

REPORT OF THE
IOWA LEGISLATIVE COUNCIL
TO THE
SECOND SESSION OF THE
SIXTY-THIRD GENERAL ASSEMBLY
JANUARY, 1970

Pursuant to Chapter 69, Section 36, Acts of the
Sixty-third General Assembly, First Session

PREFACE

This report is a compilation of final or interim reports of study committees organized by the Legislative Council pursuant to resolutions adopted by the first session of the Sixty-third General Assembly. All study committees whose reports are included in this compilation have operated under the direction of the Legislative Council.

Submission of an interim report or progress report indicates that the study committee involved has not completed its work, and anticipates making a further report to the General Assembly. In some cases, it was the intent of the resolution creating a study committee that the committee continue its work during and following the second regular session of the Sixty-third General Assembly, and submit a final report to the Sixty-fourth General Assembly. In other cases, study committees are expected to submit final reports during the 1970 session, but were not prepared to do so prior to the convening of the session.

The Legislative Council met on December 16-17, 1969, to receive and consider the reports appearing in this compilation. The Council's action with respect to each report is noted immediately following the heading of the report.

2-20-70 Dr. Legis. gift

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REPORT OF THE

COLLECTIVE BARGAINING STUDY COMMITTEE

COLLECTIVE BARGAINING STUDY COMMITTEE

The Collective Bargaining Study Committee had not held its final meeting, and was therefore not in a position to submit a final report, when the Legislative Council met on December 16-17. Council members received both a progress report prepared by the Legislative Service Bureau and a report prepared by some of the members of the Study Committee, as well as a minority report expressing the views of some of the other members. A final report, reflecting decisions made at the last meeting of the Study Committee, was not available for inclusion in this compilation, but will be distributed to members of the General Assembly as early as possible.

Legislation prepared by the Study Committee, entitled "A Bill For An Act relating to collective bargaining in public employment," was filed in the House by Representatives Pelton and Millen, and in the Senate by Senators Nicholson and Gaudineer, all of whom served on the Study Committee, on January 12, 1970.

REPORT OF THE

CRIMINAL CODE REVIEW STUDY COMMITTEE

CRIMINAL CODE REVIEW STUDY COMMITTEE

Progress Report

NOTE: This report was received without formal action by the Legislative Council, since it contains no recommendations.

The Criminal Code Review Study Committee was created pursuant to Senate Joint Resolution 18, which directed that a study committee be appointed to "conduct during the 1969-1971 legislative interim a comprehensive study of the Iowa criminal code in order to provide for a workable and effective system of criminal justice."

Pursuant to the resolution a study committee was appointed by the Legislative Council, comprised of the following members:

Representative William Hill, Chairman
Senator Quentin V. Anderson
Senator R. Dean Arbuckle
Senator Gene W. Glenn
Senator Chester O. Hougen
Senator George E. O'Malley
Senator Harold Thordsen
Representative Norman G. Jesse
Representative Luverne W. Kehe
Representative Robert M. Creamer
Representative Thomas A. Renda
Representative David E. Weichman
The Honorable James P. Denato
The Honorable Carroll Engelkes
Professor Ronald L. Carlson
Professor John J. Yeager
Mr. Charles Vanderbur
Mr. Frederick G. White
Mr. James Van Ginkel

Two meetings of the Study Committee have been held to date, on September 5 and 26, 1969, respectively. A summary of the business conducted by the full Study Committee and by its Subcommittees follows:

1. At its first meeting the Study Committee was informed that federal funds may be available in conducting the criminal code revision project from a congressional appropriation under the Omnibus Crime Control and Safe Streets Act of 1968. The Iowa Crime Commission was able to obtain a federal grant of \$5,000 for use by the Study Committee in initiating the planning phase of the revision project. An application has also been filed by the Study Committee with the Iowa Crime Commission for an additional federal grant of \$50,000 to be used during the year 1970 in continuing the project. Federal funds must be matched on a 60 percent federal - 40 percent state basis. The Study Committee decided that the Legislative Service Bureau should administer the funds required for the project.

2. At its second meeting the Study Committee divided its membership into four subcommittees as follows:

Substantive Criminal Law Subcommittee

Senator Glenn and Representative Kreamer, Co-Chairmen
Senator O'Malley
Judge Engelkes
Mr. Vanderbur

Criminal Procedure Subcommittee

Senator Anderson and Representative Jesse, Co-Chairmen
Representative Renda
Judge Denato
Mr. White

Sentencing and Postconviction Subcommittee

Senator Thordsen and Representative Hill, Co-Chairmen
(The remainder of the Subcommittee will be named at a later date.)

Criminal Statute Consolidation Subcommittee

Senator Hougen and Representative Weichman, Co-Chairmen
(The remainder of the Subcommittee will be named at a later date.)

The Study Committee decided that initial emphasis should be placed on revision of the substantive and procedure criminal law, and that the work of the other two Subcommittees would be clarified and facilitated by waiting until substantive and procedural revision were more nearly completed.

3. Professors Ronald L. Carlson and John J. Yeager, both Study Committee members, were retained as the professional drafting staff in charge of preparing revision proposals for Study Committee approval. Professor Carlson was assigned to the Criminal Procedure Subcommittee and Professor Yeager was assigned to the Substantive Criminal Law Subcommittee. Both professors indicated that they would employ such research assistants, secretaries, and typists as they considered necessary in preparing draft proposals. The typing and xerox facilities of the Legislative Service Bureau are being made available to the drafting staffs and the Bureau serves as the coordinating agency for the draftsmen and Subcommittees.

4. The Criminal Procedure Subcommittee held its first meeting on November 3, 1969, for the purpose of reviewing a preliminary proposed draft prepared by Professor Carlson's drafting staff. Suggestions for the revision of the preliminary proposal were made and implemented, as were suggestions concerning drafting style and commentary following each proposed section in the revision. The second meeting of the Criminal Procedure Subcommittee will be held on December 22, 1969.

5. The first meeting of the Substantive Criminal Law Subcommittee was held on November 21, 1969, for the purpose of reviewing

a preliminary proposed draft prepared by Professor Yeager's drafting staff. The Subcommittee completed an examination of the proposed draft, and made several suggestions concerning amendments. The Subcommittee chose December 12, 1969 as a tentative date for its next meeting, at which time further review of the amended proposal and any new material will be undertaken.

The Criminal Code Review Study Committee has interpreted the mandate of Senate Joint Resolution 18, that its final report and recommendations be submitted to members of the Sixty-fourth General Assembly, as permitting the submission of such report and recommendations to the second session of that General Assembly, convening January 10, 1972, and anticipates that its work will have been completed by that date. The Committee has established July 1, 1970 as the target date for completion of the revisions of the procedural segments of the criminal statutes, and October 1, 1970 as the target date for completion of the substantive revision of the criminal statutes.

REPORT OF THE

EMINENT DOMAIN STUDY COMMITTEE

EMINENT DOMAIN STUDY COMMITTEE

Final Report for 1969 Interim

(Committee has requested authority to continue its study in 1971)

NOTE: This report was adopted by the Legislative Council as submitted. The Council received but did not act upon the accompanying minority report.

House Concurrent Resolution 21, 1969 Session of the Sixty-third General Assembly, directed that the Legislative Research Committee or its successor create a study committee to conduct a comprehensive study of the Iowa Code "relating to eminent domain . . . in order to provide for an up-dated and equitable law relating to eminent domain." The Concurrent Resolution directed that legislative members be chosen from appropriate standing committees of the House of Representatives and the Senate and that nonlegislative members known for special knowledge in the field of eminent domain be selected.

Accordingly, the Eminent Domain Study Committee was established by the Legislative Council in July, 1969. Legislators named to serve on the Study Committee were:

Senator James Briles, Corning
Senator Andrew Frommelt, Dubuque (Appointed to succeed
Senator J. Donald Weimer who resigned.)
Senator Herbert L. Ollenburg, Garner
Representative William J. Gannon, Mingo
Representative Edgar H. Holden, Davenport
Representative Delwyn Stromer, Garner

The following persons were named as nonlegislative advisory members to the Committee:

Mr. Ira Delk, Sioux City
Mr. Robert Mickle, Des Moines
Mr. William Pappas, Mason City (Appointed to succeed
Mr. Jack Frye who resigned.)
Mr. Hugo Schneklath, Eldridge

The Committee was directed by HCR 21 to submit a report to the second session of the Sixty-third General Assembly, but because of the wide scope of the study and the complexity of the present laws relating to eminent domain, the Committee finds that it is impossible to complete the project and for this reason is requesting that the study be continued through the next interim. The Committee submits this progress report to inform the General Assembly of its accomplishments to date, and its plans for completion of the project during 1970.

The Committee's organizational meeting was held on August 12, 1969, with Senator James Briles serving as temporary Chairman. The Committee elected Representative Edgar H. Holden as permanent Chairman, Senator James Briles as Vice Chairman, and Diane Devin, Research Analyst, Legislative Service Bureau, as Secretary. Mr. Burnette Koebernick, Legal Counsel, Legislative Service Bureau, serves as legal advisor to the Committee.

Eminent Domain has been defined as "The power of the nation or a sovereign state to have, or to authorize the taking of, private property for a public use without the owner's consent, conditioned upon the payment of a just compensation." A legislative body itself may exercise the power of eminent domain or it may delegate the power to a governmental subdivision, public agency, or private agency. Chapter 472 of the Code of Iowa outlines the general condemnation procedures to be used by most agencies which have been granted the right to exercise eminent domain. However, five other condemnation procedures are authorized in the Code: county boards of supervisors may condemn for changes in roads, streams, or dry runs; cities or towns for existing public utility plants; cities for existing bridges; individuals for drainage purposes; and persons, firms, corporations, or municipalities for dams or the development or utilization of water power.

Prior to the organizational meeting of the Study Committee, the Legislative Service Bureau conducted a computer search of the Code in order to identify all agencies and entities which have been granted the right to exercise eminent domain, and prepared a listing of such agencies and entities for Committee members.

At its organizational meeting the Committee decided to hold hearings and to invite representatives of the governmental agencies and subdivisions which have the power of eminent domain and representatives of the utility companies which may petition the Iowa State Commerce Commission for the right to exercise eminent domain, to attend a meeting, present written statements to the Committee, and to justify uses of eminent domain and explain the procedures used. Copies of all written statements received are available in the Legislative Service Bureau office.

Representatives of the following agencies and entities appeared at the Committee hearings: Executive Council, Board of Regents, Conservation Commission, Highway Commission, and Natural Resources Council. Counties were represented by persons from the County Engineers Association, and cities were represented by the Director of the League of Iowa Municipalities. Also appearing were representatives from: the Iowa Railway Committee, electric utilities, gas pipelines, other pipelines, and telephone companies.

Because there appeared to be dissatisfaction among landowners of procedures used in condemnation proceedings, the Committee invited representatives of the Iowa Farm Bureau Federation and the Iowa Farmer's Union to appear. In addition, many landowners from throughout Iowa who had land condemned during the past few years appeared or presented written statements outlining problem areas in present condemnation procedures and possible amendments to provide more equitable procedures.

