislative Council adopt the proposed policy. The motion passed on a unanimous voice vote.

Expenditure of Midwestern Legislative Conference Funds

Chairman Connors recognized Mr. Fatino for presentation of a report concerning the expenditure of the balance of moneys remaining from the Midwestern Legislative Conference held in Iowa

in 1987. Mr. Fatino stated that he contacted the midwestern office of the Council of State Governments on behalf of Chairman Connors. He noted Chairman Connors has suggested that the funds be expended to attempt to attract the National Legislative Conference of the Council of State Governments to Iowa in 1992. Senator Hutchins moved that the proposition be adopted. The motion passed on a unanimous voice vote.

Retention of Legal Counsel for Item Veto Issues

Chairman Connors recognized Mr. Richard Johnson of the Legislative Service Bureau for presentation of a memorandum relating to retention of legal counsel by the Legislative Council. Mr. Johnson noted that he had contacted N.C.S.L. and they had given him the names of some attorneys who would have expertise in the area of constitutional law. He noted that even though retention of an Iowa counsel may be desired, the individuals may serve as legal consultants. Ms. Bolender noted that the memorandum also contained two articles relating to the legal counsel issue.

Representative Stromer stated that in the past that he thought the majority party paid for the cost of retention of legal counsel and asked how the Committee envisioned payment for the cost of retention of legal counsel. Senator Welsh stated that he had conducted some research on the matter and suggested that the Committee recommend the hiring of Brent Appel, a former Assistant Attorney General. He also said that he thought that the legal counsel should be responsible for reviewing the pending issues and should submit monthly bills, not to exceed a total billing of \$15,000. Mr. Joseph O'Hern noted that the General Assembly still has a case pending before the Supreme Court and recently had another case which was dropped. There was a general Committee discussion of previous cases.

Representative Stromer stated that he would suggest that the Service Committee first develop a policy relating to the retention of legal counsel. He also asked why House or Senate Legal Counsel could not be used in this situation. Representative Stromer moved that, before the Committee makes a recommendation on the legal counsel issue, the Legislative Council develop a policy relating to the hiring of legal counsel. Senator Welsh moved that the Committee recommend that Brent Appel be retained and that he be required to submit monthly bills, with the total cost not to exceed \$15,000. Representative Stromer moved to substitute his motion for Senator Welsh's motion. Senator Hutchins indicated that he opposed Representative Stromer's motion. A vote was taken on Representative Stromer's substitute motion and the motion was defeated on a voice vote. A vote was then taken on Senator Welsh's motion. After a discussion of the rules of the Committee, it was determined that the motion did not pass.

Recess

Senator Hutchins moved that the Committee recess and reconvene in Room 24. The motion passed and the Committee recessed at 12:47p.m.

Retention of Legal Counsel (cont.)

The Committee reconvened in Room 24 at 1:20 p.m. with the same Committee members present. Representative Stromer moved to reconsider the vote relating to the hiring of Brent Appel and Senator Welsh seconded it. The motion passed. Representative Stromer then moved to substitute a motion that Mr. Appel be retained at a total cost not exceeding \$15,000, be required to submit monthly bills, and that the Committee or some other committee develop a policy relating to the retention of legal counsel by the General Assembly. Senator Welsh seconded the motion and the motion was adopted on a unanimous voice vote.

Report of the Computer Subcommittee

Senator Welsh noted that the Committee had received a report from the Computer Subcommittee. He moved that the Committee recommend that the Legislative Council authorize Mr. Sandy Scharf to purchase the processor unit from Hawkeye Insurance. He asked Mr. Scharf to explain the information on the processor at Senator Hutchins' request. Mr. Scharf explained that Hawkeye Insurance has a processor that is compatible with the current Unisys system and that it could be purchased at cost plus installation. Senator Welsh moved that the report be adopted.

Senator Hutchins moved that the Committee defer action on purchase of software for personal computers until next month, explaining that the subcommittee had just received new information on software packages. Representative Stromer noted that it may be necessary to teach legislative staff how to use the new software.

Senator Hutchins also mentioned that a request that had been received from Representative Peterson suggesting that the General Assembly obtain access to LEXIS. He noted that the Law Library presently has access. He moved that the Committee defer action on that request at present.

Chairman Connors then restated the recommendations contained in the report and Senator Hutchins moved that the committee adopt the report. The motion passed on a unanimous voice vote.

Personnel Report of the Legislative Service Bureau

Ms. Bolender presented the personnel report of the Legislative Service Bureau. A copy of the report is on file in the Legislative Service Bureau. She presented the Committee with a proposal relating to the taking of minutes by Ms. Bridget McNerney, who is currently a bill clerk in the Service Bureau, and by Ms. Peggy Glick, who is currently staffing the Higher Education Task Force. She noted that the proposal involved retaining Ms. Glick after the work of the Task Force is completed, with the Service Bureau assuming payment of her salary.

Ms. Bolender noted that Mr. C.J. May III resigned as legal counsel to take a position in Dubuque. She also mentioned that the Service Bureau is in the process of interviewing for the librarian position. She noted that the Bureau is readjusting the positions in the Code Divisions and is commencing with filling vacant positions. Ms. Bolender stated that her report sets out all merit increases that have been given since the last meeting and that it appears that it may be necessary to hire full-time temporary proofreaders to assist current staff during the upcoming session. She also said that the report contains a listing of overtime hours earned by both Service Bureau and Fiscal Bureau employees. Senator Hultman asked whether preparations were in place to reduce the overtime hours of proofreaders. Ms. Bolender stated that a set of permanent proofreaders from the Code Office will be trained to assist the Service Bureau during the session. Representative Stromer moved that the report be received and filed and those portions needing approval be recommended to the Legislative Council. The motion passed.

Personnel Report of the Office of Citizens' Aide/Ombudsman

Mr. Angrick noted that his report consisted of a notice that he had terminated the employment of Mr. James Peterson. A copy of Mr. Angrick's notification of termination is on file in the Legislative Service Bureau. The report was received and filed.

Adjournment

There being no further business to come before the Committee, Senator Hultman moved that the Committee arise. The motion passed and the Service Committee of the Legislative Council adjourned at 2:10 p.m.

Respectfully submitted,

LESLIE WORKMAN
Legal Counsel