Except for public utility companies, most agencies have been given an outright grant to exercise eminent domain. The general condemnation procedure established by Chapter 472 of the Code authorizes a six-man condemnation commission, commonly known as the sheriff's jury, to determine the condemnation award. After

the acquirer determines that he cannot obtain the land that is needed by negotiation and purchase, he institutes condemnation by filing an application with the sheriff of the county in which the land sought to be condemned is located, and a commission of six men is appointed to assess damages to the property being condemned. The Iowa Code establishes two separate procedures for selecting sheriff's jury members. The county sheriff appoints jurors if the jury's award is not payable from the state treasury, and when the jury's award is payable from the state treasury, the Chief Justice of the Iowa Supreme Court appoints jurors. Jurors selected by the county sheriff must be resident freeholders of the county in which they serve, but jurors selected by the Chief Justice must be residents of adjoining counties.

From testimony received at the hearings, the Committee concluded that the sheriff's jury should be retained because its nonadversarial proceedings appear to be equitable for both landowners and condemnors. The costs of the sheriff's jury are paid by the condemnor and because procedures are informal, it is not necessary for either party to be represented by an attorney. However, landowners objected to the method of selection of the sheriff's jury. In addition, they objected to the titles "sheriff's jury" and "condemnation commission" and suggested that the title be changed to "compensation commission".

The Committee recommends that the name of the sheriff's jury be changed to "compensation commission". It further recommends that the two different methods of selection of compensation commissioners be retained, but that members of compensation commissions, when the condemnor is an agency utilizing funds from the state treasury, be residents of the county in which the property to be condemned is located. The Committee recommends that the board of supervisors in each county annually appoint a compensation commission pool of not less than twenty-four individuals from which a judge of the District Court, or the Chief Justice of the Iowa Supreme Court, shall select six individuals to serve on each compensation commission. The twenty-four individuals shall all be resident freeholders of the county and one-third shall be owners of agricultural property, one-third realtors, and one-third men having knowledge of property values in the county. The compensation commissions, composed of six persons, shall be selected with the same proportion of owners of agricultural property, realtors, and men having knowledge of property values as the original list.

The Committee considered allowing the condemnor and the condemnee to each strike one name from the six members of the compensation commission, but rejected such a plan. The Committee decided that since sheriffs' juries presently may determine the damages and value of several parcels of land at one time, allowing each landowner to strike one person does not appear feasible. The Committee believes that the additional requirements for selection of such commissions will improve the procedures.

Although it is not required that either party be represented by legal counsel at hearings held by the compensation

commission, landowners who are represented by legal counsel and who may employ appraisers or other experts are not compensated for such expenses. The Committee recommends that if legal counsel has been employed by the landowner and other expenses have been incurred, and if the compensation commission awards the landowner at least 110 percent of the final offer of the condemnor before condemnation was instituted, reasonable attorney fees and other expenses which the condemnee may have incurred should be paid by the condemnor. The condemnor must submit his final offer in writing.

Testimony at hearings indicated that the procedures followed by sheriff's juries vary due to the fact that no uniform instructions for members are available. The Committee recommends that the Supreme Court provide for the preparation of a uniform set of instructions for members of condemnation commissions. Copies of the instructions must be distributed to commission members at the hearing and the instructions must be read orally. The Committee further determined that the compensation paid members of sheriff's juries varies, and recommends that members of compensation commissions receive \$50 per day and reasonable and necessary expenses.

Testimony at hearings indicated that landowners object to offers of lump-sum payments by governmental subdivisions and agencies for land to be used for highway and road purposes. The Committee recommends that upon request of the landowner, the governmental subdivision or agency make available information relating to actual land value, value of damages, and value of loss of access.

Condemnation procedures in which the condemnor is an electric utility or a pipeline company differ because such utilities are not given an outright grant of eminent domain, but must secure the right to exercise eminent domain from the Iowa State Commerce Commission for each specific project. Chapters 489 and 490 of the Code outline the specific procedure which must be used. At the hearings, it was disclosed that both electric utility companies and pipeline companies attempt to purchase as many easements as possible before applying to the Commerce Commission for a franchise or permit to construct the line. If all easements can be purchased, the company will not request the right to exercise eminent domain. Landowners expressed objection to such a procedure, since electric utility and pipeline companies infer in negotiations with landowners that the right to exercise eminent domain has already been, or will be, granted. In addition, Chapter 489 of the Code authorizes the Commerce Commission to examine the proposed route, or cause any engineer selected by it to do so, to determine whether the proposed route is necessary to serve a public use. The factors to be considered in determining a public use appear to be unclear.

In order that the landowner may become more knowledgeable about the project before he has been approached for purchase of an easement, the Committee recommends that legislation be enacted providing that every electric utility company and pipeline company send notice by certified mail to persons owning land affected by

any project prior to purchasing land or securing easements. The notice will inform landowners of an informational meeting which will be held in each county where land is located which is affected by the project. Representatives of the utility company or pipeline company and the Commerce Commission will be present at each informational meeting to explain the purposes of the project, the potential route of the project, the condemnation procedures, and owners' rights. The certified letter containing notification of the meeting will also outline the rights of the landowners. Landowners will be allowed to ask any questions relating to the project and condemnation procedures. Informational meetings will be required before construction of any electric transmission line of 34.5 kilovolts or more and longer than one mile, and for construction of any pipelines carrying greater than 125 pounds pressure per square inch and longer than ten miles.

The Committee further recommends that in a utility company's request for a franchise or permit, the company must prove that the project reflects a reasonable relationship to an overall plan for the transmission of electric current to serve the public need. The utility company when proving public use must show the relationship of the project to existing development, comprehensive plans which have been developed, the people served at the present time, the future population, the future economic development of the area, existing public utility systems, parallel routes now existing, other proposals of the utility company which are planned for the future, and the investigation of pertinent alternate routes and pertinent alternate methods of supply. The Committee recommends that the utility company also show how the facility will coordinate with existing zoning regulations and future land-use programs, possible use of existing public rights-of-way, the effect of the project on the general economy, and inconvenience to the property owners affected. The Committee recommends that the Commerce Commission be required to examine the proposed routes or cause any engineer selected by it to do so. The Committee further recommends that after the Commerce Commission grants a franchise, the utility company be automatically granted the right to exercise eminent domain for that project.

Testimony by landowners and electric utility companies indicated that it is not necessary that electric utility companies obtain a franchise to construct generating facilities, although the construction of such generating facilities will necessarily require franchises from the Commerce Commission for the construction of lines from the facilities to the consumer. The Committee recommends that electric utility companies be required to obtain franchises for the construction of generating facilities.

The Committee decided that the procedure for appeal from a decision of the Commerce Commission on the granting of an electric transmission franchise is unclear, and it recommends that an appeals procedure be added to Chapter 489 of the Code similar to the procedure set forth in sections 490A.12 through 490A.19 of the Code.

Representatives of the Iowa State Highway Commission stated that relocation assistance is paid to landowner when home-

steads are taken for projects which involve federal funds. The Committee discussed such a procedure, but decided to defer to the Federal Highway Programs Study Committee for recommendations.

After holding hearings, the Committee studied the grant of eminent domain to each agency and entity and recommends that the power of eminent domain be repealed for the following: The Armory Board for armories; counties, cities, and towns for sites for memorial halls or monuments; county boards of supervisors for limestone quarries; the Highway Commission for rights-of-way for farm-to-market roads and for acquisition of rights-of-way for flight strips; county boards of library trustees for public libraries; persons and corporations for the removal of water covering coal resources; persons and corporations for utilizing water power in the state; county fair societies and county or district agricultural societies for fairgrounds; and any person and corporation for the construction of channels, roads, and bridges.

The Committee considered requiring the establishment of utility corridors and the concept of an annual rental for easements, but after study determined that no recommendations should be made.

During the course of the study, the Legislative Service Bureau prepared and distributed to Committee members the following materials:

1. Compilation I, Information Relating to Condemnation Commissions in Selected States.
2. Compilation II, Provisions Relating to Compensation and Damages.
3. Compilation III, Provisions Relating to Public Convenience and Necessity in Selected States.
4. Sections of the Code relating to condemnation procedures specified in addition to Chapter 472 of the Code.
5. Copies of the Eminent Domain Code of Pennsylvania.
6. List of recommendations submitted to Eminent Domain Study Committee by persons and organizations.
7. The power of eminent domain and its exercise by the state of Iowa, its political subdivisions, persons, and corporations.
8. "Contemporary Studies Project: New Perspectives on Iowa Eminent Domain", Iowa Law Review, April, 1969, Volume 54, Number 5.
9. Areas which might be considered in a study of eminent domain law as suggested by the article "Contemporary Studies Project: New Perspectives on Iowa Eminent Domain".

10. "Jury Instructions in Eminent Domain Cases", North Dakota Law Review, May, 1965, Volume 41, Number 4.
11. Copies of bills relating to eminent domain presently in legislative committees for consideration by the 1970 Session of the Sixty-third General Assembly.

These materials, as well as the written statements presented at the Committee hearings and the minutes of all Committee meetings, are available in the Legislative Service Bureau office.

House Concurrent Resolution 21 directs that a report of the study shall be prepared and submitted to members of the Sixty-third General Assembly and that the report be accompanied by legislative bill drafts designed to carry out the recommendations of the Committee. The Committee has determined that it cannot complete a comprehensive revision of eminent domain laws by the date of the convening of the 1970 Session of the General Assembly. It recommends that the Eminent Domain Study Committee be allowed to continue its work during the 1970 legislative interim and submit its final report to the 1971 Session of the Sixty-fourth General Assembly. The Committee hopes to continue its study and recodification of eminent domain laws into one comprehensive chapter of the Code, and its revision of Chapter 472 of the Code. The Committee has not completed its study of procedures relating to damages and compensation to landowners. The Committee has not arrived at a definite conclusion as to whether pipeline companies should continue to exercise the right of eminent domain as presently granted. The Committee wishes to study the additional condemnation procedures outside Chapter 472 of the Code to determine the necessity of retaining six different condemnation procedures.

The following bills have been drafted by the Legislative Service Bureau to implement the recommendations of the Eminent Domain Study Committee:

1. An Act which repeals the power of eminent domain for certain agencies and entities.
2. An Act which establishes procedures for selection and operation of compensation commissions.
3. An Act which relates to the exercise of eminent domain by electric utilities.
4. An Act which relates to the exercise of eminent domain by pipeline companies.
5. An Act which requires the enumeration of damages in land acquisition cases for highway purposes upon the request of the landowner."

EMINENT DOMAIN STUDY COMMITTEE

Minority Report
Submitted by Committee member
Ira E. Delk

December 12, 1969

The Honorable Edgar H. Holden, Chairman
Legislative Study Committee on Eminent Domain
Rural Route 3
Davenport, Iowa 52804

Dear Mr. Holden:

I feel I must file a minority report on two items included in the recommendations of the Study Committee on Eminent Domain.

I do not agree that power generating facilities should be added to Chapter 489, Code of Iowa 1966. I cannot agree that this matter has any relevance to the subject matter of our Committee, that is, a study of the power of eminent domain. Even if there is a relationship, it is so remote and the factors on the other side of the question would seem to indicate that this action should not be taken. We did not have a single person appear at any of our committee meetings indicating any problem so far as the construction of generating facilities.

The responsibility for seeing that the consumers of electricity in the State of Iowa have a sufficient supply of electric energy lies with the management of the utility companies, be they investor owned, cooperatives or municipals. It would not appear to be desirable to place the decision for the construction of additional facilities in a governmental body but still leave the responsibility with the utility management. The requirements that the majority report includes would obviously make it more difficult to finance construction of generating plants in Iowa and would lead to a greater exodus of such plants to adjoining states. We already see some utilities that are participating in units under construction in adjoining states, whereas it would appear to be desirable that such facilities be constructed in Iowa.

If a utility needs the right of eminent domain to obtain a site for a generating facility under the provisions of Section 489.15, Code of Iowa 1966, it must go to the Iowa State Commerce Commission to obtain the right of eminent domain. No one would quarrel with that provision. If it is thought to be desirable to go further than that, it would appear that an in-depth study should be made of the various problems of extending Commerce Commission jurisdiction into this field, and such a recommendation should not come from a very cursory examination by a committee studying eminent domain.

The second area in which I must dissent is the proposal for informational meetings. I want to say at the offset that I am not opposed to providing information to property owners involved in potential condemnation, but the procedure that has been recommended by the committee majority is unworkable from a practical standpoint. It would require informational meetings for renewals of franchises where facilities are already in place. It would require informational meetings for facilities that are constructed or to be constructed, even though the right of eminent domain is not requested or used. It would place the responsibility for conducting such meetings on the Commerce Commission, whose workload already provides insufficient time to attend to all matters. Since the recommendation would not allow any right of way to be purchased until after the informational meeting is held, it would tend to encourage resistance where none might otherwise exist and would create more condemnation and not less. The information which would be required in the notice would mean that final engineering would have to be done before such a meeting were held. On major projects, where right-of-way acquisition is often spread over one or two years, a project could be delayed for that long because of this requirement. We know that in many instances construction of transmission facilities must be accomplished rather rapidly to accommodate the power supply of a new industry or the expansion of existing industry. The delays that this requirement would cause could place Iowa in a position similar to some of the Eastern states where power shortages have resulted.

There are alternatives that would accomplish the same purpose but would not impose the delay of the informational meeting. One alternative would be to have a form prepared by the Commerce Commission in which the information on the project would be placed and require that this be given to each property owner at the time the initial contact for the procurement of the right of way is made. As a part of a franchise application, there would be included an affidavit that the information had been supplied to each property owner. Another alternative would be to conduct the formal hearing of the Commerce Commission in the locality of the proposed construction. This alternative, however, does not provide the information in advance of the procurement of the right of way.

I concur in the other recommendations of the Committee and feel that they will go a long way in solving a number of the problems that have arisen in the field of eminent domain.

Yours very truly,

/s/ Ira E. Delk

Ira E. Delk
Attorney

IED:A

REPORT OF THE

ENVIRONMENTAL PRESERVATION STUDY COMMITTEE

ENVIRONMENTAL PRESERVATION STUDY COMMITTEE

Progress Report

NOTE: This report was adopted by the Legislative Council, with the proviso that the Council takes no position on House File 17 - Senate File 17, which the Study Committee recommends be amended and passed.

Senate Concurrent Resolution 9, adopted by the First Regular Session of the Sixty-third General Assembly, requested that the Iowa Legislative Council establish a continued study of littering problems, the disposal of refuse and wastes, and the use of pesticides and chemicals. The Legislative Council created a twelve-member study committee to conduct the comprehensive study requested in S.C.R. 9, and appointed the following legislative membership:

Senator Charles O. Laverty
Senator Leigh Curran
*Senator Vern Lisle
Senator Donald S. McGill
Senator Kenneth Parker
Senator James F. Schaben
Representative Michael T. Blouin
Representative Dale M. Cochran
Representative Walter V. Langland
Representative Murray C. Lawson
Representative Elizabeth R. Miller
Representative Andrew Varley

*Resigned

The Study Committee interpreted its assigned responsibility to include the study of:

1. The littering problem in the state, existing statutes relating thereto, and the need for additional legislation.
2. Refuse and solid waste disposal practices, existing statutes relating thereto, and the need for additional legislation.
3. The use of pesticides and other chemicals which are hazardous or potentially hazardous to the public health and detrimental to domestic livestock or crop production, existing statutes relating thereto, and the need for additional legislation.

Because of the complexity of the problems relating to solid waste disposal, the use and disposal of hazardous pesticides and other chemicals, and their respective relationship to environ-

mental pollution, and because of the Committee's duty to submit comprehensive recommendations to eliminate or reduce existing environmental pollution problems, the Committee finds that it is impossible to complete all of its study objectives prior to the convening of the Second Session of the Sixty-third General Assembly. Therefore, the Committee submits this progress report to inform the General Assembly of its accomplishments to date and its plans for the completion of all of its study objectives during the 1970 interim.

The Committee's organizational meeting was held on September 4, 1969, with Senator Charles O. Lavery serving as temporary Chairman. The Committee adopted rules and elected Senator Lavery as permanent Chairman, Representative Walter V. Langland as Vice Chairman, and a staff member of the Legislative Service Bureau as Secretary. Mrs. Sandra Githens and Thane Johnson, Research Analysts, serve as Committee Secretaries.

In order to consider the broad scope of the environmental pollution problems, the Committee authorized Chairman Lavery to appoint the following Subcommittees and assign study topics:

1. Subcommittee on Air and Water Pollution Control. Study of municipal, industrial and agricultural pollution in air and water. Senator Leigh Curran, Chairman.
2. Subcommittee on Litter Control. Study of littering on public and private land and water and solid waste disposal. Representative Elizabeth Miller, Chairman.
3. Subcommittee on Chemical Safety. Study of the use of pesticides and other chemicals to determine the need for additional public control. Representative Andrew Varley, Chairman.
- *4. Subcommittee on Transportation; Storage and Disposal of Agricultural Chemicals. A study of the need for special regulations governing the storage, transportation, and disposal of hazardous pesticides and other chemicals, and feasibility of chemical disposal facilities. Representative Murray Lawson, Chairman.

*(The fourth Subcommittee was created at the November 20 Committee meeting because the members believe that the subject matter overlaps the study assignments of the three original Subcommittees and that additional specialized study is needed on these problem areas, which will tend to overburden any one of the original three Subcommittees.)

The Committee members agreed that the words "dangerous drugs" as used in S.C.R. 9 do not include narcotics and hallucinogenic drugs.

At its second, third and fourth meetings, the Committee received written and oral testimony from thirty-five technical resource persons from state and federal agencies, private industry and institutions of higher learning. The invited guest speakers included professors and scientists from The University of Iowa and Iowa State University of Science and Technology, the National Agriculture Fertilizer and Chemical Association and the State Department of Health, and representatives of the State Highway Commission, the Iowa Soft Drink Association, the Izaak Walton League, the Air Pollution Control Commission, the Water Pollution Control Commission, the State Department of Public Instruction, the Iowa Wholesale Beer Distributors Association, the Iowa Development Commission, the Iowa Association of Boards of County Supervisors, the Iowa Farm Bureau Federation, and the League of Iowa Municipalities. These guests presented the Committee with extensive information concerning all aspects of environmental pollution. Copies of these written statements are available in the Legislative Service Bureau office.

The fifth Committee meeting was held November 18-20, 1969 at Memorial Union, Iowa State University, to coincide with the Conference Concerning the Role of Agriculture in Clean Water. This Conference was sponsored by the Mid-Continent State Water Resources Research Organizations and Iowa State University with the cooperation of the Federal Water Pollution Control Administration. The speakers at the Conference presented research papers and led discussion relating to agricultural sources of water pollution. A Committee luncheon meeting was held on November 20 to discuss the progress of the Subcommittees' study assignments and the need for additional emphasis on specific problem areas. As a result of this discussion, the Subcommittee on the Transportation, Storage and Disposal of Agricultural Chemicals was created. It was also the consensus of the membership that the Committee's comprehensive assignment could not be completed prior to the convening of the Second Regular Session of the Sixty-third General Assembly. The Committee agreed that a progress report including recommendations on completed portions of the study assignments be submitted to the Legislative Council for transmittal to the General Assembly.

In addition to the regular Committee meetings, each of the three original Subcommittees has held from three to four meetings. These Subcommittees recalled some of the technical resource guests and invited additional knowledgeable persons in order to obtain detailed testimony pertaining to particular study assignments.

Subcommittee on Litter Control

The Subcommittee on Litter Control has held three meetings to study specific methods of improving litter control and solid

waste disposal practices. The Subcommittee heard testimony and received recommendations from representatives of the Department of Health, the Highway Safety Patrol, the Governor's Committee on the Preservation of Outdoor Resources, the Extension Service of Iowa State University, the Iowa Development Commission, private salvage firms, beer and soft drink distributors, and local health officials. As a result of these meetings, the Subcommittee recommends the enactment of an anti-litter bill which:

1. Prohibits littering on all land and waters in Iowa.
2. Places the responsibility for an act of littering on the driver of a motor vehicle if doubt exists as to which occupant actually committed the litter violation.
3. Provides a minimum fine of fifteen dollars or imprisonment up to thirty days in the county jail, and a sentence of litter gathering in addition to or in lieu of any other sentence.
4. Requires that each motor vehicle be equipped with a litter receptacle after January 1, 1971.
5. Requires that service station operators provide litter disposal receptacles at each fuel pump island for the convenient disposal of litter.

The Subcommittee also recommends the adoption of a resolution establishing the first week of June as Anti-Litter Week in Iowa and a resolution encouraging the Extension Service at Iowa State University to develop and coordinate anti-litter educational programs among interested public and private agencies, organizations and groups.

Subcommittee on Chemical Safety

The Subcommittee on Chemical Safety has held three meetings to study agricultural chemical problems, particularly relating to pesticides. The Subcommittee visited the European Corn Borer Research Laboratory at the Iowa State University Agricultural Experiment Station near Ankeny and the Veterinary Medical Diagnostic Laboratory at Ames to hear testimony regarding the benefits, hazards and need for pesticides in agricultural production. As a result of the testimony heard at the Committee and Subcommittee meetings, the Subcommittee developed a bill creating an agricultural chemical review board and an advisory committee to control the sale, use and disuse of agricultural chemicals. The major provisions of the bill are as follows:

1. The creation of a five member review board consisting of the Secretary of Agriculture, the Commissioner of Public Health, the Director of the Natural Resources Council, the Director of the Soil Conservation Committee and the Executive Director of the League of Iowa Municipalities to adopt rules relating to the sale, use or disuse of agricultural chemicals and to approve rules adopted by the Secretary of Agriculture under the authority of Chapter 206 of the Code.

2. The creation of a ten-member advisory committee to the review board, consisting of scientists or technical experts to assist the review board in obtaining scientific data and coordinating agricultural chemical regulatory, enforcement, research, and educational functions of the state and to recommend the adoption of rules relating to the sale, use or disuse of agricultural chemicals.

3. The amendment of Chapter 206 of the Code to require the licensing of at least one member of each crew applying pesticides for a commercial applicator and authorizing the Secretary of Agriculture, with the approval or at the direction of the review board, to specify the conditions under which pesticides may be transported, stored or disposed, to determine the proper use of pesticides and the times and methods of application, to specify the size, kind and color of letters and numbers on pesticide labels, and to require all licensed veterinarians to report domestic livestock poisonings or suspected poisonings.

The Subcommittee also recommends a resolution memorializing the Congress of the United States to establish uniform regulations of color coding or other distinctive markings of granular pesticides.

Subcommittee on Air and Water Pollution Control

The Subcommittee on Air and Water Pollution Control has held four meetings to study pollution problems, particularly air and water pollution. In addition to the testimony heard at the Committee meetings, the Subcommittee invited representatives of the Air Pollution Control Commission, the Water Pollution Control Commission, the Natural Resources Council, the League of Iowa Municipalities, the Governor's Committee on the Conservation of Outdoor Resources, the Agriculture Stabilization and Conservation Service and the Soil Conservation Service to present specific testimony on current programs relating to air and water pollution and to make recommendations to improve such programs. The Subcommittee thoroughly reviewed House and Senate Files 17, companion bills relating to the establishment and administration of conservancy districts, and Senate File 519 relating to state financial assistance for the construction of local sewage treatment facilities. As a result of this study, the Subcommittee recommends the enactment

of House and Senate Files 17 with an amendment to require that the soil conservation district commissioners prove, upon request of the landowner, at a court hearing that an alleged soil erosion problem exists in violation of the district's soil erosion control regulations. The Subcommittee also recommends that Senate File 519 be enacted with minor amendments to clarify the title and two sections of the bill.

At its sixth meeting held on December 3, the Committee adopted the recommendations of the three Subcommittees except that the recommendation of the Subcommittee on Air and Water Pollution Control regarding Senate File 519 was amended to recommend enactment of the bill with the amount of the appropriation subject to the available financial resources of the state general fund.

A copy of the recommended new bills, amendments and resolutions are attached to this progress report and by this reference are made a part thereof.

Research Materials

The Legislative Service Bureau prepared and distributed a background memorandum relating to littering, pesticides and other agricultural chemicals to the Committee at its organizational meeting on September 4. In addition, anti-litter laws, soil conservation laws, air and water pollution control laws, pesticide control laws, solid waste disposal and sanitary landfill management laws from a number of other states have been obtained by the Bureau staff at the request of the Committee and Subcommittees. The Bureau staff also prepared and revised bill drafts and amendments at the Committee's and Subcommittees' request.

These materials, as well as the minutes of all Committee and Subcommittee meetings, are available in the Legislative Service Bureau office, and are by this reference made a part of this progress report.

Continuation of Studies

The Committee intends to continue its study of environmental pollution problems prior to and immediately following the Second Session of the Sixty-third General Assembly. The newly created Subcommittee on Handling, Transportation and Disposal of Agricultural Chemicals plans to initiate its study in the near future. It is the consensus of the membership that the following topics also should be studied during the 1970 interim period:

1. Air pollution control problems,
2. Noise pollution,
3. Petroleum product pollution,
4. Radioactive pollution, and
5. Disposal of junked motor vehicles.

ENVIRONMENTAL PRESERVATION STUDY COMMITTEE'S
RECOMMENDED AMENDMENT TO HOUSE FILE 17

Amend House File 17 as follows:

1. By striking from page three (3), line thirty (30), the date "1969" and inserting in lieu thereof the date "1970".
2. By striking from page four (4), line one (1), the date "1969" and inserting in lieu thereof the date "1970".
3. By striking from page four (4), line twenty-three (23), the date "1970" and inserting in lieu thereof the date "1971".
4. By striking from page four (4), line twenty-five (25), the date "1971" and inserting in lieu thereof the date "1972".
5. By striking from page four (4), lines twenty-six (26) and twenty-seven (27) and inserting in lieu thereof the following:
"1, 1973, one to serve until July 1, 1974, one to serve until July 1, 1975, and one to serve until July 1, 1976."
6. By striking from page eleven (11), line eighteen (18), the date "1972" and inserting in lieu thereof the date "1973".
7. By adding to page twenty (20), line thirty-three (33), after the period, the following:
"The landowner or landowners of record may appeal the order of the commissioners to the district court of the county in which the land is located. Such appeal shall be filed not later than thirty days following receipt of the order and shall specifically state the grounds upon which the landowner or landowners of record objects to such order."
8. By inserting on page twenty-one (21), line four (4), after the word "section," the words "unless an appeal of the order is pending, or the order has been set aside pursuant to an appeal,".

ENVIRONMENTAL PRESERVATION STUDY COMMITTEE'S
RECOMMENDED AMENDMENT TO SENATE FILE 519

Amend Senate File 519 as follows:

1. By adding on page two (2), line eight (8), after the word "purpose" the following:

"provided that the construction contract for such project shall have been entered into on or after July 1, 1968".

2. By adding on page three (3), line twenty-three (23), after the word "government" the following:

"but not less than twenty-five percent of the cost so determined".

3. By adding to the title on page one (1), line two (2), after the word "works" the following:

"and sewer systems".

HOUSE CONCURRENT RESOLUTION

By

WHEREAS, the general public has become increasingly conscious of the hazards of pesticide misuse; and

WHEREAS, reported accidental pesticide poisonings particularly of domestic livestock have increased considerably in recent years in Iowa; and

WHEREAS, unmarked granular pesticides can be easily mistaken for feed nutrient supplements and are repeatedly found to be the cause of the accidental livestock poisonings; and

WHEREAS, color coding or distinctive marking of granular pesticides is a recommended method of reducing the unconscious misuse of granular pesticides; and

WHEREAS, uniform nationwide regulations for the color coding or other distinctive marking of granular pesticides would be effective, economical, and convenient to the general public and the pesticide industry; NOW THEREFORE,

BE IT RESOLVED BY THE HOUSE, THE SENATE CONCURRING, That the General Assembly of the state of Iowa urges the Congress of the United States to take appropriate action to establish uniform regulations of color coding or other distinctive markings of granular pesticides; and

BE IT FURTHER RESOLVED, That copies of this resolution be transmitted to the Speaker of the United States House of Representatives, to the President of the United States Senate, and to each member of the Iowa delegation to the Congress of the United States.

HOUSE FILE

By _____

Passed House, Date _____ Passed Senate, Date _____

Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____

Approved _____

A BILL FOR

1 An Act relating to the sale and use of agricultural chemicals,
 2 creating an agricultural chemical review board and making
 3 an appropriation therefor.

4 *Be It Enacted by the General Assembly of the State of Iowa:*

5 Section 1. There is hereby created within the department of
 6 agriculture an agricultural chemical review board. The board
 7 shall consist of the secretary of agriculture, the commissioner
 8 of public health, the director of the natural resources council,
 9 the director of the state soil conservation committee and the
 10 executive director of the league of Iowa municipalities, or
 11 their designees.

12 Sec. 2. The agricultural chemical review board shall col-
 13 lect, analyze, and interpret information relating to agricultural
 14 chemicals and their use. The board shall coordinate the regula-
 15 tion and information responsibilities of state agencies on
 16 matters relating to the sale and use of agricultural chemicals.
 17 It shall adopt rules relating to the sale and use of agricultural
 18 chemicals which are necessary and effective in the control of
 19 pests and which are not unduly hazardous to man, animals, or
 20 plants as well as rules pertaining to the sale, the use, or
 21 the disuse of agricultural chemicals which may be harmful to
 22 man, animals, or plants. The board shall consider the toxic-
 23 ity, hazard, effectiveness and public need for the agricultural
 24 chemicals, and the availability of less toxic or less hazardous
 25 agricultural chemicals or other means of control. The rules

1 promulgated by the board shall be subject to the provisions
2 of chapter seventeen A (17A).

3 As used in this Act, the term "agricultural chemical" means
4 pesticides as defined in section two hundred six point two
5 (206.2), subsection one (1), of the Code and any feed or soil
6 additive, other than a pesticide, which is designed for and
7 used to promote the growth of plants and animals.

8 Sec. 3. An advisory committee to the agricultural chemical
9 review board is hereby created. The advisory committee shall
10 consist of the following:

11 1. The director, Iowa veterinary medical diagnostic labora-
12 tory or his designee;

13 2. The dean, college of medicine, university of Iowa or
14 his designee;

15 3. A staff representative of the state soil conservation
16 committee appointed by the director of the state soil conser-
17 vation committee;

18 4. A staff representative of the department of conservation
19 appointed by the state conservation director;

20 5. An entomologist and an agronomist appointed by the dean,
21 college of agriculture, Iowa state university of science and
22 technology;

23 6. The technical secretary, air pollution control commis-
24 sion;

25 7. The technical secretary, water pollution control commis-
26 sion; and

27 8. Two ecologists, one appointed by the president, Iowa
28 state university of science and technology and one appointed
29 by the president, university of Iowa.

30 Appointive members of the advisory committee shall serve
31 terms of four years. The advisory committee shall assist the
32 agricultural chemical review board in obtaining scientific
33 data and coordinating agricultural chemical regulatory, en-
34 forcement, research, and educational functions of the state.

35 The advisory committee shall recommend rules regarding the

1 sale, use, or disuse of agricultural chemicals to the review
2 board.

3 The advisory committee shall adopt rules relating to its
4 organizational structure, procedures, and meetings under the
5 general supervision of the review board.

6 Sec. 4. The agricultural chemical review board shall make
7 an annual report to the governor and the general assembly,
8 which report shall contain information relating to the use
9 of agricultural chemicals and the protection of the health
10 and well-being of people and the protection of fish, domestic
11 animals, wildlife, plants, soil, air, and water. Such report
12 shall contain all recommendations of the review board and in-
13 clude recommendations for legislative and administrative action.

14 Sec. 5. The agricultural chemical review board shall orga-
15 nize annually during the month of July by electing a chairman
16 and vice chairman. Meetings shall be held at the call of the
17 chairman or at the request of a majority of the members of
18 the board. The meeting room, secretarial or clerical staff,
19 and necessary office supplies and equipment shall be arranged
20 or provided by the department of agriculture. The board may
21 meet at such places as deemed necessary for the expedient
22 performance of its responsibilities.

23 Sec. 6. The members of the agricultural chemical review
24 board, its employees, and members of the advisory committee
25 shall be reimbursed for all actual and necessary expenses in-
26 curred by them in the discharge of their official duties.

27 Sec. 7. Chapter two hundred six (206), Code 1966, is
28 amended as follows:

29 1. By striking from section two hundred six point four
30 (206.4), subsection one (1), all of line seven (7) after the
31 period, lines eight (8) through thirteen (13), inclusive, and
32 all of line fourteen (14) before the word "all".

33 2. By striking from section two hundred six point four
34 (206.4), subsection five (5), all of line eleven (11) after
35 the word "corrections" and inserting in lieu thereof a period

1 and by striking lines twelve (12) through twenty-nine (29),
2 inclusive.

3 3. By adding to section two hundred six point five (206.5),
4 subsection one (1), line one (1), after the word "pesticide"
5 the words:

6 "and at least one member of any crew applying a pesticide
7 while employed by a commercial applicator".

8 4. By striking from section two hundred six point six
9 (206.6), subsection one (1), and inserting in lieu thereof
10 the following:

11 "1. The secretary shall, with the approval or at the
12 direction of the agricultural chemical review board and
13 after a public hearing following due notice:

14 a. Declare as a pest any form of plant or animal life
15 or virus which is unduly injurious to plants, man, domestic
16 animals, articles, or substances.

17 b. Specify the conditions under which containers of
18 pesticides may be transported, stored, or disposed.

19 c. Determine the proper use of pesticides, including
20 their formulations, and the times and methods of application
21 and other conditions of use.

22 d. Specify the size, kind, and color of letters and
23 numbers used on pesticide labels, and the location of such
24 labels on pesticide containers.

25 e. Require that all veterinarians licensed and practicing
26 veterinary medicine in the state promptly report any case of
27 domestic livestock poisoning or suspected poisoning to the
28 secretary and the veterinary medical diagnostic laboratory
29 at Iowa state university of science and technology."

30 5. By striking from section two hundred six point six
31 (206.6), subsections four (4) and five (5).

32 6. By adding a new section to read as follows:

33 "The rules and regulations promulgated under the provisions
34 of this chapter shall not be effective until approved by the
35 agricultural chemical review board and submitted to the

1 departmental rules review committee as provided in chapter
2 seventeen A (17A)."

3 Sec. 8. There is hereby appropriated to the department
4 of agriculture from the general fund of the state of Iowa
5 for the fiscal year beginning July 1, 1970 and ending June
6 30, 1971, the sum of _____, or so much
7 thereof as may be necessary, for the payment of actual and
8 necessary expenses of the members of the agricultural chemical
9 review board, its employees and the advisory committee and
10 defraying other expenses relating to the responsibilities of
11 said board.

12 EXPLANATION

13 This bill provides for the creation of an agricultural chemi-
14 cal review board and an advisory committee to regulate the sale,
15 use, or disuse of agricultural chemicals including pesticides.
16 The board must approve any rules relating to pesticides promul-
17 gated by the secretary of agriculture under the provisions of
18 chapter 206 of the Code.

19 The bill specifies the membership of the board and its
20 technical advisory committee and provides an appropriation
21 to the department of agriculture for the payment of necessary
22 expenses incurred by the board and its advisory committee
23 members.

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HOUSE FILE

By _____

Passed House, Date _____ Passed Senate, Date _____
 Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
 Approved _____

A BILL FOR

1 An Act relating to the control of litter and providing penal-
 2 ties for violations.

3 *Be It Enacted by the General Assembly of the State of Iowa:*

4 Section 1. As used in this Act:

5 1. "Litter" means any garbage, rubbish, trash, refuse,
 6 waste materials, or debris.

7 2. "Discard" means to place, cause to be placed, throw,
 8 deposit, or drop.

9 Sec. 2. No person shall discard any litter onto or in any
 10 waters or land of this state, except that nothing in this sec-
 11 tion shall be construed to affect the authorized collection
 12 and discarding of such litter in or on areas or receptacles
 13 provided for such purpose.

14 When litter is discarded from a motor vehicle, the driver
 15 of the motor vehicle shall be responsible for the act in any
 16 case where doubt exists as to which occupant of the motor
 17 vehicle actually discarded the litter.

18 Sec. 3. Any person violating the provisions of section
 19 two (2) of this Act, shall be guilty of a misdemeanor and,
 20 upon conviction, shall be subject to a fine of not less than
 21 fifteen dollars nor more than one hundred dollars or be im-
 22 prisoned in the county jail not to exceed thirty days. The
 23 court, in lieu of or in addition to any other sentence im-
 24 posed, may direct and supervise a labor of litter gathering.

25 Sec. 4. Amend chapter three hundred twenty-one (321) by

1 adding thereto a new section to read as follows:

2 "All motor vehicles registered and licensed in this state
3 shall be equipped with a litter receptacle after January 1,
4 1971. Such receptacle shall be designed and located to
5 facilitate its use and servicing as specified by rules issued
6 by the commissioner."

7 Sec. 5. The owner or operator of a service station selling
8 motor vehicle fuel at retail in this state shall provide a
9 litter receptacle at each fuel pump island for the convenient
10 disposal of litter.

11 Sec. 6. Section one hundred six point twelve (106.12),
12 subsection three (3), Code 1966, as amended by chapter one
13 hundred twenty-five (125), section one (1), Acts of the
14 Sixty-second General Assembly, and section one hundred
15 eleven point forty-three (111.43), Code 1966, are hereby
16 repealed.

17 EXPLANATION

18 This bill provides a statutory definition for litter and
19 prohibits the discarding of litter on all land and water in
20 Iowa except as otherwise authorized. It also provides that
21 the driver is responsible for an act of littering if such litter
22 is discarded from his vehicle and the occupant who discarded
23 the litter can not be determined.

24 A minimum fine of fifteen dollars is established and the
25 court may, in addition to a fine or imprisonment, sentence
26 the violator to the labor of litter gathering.

27 The bill also provides that after January 1, 1971, all
28 motor vehicles must be equipped with a litter receptacle
29 equal to standards approved by the commissioner of public
30 safety and that service stations provide litter disposals at
31 their pump islands for litter disposal.

32 Two sections of the Code relating to littering will be re-
33 pealed by this Act, but two others, Sections 732.2 and 321.369,
34 are not included.

35

HOUSE CONCURRENT RESOLUTION

By

WHEREAS, environmental pollution is recognized as an increasingly important problem in Iowa; and

WHEREAS, litter control is an important part of the problem of maintaining a high quality environment for working and living; and

WHEREAS, the maintenance of a high quality environment requires the development of attitude, understanding and responsibility for the need of litter control and other forms of pollutions; and

WHEREAS, publicly and privately sponsored programs are needed to initiate and maintain momentum and interest toward the reduction and eventual elimination of litter control problems; and

WHEREAS, the State Department of Public Instruction, the Iowa Natural Resources Council, the State Conservation Commission, the Iowa State Highway Commission and the State Soil Conservation Commission are state agencies directly interested in litter control; and

WHEREAS, the Isaac Walton League, the League of Iowa Municipalities, 4-H Clubs, Future Farmers of America, Boy Scouts of America, Girl Scouts of America, Federated Garden Clubs of Iowa, the County Conservation Boards and other civic-minded organizations are directly and indirectly interested in litter control; and

WHEREAS, the University Extension Service at Iowa State University of Science and Technology has planned and conducted several educational programs relating to various aspects of environmental pollution; NOW THEREFORE,

BE IT RESOLVED BY THE HOUSE, THE SENATE CONCURRING, That the General Assembly of the state of Iowa requests the University Extension Service at Iowa State University of Science and Technology to take appropriate action to coordinate the planning and implementation of public educational and community action anti-litter programs of public agencies and interested civic-minded organizations and groups.

SENATE CONCURRENT RESOLUTION

By

WHEREAS, littering has become an increasingly serious pollution problem in Iowa; and

WHEREAS, there appears to be a disproportionate increase in the amount of littering in recent years compared to population trends; and

WHEREAS, the removal of litter costs several hundred thousand dollars annually to the taxpayers of Iowa; and

WHEREAS, the enforcement of anti-litter laws has proven difficult without the active support of the general public; and

WHEREAS, an effective anti-litter program necessitates the development of public attitudes, understanding and responsibility for the need of litter control to preserve our natural environment; and

WHEREAS, the development of public attitudes, understanding and responsibility toward careless and unthinking human actions is best accomplished through coordinated public education and community action campaigns; NOW THEREFORE,

BE IT RESOLVED BY THE SENATE, THE HOUSE CONCURRING, That the General Assembly of the state of Iowa respectfully requests the Governor of the state of Iowa to proclaim the first week in the month of June each year to be Iowa Anti-Litter Week and urged civic-minded organizations and the general public to join in community action programs to eliminate littering throughout the state of Iowa.

REPORT OF THE

FEDERAL HIGHWAY PROGRAMS STUDY COMMITTEE

FEDERAL HIGHWAY PROGRAMS STUDY COMMITTEE

Final Report

NOTE: This report was not in final form when presented to the Legislative Council at its December 16-17 meeting, and has therefore not been acted upon by the Council.

House Concurrent Resolution 27, approved by the First Regular Session of the Sixty-third General Assembly, required the Legislative Council to cause a legislative study to be conducted of the action required, and the most effective and practicable methods, for compliance by the state of Iowa with the Federal Highway Safety Act of 1966, the Federal Highway Beautification Act of 1965, the relocation assistance provisions of the Federal-Aid Highway Act of 1968, other mandatory federal legislation related to highway safety, beautification and construction, and mandatory federal standards and regulations under said laws.

The Legislative Council established a study committee and appointed the following members:

Senator Alden J. Erskine
Senator Floyd Gilley
Senator Vernon H. Kyhl
Senator William J. Reichardt
Senator Robert R. Rigler
Representative Dewey Goode
Representative Edgar J. Koch
Representative Eldon L. Stroburg
Representative Richard Welden

The Committee's organizational meeting was held on August 20, 1969, with Representative Dewey Goode serving as temporary Chairman. The Committee adopted rules and elected Representative Goode as permanent Chairman, and Senator Kyhl as Vice Chairman. Mr. Paul Romans and Mrs. JoAnn Brown of the Legislative Service Bureau served as staff assistants to the Committee. At this meeting members received copies of the three federal Acts mentioned in H.C.R. 27, and a Summary of Information relating to the three federal Acts, prepared by the Legislative Service Bureau.

The Committee held five meetings. At the September meeting, members met with representatives from the Iowa State Highway Commission to discuss the relocation assistance provisions of the Federal-Aid Highway Act of 1968. At the October meeting members met with Mr. Darrel L. Grice of the Office for Planning and Programming, which has made extensive studies of the requirements of the Highway Safety Act of 1966; a representative from the Iowa State Highway Commission familiar with the provisions of the

Highway Safety Act; and a representative from RCA Service Company, which offers a plan for periodic motor vehicle inspection.

On January 7, 1970 the Committee met to adopt a final report and its recommendations are as follows.

I. Federal-Aid Highway Act of 1968 - Relocation Assistance.

The Act requires that states provide relocation assistance in conformance with federal standards on all federal-aid highway projects by July 1, 1970, or be subject to a complete denial of federal funds. The federal government presently reimburses the states for all funds used for relocation assistance and will continue to do so until July 1, 1970. Iowa has been advancing such funds under authority of an Attorney General's Opinion. Beginning July 1, 1970, the federal government will contribute to relocation assistance payments in the same proportion that it contributes to the highway project involved, and statutory authority must be provided by that date in order for the state to pay its share.

In 1969 the Iowa State Highway Commission prepared a bill draft to require relocation assistance payments by the state, counties, cities, and towns. This draft incorporated requirements of the federal Act by reference. The bill was redrafted and introduced by the Senate Committee on Transportation as Senate File 684. Senate File 684 incorporated the same definitions and requirements contained in the federal Act, instead of adopting them by reference, in order to avoid possible questions of an unconstitutional delegation of power.

After studying Senate File 684, this Committee concluded that the federal Act requires conformance by the state only on federal-aid highway projects. Because most members believe the Committee's duty is only to inform the General Assembly of federal requirements, and also believe that the state should not require counties, cities, and towns to provide relocation assistance, Senate File 684 was redrafted to require conformity only by the state, and only on federal-aid projects. However, because many members also believe that the state should, so far as possible, provide such assistance to persons displaced by nonfederal-aid projects, and that political subdivisions should have authority to provide comparable assistance, section eleven was added to the bill as an additional grant of authority to the state and its political subdivisions, permitting them to provide relocation assistance similar to that required on federal-aid projects, but expressly stipulating that federal rules and guidelines need not be followed except on federal-aid projects. The revised bill, which is attached to and by this reference made a part of this Report, has received full approval by representatives of the Iowa State Highway Commission.

II. Highway Beautification Act of 1965.

It is the opinion of Committee members that Iowa has substantially complied with the provisions of this Act except in the matter of regulation of junkyards, that Iowa has done more to comply with the Act than most other states, that the federal government has few funds available at present for matching state expenditures for highway beautification, and that the General Assembly should take no further action at present in this area.

III. Highway Safety Act of 1966.

Pursuant to this Act, the Secretary of Transportation has formulated sixteen safety standards designed to reduce traffic accidents and maintain safe public highways. Further safety standards will be formulated in the future. Federal funds are available to assist the states in implementation of the programs required by the safety standards, and the Secretary of Transportation is authorized to impose a penalty of up to 10% of total federal highway funds against a state which fails to meet the standards after January 1, 1970.

It has been most difficult for the Committee to determine exactly what steps must be taken by the state of Iowa to meet compliance with the federal standards. The federal government has been rather vague in specifying the actions which must be taken by the state of Iowa. No state has been penalized for failure to comply with the Highway Safety Act of 1966 and many states have not complied with this Act to as great a degree as Iowa. For this reason the Committee is not able to make as specific recommendations as it might otherwise desire.

A brief description of the sixteen safety standards follows:

1. Periodic motor vehicle inspection - This standard requires a periodic inspection of all registered vehicles or other experimental, pilot, or demonstration programs approved by the Secretary. The owner of the vehicle must correct existing or potential conditions which cause or contribute to accidents. Iowa does not comply with this standard. Legislative and administrative action needed, see "Summary of Pertinent Information" attached to this Report, page 50, paragraph d.

2. Motor vehicle registration - This standard provides that a state shall establish a motor vehicle registration program which provides for rapid identification of each vehicle and its owner; and makes available pertinent data for accident research and safety program development. Iowa generally meets the requirements of this standard.

3. Motorcycle safety - This standard requires that a state establish a motorcycle safety program to insure that only persons physically and mentally qualified will be licensed to operate a motorcycle; that protective safety equipment for drivers and passengers will be worn; and that the motorcycle meets standards for safety equipment. Iowa meets some requirements of this standard, but further legislative and administrative action is needed. Legislative and administrative action needed, see "Summary of Pertinent Information" attached to this Report, page 52, section 3, paragraphs d and e.

4. Driver education - This standard requires each state, in cooperation with its political subdivisions, to establish a driver education and training program. Iowa complies with this standard.

5. Driver licensing - This standard requires each state to establish a driver licensing program to insure that only persons physically and mentally qualified will be licensed to operate a vehicle on the highways of the state, and to prevent needlessly removing the opportunity of the citizen to drive. Iowa meets the requirements of this standard. See "Summary of Pertinent Information" attached to this Report, page 53, paragraphs b and c.

6. Codes and Laws - This standard requires each state to develop and implement a program to achieve uniformity of traffic codes and laws throughout the state. Iowa does not comply with this standard. See "Summary of Pertinent Information" attached to this Report, page 53, section 6, subsections a, b, and c.

7. Traffic court - This standard requires each state in cooperation with its political subdivisions to establish a program to assure that all traffic courts complement and support local and statewide traffic safety objectives. Iowa meets some requirements of this standard, but further legislative action is needed. See "Summary of Pertinent Information" attached to this Report, page 54, section 7, subsections a, b, c, and d.

8. Alcohol in relation to highway safety - This standard requires each state, in cooperation with its political subdivisions, to develop and implement a program to achieve a reduction in those traffic accidents arising in whole or in part from persons driving under the influence of alcohol. Iowa meets the requirements of this standard. See "Summary of Pertinent Information" attached to this Report, page 55, section 8, subsections a, b, c, d, and e.

9. Identification and surveillance of accident locations - This standard requires each state, in cooperation with county and other local governments, to establish a program for identifying accident locations and for maintaining surveillance of those locations having high accident rates or losses. Iowa meets some

requirements of this standard, but further legislative and administrative action is needed. See "Summary of Pertinent Information" attached to this Report, page 56, section 9, paragraph d, subsections 1 and 2.

10. Traffic records - This standard requires each state, in cooperation with its political subdivisions, to maintain a traffic records system, which shall include data for the entire state, regarding drivers, vehicles, accidents, and highways. Local systems shall be compatible with the state system. Iowa meets the requirements of this standard. See "Summary of Pertinent Information" attached to this Report, page 57, section 10, subsections a, b, c, d, and e.

11. Emergency medical services - This standard requires each state, in cooperation with its local political subdivisions, to establish a program to insure that persons involved in highway accidents receive prompt emergency medical care under the range of emergency conditions encountered. Iowa meets some requirements of this standard, but further legislative and administrative action is needed. See "Summary of Pertinent Information" attached to this Report, page 58, section 11, paragraphs d and e.

12. Highway design, construction, and maintenance - This standard requires every state, in cooperation with county and local governments, to establish a program of highway design, construction, and maintenance to improve highway safety. Iowa meets the requirements of this standard, but further administrative action is suggested by the federal government. See "Summary of Pertinent Information" attached to this Report, page 59, paragraph c, subsections 1, 2, 3, 4, 5, and 6.

13. Traffic control devices - This standard requires each state, in cooperation with its county and local government, to establish a program relating to the use of traffic control devices and other traffic engineering measures to reduce traffic accidents. Iowa generally meets the requirements of this standard, but further legislative action is required. See "Summary of Pertinent Information" attached to this Report, page 60, section 13, paragraph d, subsections 1 and 2, and paragraph e.

14. Pedestrian safety - This standard requires each state to establish a program to insure the safety of pedestrians of all ages. Iowa meets the requirements of this standard. See "Summary of Pertinent Information" attached to this Report, pages 60 and 61, section 14, paragraphs d and e, subsections 1 and 2.

15. Police traffic services - This standard requires each state to establish a program to insure efficient and effective police services utilizing traffic patrols. Iowa meets the require-

ments of this standard. See "Summary of Pertinent Information" attached to this Report, page 61, section 15, paragraph e.

16. Debris hazard control and cleanup - This standard requires each state to establish a program to provide for rapid, orderly, and safe removal from the roadway of wreckage, spillage, and debris resulting from motor vehicle accidents. Iowa meets some requirements of this standard, but further administrative action is needed. See "Summary of Pertinent Information" attached to this Report, page 62, paragraph e.

The federal Act requires that the Governor of the State be responsible for administration of the program. The Office for Planning and Programming has worked with state and federal officials to plan Iowa's implementation of the safety standards, and has filed required federal reports.

It appears that there is no positive federal requirement for immediate legislation to implement the safety standards. The states must show progress in moving toward compliance with the standards. According to Mr. Darrel L. Grice, a penalty has been threatened only when a state appeared to be regressing in its compliance with safety standards. Mr. Grice has recommended legislation to implement standards one, six, seven, eight, and eleven.

Further details concerning the legislative and administrative actions recommended by the federal government are included in the Summary of Information on the Highway Safety Act prepared by the Legislative Service Bureau. A copy of the summary is attached to and by reference made a part of this Report.

Based on the information available to the Committee, it appears that standard number one, relating to periodic motor vehicle inspection, is considered a matter of paramount importance by federal officials. A number of proposals have been introduced in the General Assembly to authorize periodic motor vehicle inspections, either by state-operated inspection stations or by privately-operated inspection stations licensed by the state. In an appearance before this Committee, RCA Service Company presented a summary of its proposal for building and operating a network of inspection stations, under contract with the state. RCA Service Company also offered to conduct a study of the state to determine the volume of vehicles to be inspected, numbers and locations of needed inspection stations, and required fees for providing inspection services. Such a study would be conducted without charge to the state. Because of considerable

interest in the RCA Service Company plan for periodic motor vehicle inspection, this Committee recommends that the General Assembly adopt a Resolution authorizing RCA Service Company to conduct such a study without charge to the state. A proposed Resolution is attached to and by reference made a part of this Report.

The Legislative Service Bureau has prepared and distributed to Committee members the following materials:

1. Summary of Pertinent Information on the three federal Acts.
2. Copies of the Highway Safety Act of 1966, the Highway Beautification Act of 1965, and the highway relocation assistance portions of the Federal-Aid Highway Act of 1968.
3. Copies of Iowa Code chapter 306B, sections 319.10 through 319.13, inclusive, and section 313.67 which authorize and require compliance with portions of the Highway Beautification Act of 1965.
4. Copies of pending bills relating to highway safety.

The Service Bureau also transmitted to Committee members copies of pamphlets and materials distributed by the Iowa Department of Public Safety describing the National Uniform Standards for State Highway Safety Programs, and a memorandum prepared by the Office for Planning and Programming relating to highway safety legislation.

These materials, as well as the minutes of all Committee meetings, are available in the Legislative Service Bureau office.

FEDERAL HIGHWAY PROGRAMS STUDY COMMITTEE'S
RECOMMENDED REDRAFT OF SENATE FILE 684

Passed Senate, Date _____ Passed House, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act to provide a relocation advisory assistance program
2 and relocation payments to persons displaced by highway
3 projects.

4 *Be It Enacted by the General Assembly of the State of Iowa:*

5 Section 1. As used in this Act:

6 1. "Person" means:

7 a. Any individual, partnership, corporation, or association
8 which is the owner of a business;

9 b. Any owner, part owner, tenant, or sharecropper who oper-
10 ates a farm;

11 c. An individual who is the head of a family; or

12 d. An individual not a member of a family.

13 2. "Family" means two or more individuals living together
14 in the same dwelling unit who are related to each other by
15 blood, marriage, adoption, or legal guardianship.

16 3. "Displaced person" means any person who moves from real
17 property on or after the effective date of this Act as a result
18 of the acquisition or reasonable expectation of acquisition of
19 such real property, which is subsequently acquired, in whole or
20 in part, for a highway project.

21 4. "Business" means any lawful activity conducted primarily:

22 a. For the purchase and resale, manufacture, processing, or
23 marketing of products, commodities, or any other personal prop-
24 erty;

25 b. For the sale of services to the public; or

1 c. By a nonprofit organization.

2 5. "Farm operation" means any activity conducted solely
3 or primarily for the production of one or more agricultural
4 products or commodities for sale and home use, and customarily
5 producing such products or commodities in sufficient quantity
6 to be capable of contributing materially to the operator's
7 support.

8 6. "Federal agency" means any department, agency, or in-
9 strumentality in the executive branch of the federal govern-
10 ment and any corporation wholly owned by the federal govern-
11 ment.

12 7. "Commission" means the state highway commission.

13 8. "Highway project" means any federal-aid street or high-
14 way project requiring the purchase or condemnation of private
15 property for public use.

16 Sec. 2. The commission shall provide a relocation advisory
17 assistance program, including measures, facilities, or services
18 necessary or appropriate in order to:

19 1. Determine the needs of displaced persons for relocation
20 assistance;

21 2. Assure that within a reasonable period of time prior to
22 displacement there will be available, to the extent that can
23 reasonably be accomplished, in areas not generally less de-
24 sirable in regard to public utilities and public and commercial
25 facilities and at rents or prices within the financial means of
26 families and individuals displaced, housing meeting the stan-
27 dards established by the commission for decent, safe, and sani-
28 tary dwellings, equal in number to the number of, and available
29 to, displaced families and individuals and reasonably accessible
30 to their places of employment;

31 3. Assist owners of displaced businesses and displaced
32 farm operations in obtaining and becoming established in suit-
33 able locations; and

34 4. Supply information concerning the federal housing ad-
35 ministration home acquisition program of the national housing

1 act, title twelve (12), section one thousand seven hundred fif-
2 teen 7 (17157), subsection d, paragraph two (2), United States
3 Code, the small business disaster loan program of the small busi-
4 ness act, title fifteen (15), section six hundred thirty-six
5 (636), paragraph b, subsection three (3), United States Code,
6 and other state or federal programs offering assistance to dis-
7 placed persons.

8 Sec. 3.

9 1. Upon application approved by the commission, a person
10 displaced by any highway project may elect to receive actual
11 reasonable expenses in moving himself, his family, his busi-
12 ness, or his farm operation, including personal property.

13 2. Any displaced person who moves from a dwelling who
14 elects to accept the payments authorized by this subsection
15 in lieu of the payments authorized by subsection one (1) of
16 this section may receive:

17 a. A moving expense allowance, determined according to a
18 schedule established by the commission, not to exceed two hun-
19 dred dollars; and

20 b. A dislocation allowance of one hundred dollars.

21 3. Any displaced person who moves or discontinues his busi-
22 ness or farm operation who elects to accept the payment autho-
23 rized by this subsection in lieu of the payment authorized by
24 subsection one (1) of this section, may receive a fixed reloca-
25 tion payment in an amount equal to the average annual net earn-
26 ings of the business or farm operation, or five thousand dollars,
27 whichever is the lesser. In the case of a business, no payment
28 shall be made under this subsection unless the commission deter-
29 mines that the business cannot be relocated without a substantial
30 loss of its existing patronage, and is not part of a commercial
31 enterprise having at least one other establishment, not being
32 acquired for a highway project, which is engaged in the same
33 or similar business. For purposes of this subsection "average
34 annual net earnings" means one-half of any net earnings of the
35 business or farm operation, before federal, state, and local

1 income taxes, during the two taxable years immediately preced-
2 ing the taxable year in which the business or farm operation
3 moves from the real property acquired for a highway project,
4 and includes any compensation paid by the business or farm
5 operation to the owner, his spouse, or his dependents during
6 such two-year period.

7 Sec. 4.

8 1. In addition to amounts otherwise authorized by this
9 Act, the commission shall make a payment to the owner of real
10 property acquired for a highway project which is improved by
11 a single family, two-family, or three-family dwelling actually
12 owned and occupied by the owner for not less than one year
13 prior to the initiation of negotiations for the acquisition
14 of the property. Payment, not to exceed five thousand dollars,
15 shall be the amount which, added to the acquisition payment,
16 equals the average price required for a comparable dwelling
17 determined, in accordance with standards established by the
18 commission, to be a decent, safe, and sanitary dwelling ade-
19 quate to accommodate the displaced owner, reasonably acces-
20 sible to public services and places of employment, and avail-
21 able on the private market. Payment shall be made only to a
22 displaced owner who purchases and occupies a dwelling within
23 one year subsequent to the date on which he is required to
24 move from the dwelling acquired for the highway project. No
25 payment is required if the owner-occupant receives a payment
26 required by the law of condemnation which is determined by
27 the commission to have substantially the same purpose and
28 effect as this section.

29 2. In addition to amounts otherwise authorized by this Act,
30 the commission shall make a payment to any individual or family
31 displaced from any dwelling not eligible to receive a payment
32 under subsection one (1) of this section, if the dwelling was
33 actually and lawfully occupied by such individual or family for
34 not less than ninety days prior to the initiation of negotiations
35 for acquisition of such property. Such payment, not to exceed

1 one thousand five hundred dollars, shall be the amount which is
2 necessary to enable the person to lease or rent for a period of
3 not to exceed two years, or to make the down payment on the pur-
4 chase of a decent, safe, and sanitary dwelling adequate to accom-
5 modate such individual or family in areas not generally less
6 desirable in regard to public utilities and public and commercial
7 facilities.

8 Sec. 5. In addition to amounts otherwise authorized by this
9 Act, the commission shall reimburse the owner of real property
10 acquired for a highway project for reasonable and necessary ex-
11 penses incurred for recording fees, transfer taxes, and similar
12 expenses incidental to conveying such property; penalty costs
13 for prepayment of any mortgage entered into in good faith encum-
14 bering such real property if such mortgage is on record or has
15 been filed for record under applicable state law on the date of
16 final approval by the commission of the location of such project;
17 and the pro rata portion of real property taxes paid which are
18 allocable to a period subsequent to the date of vesting of title
19 in the state, or the effective date of the possession of such
20 real property by the state, whichever is earlier.

21 Sec. 6. Payments and expenditures under the provisions of
22 this Act are incident to and arise out of the construction,
23 maintenance, and supervision of public highways and streets,
24 and, in the case of any federal-aid highway project, may be made
25 by the commission from the primary road fund and funds made avail-
26 able by the federal government for the purpose of carrying out the
27 provisions of this Act. Payments made under authority of section
28 eleven (11) of this Act may be made from the primary road fund in
29 case of a primary road project only, and in other cases may be
30 made from the secondary road fund or from appropriate funds under
31 control of a political subdivision.

32 Sec. 7. The commission may do all things necessary to
33 carry out the provisions of this Act and to secure federal
34 grants to make the payments required by this Act, but the
35 absence of federal aid to make such payments shall not dis-

1 charge the obligation to make the payments.

2 Sec. 8. Nothing in this Act shall be construed to create
3 any additional element of damage in any condemnation proceed-
4 ings for highway projects, and in order to prevent unjust en-
5 richment or a duplication of payments to any condemnee, the
6 courts of this state, when determining just compensation in
7 condemnation proceedings, shall not allow any damages which
8 duplicate any of the benefits provided under the provisions
9 of this Act.

10 Sec. 9. The commission may make rules and regulations
11 necessary to effect the provisions of this Act and to assure:

12 1. The payments authorized by this Act are fair and
13 reasonable and as uniform as practicable;

14 2. A displaced person who makes proper application for
15 a payment authorized by this Act is paid promptly after a
16 move or, in hardship cases, is paid in advance; and

17 3. Any person aggrieved by a determination as to eligibility
18 for a payment authorized by this Act, or the amount of a pay-
19 ment, may have his application reviewed by the commission.

20 All rules shall be subject to the provisions of chapter
21 seventeen A (17A) of the Code.

22 Sec. 10. Section four hundred seventy-two point fourteen
23 (472.14), Code 1966, is hereby amended as follows:

24 1. By striking lines seven (7) through fourteen (14),
25 inclusive.

26 2. By striking from line fifteen (15) the words "condemna-
27 tion and appropriation." and inserting in lieu thereof the
28 following:

29 "sheriff. At the request of the condemnor or the condemnee,
30 the commission shall divide the damages into parts to indicate
31 the value of any dwelling, the value of the land and improvements
32 other than a dwelling, and the value of any additional damages."

33 3. By inserting in line thirty-two (32) after the comma the
34 words "except moving expenses paid or required to be paid under
35 relocation assistance programs,".

Appendix II

HOUSE CONCURRENT RESOLUTION NO.

By

WHEREAS, the federal Highway Safety Act of 1966 requires each state to have a highway safety program in accordance with uniform standards promulgated by the Secretary of Transportation, and Iowa does not comply with the uniform standard which requires each state to have a program of periodic motor vehicle inspection; and

WHEREAS, the Highway Programs Study Committee established by the First Session of the Sixty-third General Assembly has studied the subject of statewide periodic motor vehicle inspection, and has consulted with a representative of RCA Service Company, which offers to provide, under contract with the State of Iowa, a statewide program for periodic motor vehicle inspection which is designed to inform motorists of defects but not to offer repair service; and

WHEREAS, RCA Service Company offers to conduct, without charge to the State of Iowa, a study to determine the number of vehicle inspection stations needed, desirable locations for the stations, and, based on these determinations, the cost of the inspection program offered by RCA Service Company; NOW THEREFORE,

BE IT RESOLVED BY THE HOUSE, THE SENATE CONCURRING, That RCA Service Company is requested to conduct, without charge to the State of Iowa, a study to determine the number of vehicle inspection stations needed in Iowa, desirable locations for the stations, and, based on these determinations, the cost of the inspection program offered by RCA Service Company, both in terms of total contract cost to the state, and of necessary inspection fees to be paid by the vehicle owner in order to recover the state's cost.

BE IT FURTHER RESOLVED, That RCA Service Company is requested to report the results of its study to the Legislative Council and the First Session of the Sixty-fourth General Assembly.

Summary of Pertinent Information on

FEDERAL HIGHWAY SAFETY ACT OF 1966, FEDERAL HIGHWAY
BEAUTIFICATION ACT OF 1963, AND RELOCATION AND ASSISTANCE
PROVISIONS OF FEDERAL HIGHWAY ACT OF 1968

Prepared by the Iowa Legislative Service Bureau for the members of the legislative Highway Programs Study Committee

House Concurrent Resolution 27, passed by the first session of the Sixty-third General Assembly, authorizes the Iowa Legislative Council to conduct a legislative study to determine the most effective and practicable methods of achieving compliance by the State of Iowa with the Federal Highway Safety Act of 1966, the Federal Highway Beautification Act of 1963, and the relocation and assistance provisions of the Federal Highway Act of 1968.

The basic purposes of the study are, (1) to ascertain in what respects the state is now in compliance with the three designated federal highway statutes, and (2) to recommend legislation that would ensure full compliance with applicable federal standards in those areas in which compliance has not already been achieved.

The following outline is intended to summarize the purpose of each of the three federal acts to which reference was previously made, and to identify the major requirements of each and the extent to which Iowa is presently in compliance with each of these requirements.

I. Federal Highway Safety Act of 1966.

A. The Federal Highway Safety Act is designed to achieve safer highways by setting up a national framework for cooperative, coordinated federal, state, and local traffic management programs, to be accomplished "through promulgation of Uniform National Highway Safety Standards." The Secretary of Transportation is empowered to issue guidelines with which the states are expected to comply if they desire federal funds to implement their highway safety programs.

B. Cost and Penalty.

The federal government will provide funds equal to whatever the state appropriates for each new or expanded program required by federal standards, provided the previous level of combined state and local spending for highway safety is not reduced. Failure to comply could mean the loss of 10% of all federal highway funds normally allocated to the state.

C. Federal requirements and Iowa's compliance.

The secretary of transportation has set forth a program of sixteen safety standards, designed to reduce traffic accidents and maintain safe public highways, with which the states are expected to comply by December 30, 1969.

Iowa presented its safety program, compiled by the Office of Planning and Programming, to the Director of the Highway Safety Pro-

grams office last spring. On May 20, 1969, Donald E. Trull, Director of Highway Safety Programs, sent to Iowa Commissioner of Public Safety, Jack M. Fulton, an evaluation summary of Iowa's program. Comments relative to particular standards are included in the following outline.

1. Periodic motor vehicle inspection.

a. Purpose.

"To increase, through periodic vehicle inspection, the likelihood that every vehicle operated on the public highways is properly equipped and is being maintained in reasonably safe working order . . . , thereby reducing the number of vehicle equipment failures which cause or contribute to accidents, or increase the severity of those accidents which do occur."

b. Iowa compliance.

Currently we do not comply with this standard. We have volunteer motor vehicle inspection, and we also allow our cities and towns to establish by ordinance a motor vehicle inspection. "All cities and towns shall have the power to acquire, establish, erect, equip, operate, and maintain motor vehicle testing stations therein and to pay for the same out of the allocations from the public safety fund."--Section 321.238, Code of Iowa (1966).

c. Federal comments on Iowa's proposed plan.

"The state does not meet the requirements of this standard. Iowa does not have a periodic motor vehicle inspection program. Legislation for such a program was not passed in the 1967 legislature. The state planned to introduce a periodic inspection bill in the 1969 session. Future plans are vague and will require clarification."

d. Legislation needed to ensure full compliance.

Establishment of a state-wide motor vehicle inspection system, operated either by the state or privately with state authorization, but requiring that all motor vehicles, trucks, motorcycles, etc., be periodically inspected to insure that they are in safe operating condition. There has been legislation introduced in previous sessions attempting to establish a state-wide inspection law. See Senate File 300, of the 62nd General Assembly, an Act relating to motor vehicle inspection, House File 493, of the 61st General Assembly, an Act relating to semiannual inspections of motor vehicles, Senate File 496, introduced first session 63rd General Assembly, an Act to require annual inspection of motor vehicles, and House File 704, introduced first session 63rd General Assembly, an Act relating to motor vehicle inspection.

- e. Administrative action needed to ensure full compliance.
None.

2. Motor Vehicle Registration.

a. Purpose.

To identify and describe each vehicle and its owner, and to link their experiences with the information contained in the license, accident, highway, and other data files related to highway safety.

b. Iowa compliance.

At this time our vehicle registration system is adequate in comparison with the standard.

c. Federal comments on Iowa's proposed plan.

"The state generally meets the requirements of this standard. Iowa's registration procedure results in the acquisition of the required information. The manual information system used does not meet the standard requirements, but the state has plans to develop an electronic data processing system for vehicle registration."

d. Legislation needed to ensure full compliance.

At present none.

e. Administrative action needed to ensure full compliance.

None.

3. Motorcycle safety.

a. Purpose.

To provide for safe operation of motorcycles on public roadways, with safe and proficient operators, properly maintained vehicles, and adequate administrative supervision and regulation.

b. Iowa compliance.

Iowa complies partially with licensing requirements, and has a voluntary operator's information course.

c. Federal comments on Iowa's proposed plan.

"While the Iowa program is currently minimal, current activities plus proposed legislation, if fully adopted, will provide for full implementation of this standard. The plan presented in this standard is a promising one for both cyclists and auto drivers."

d. Legislation needed to ensure full compliance.

(1) Provide for an instruction or learner's permit for persons desiring to obtain a license to operate a motorcycle.

(2) Develop and formulate standards and requirements both for motorcycles and persons operating them.

e. Administrative action needed to ensure full compliance.

Establish a course either in driver education or through voluntary groups, clubs, etc., for some instruction on the safe operation of a motorcycle.

4. Driver Education.

a. Purpose.

To develop safe and efficient drivers who understand the essential facets of traffic safety programs and who participate in the traffic environment in a manner that enhances the effectiveness of such programs.

b. Iowa compliance.

Iowa currently meets the requirement for driver education programs. "Every public school district in Iowa shall offer or make available to all students residing in the school district an approved course in driver education."--Section 321.177, Code of Iowa (1966).

c. Federal comments on Iowa's proposed plan.

"Iowa's program substantially meets the standard requirements."

d. Legislation needed to ensure full compliance.

None.

e. Administrative action needed to ensure full compliance.

None.

5. Driver's Licensing.

a. Purpose.

To make certain that all persons who desire to operate a motor vehicle are competent, capable, and qualified to drive on the public roads.

b. Iowa compliance.

Iowa currently is meeting the federal requirements in regard to this standard.

c. Federal comments on Iowa's proposed plan.

"Iowa substantially meets the standard requirements. The comprehensive review submitted by the state establishes a time frame for remedial development, but does not establish priorities. No information was provided concerning the extent to which driving without a license occurs."

d. Legislation needed to ensure full compliance.

None. (Note: The following suggestions have been offered by the Office of Planning and Programming. The Committee took no action on these recommendations, because they are not required by the federal government.)

- (1) Periodic reexamination of persons desiring to renew their license, to include written and driving test.
- (2) Placing the licensee's picture on license to aid in identification.
- (3) Strict enforcement of laws relating to license suspension.

e. Administrative action needed to ensure full compliance.

None.

6. Codes and laws.

a. Purpose.

To achieve uniform traffic safety regulations throughout the nation.

b. Iowa compliance.

Iowa's "Rules of the Road" as traffic regulations are for the most part uniform throughout the state. There are a few exceptions such as city ordinances establishing local speed limits or banning parking.

c. Federal comments on Iowa's proposed plan.

"The state's program does not conform to the requirements of this standard. Iowa reported that 'Rules of the Road' are uniform throughout the state, and that local ordinances

may not conflict with state laws. Although recognizing the need for compatibility with the Uniform Vehicle Code, no indication was given as to when the first steps in implementing this standard would be taken."

Iowa has not conducted a comprehensive study of its traffic laws and ordinances; moreover, the state does not have a permanent highway safety study committee to execute periodic overviews of the Iowa traffic laws and to offer official recommendations for legislative action." (NOTE: Iowa now has a permanent safety study committee, appointed by Governor Ray. See appendix for membership on this committee.)

d. Legislation needed to ensure full compliance.

To realign Iowa's traffic laws so as to attempt to make them uniform with the other fifty states it will be necessary to place the responsibility with a specific agency or individual, such as the Governor or Safety Commissioner, to work with the other states designated officials in this area.

e. Administrative action needed to ensure full compliance.

A study of the Uniform Vehicle Code could be made by the Department of Public Safety.

7. Traffic Court.

a. Purpose.

To assure prompt and impartial adjudication of proceedings involving alleged violations of traffic laws.

b. Iowa compliance.

The state partially meets this standard; however, there are two things the federal government would like to see accomplished, as noted in the following paragraph.

c. Federal comments on Iowa's proposed plan.

"Iowa partially meets the standard requirements. The state should seek legislation to provide for the elimination of the 'fee' features of some courts. Better methods of supervision, and the development and distribution of a procedural manual will contribute greatly to progress toward meeting the standard requirement."

d. Legislation needed to ensure full compliance.

- (1) Abolish the fee system, under which a judge retains a portion of the fine or costs which he assesses against a traffic violator who pleads guilty or is convicted in the judge's court.

(2) Provide administrative personnel from some agency or body to inspect the operation of the lower court system in regard to procedure and workload and provide written material by way of manuals and guidelines to achieve uniformity throughout the state.

e. Administrative action needed to ensure full compliance.

None.

8. Alcohol in relation to highway safety.

a. Purpose.

(1) To provide accurate information on the extent to which the immoderate use of alcohol is a factor in highway accidents, to serve as the basis both for resource allocations and for determining the effects of countermeasures.

(2) To broaden the scope and number of state wide activities directed toward reducing highway crashes arising in whole or part from persons driving under the influence of alcohol.

b. Iowa compliance.

(1) Implied consent law.

(2) Providing chemical tests for drivers and upon the bodies of drivers suspected of drunken driving.
(H.F. 207, 63rd General Assembly)

c. Federal comments on Iowa's plan for compliance.

"The state is partially in compliance with the requirements of this standard. Iowa has an implied consent law, but has no chemical test law which establishes the blood alcohol concentration level to define a violation or create a presumption." (NOTE: H.F. 207, passed by the first session of the 63rd General Assembly, establishes 0.10% concentration of alcohol in the blood of any person as evidence that the person is under the influence of alcohol, and therefore legally disqualified to operate a motor vehicle.)

d. Legislation needed to ensure full compliance.

None.

e. Administrative action needed to ensure full compliance.

None.

9. Identification and surveillance of accident locations.

a. Purpose.

Promote systematic analysis of the losses experienced in motor vehicle accidents, and thereby assist highway engineers and law enforcement and other safety program officials in focusing available resources upon corrective measures with highest priorities and most likelihood of producing significant improvements.

b. Iowa compliance.

Iowa has a program for identifying accident locations and for maintaining surveillance of those locations having high accident rates or losses. This is done through the Iowa Highway Patrol, Highway Commission, and the various county and city police departments.

c. Federal comments on Iowa's proposed plan.

"The Iowa program is at least partially responsive to this standard. The present status of the state is difficult to determine, but the state recognizes its deficiencies and has developed a program to meet the standard requirements which is too indefinite as far as specific programming to accomplish full implementation. Not included in their planned activities was a systematic program for correcting high accident locations."

d. Legislation needed to ensure full compliance.

(1) A state-wide system operating in the Department of Public Safety for pinpointing high accident locations on secondary roads and urban streets. This information would be available to the Highway Commission and others when proposing new roads or remodeling old ones.

(2) A state-wide traffic record system.

e. Administrative action needed to ensure full compliance.

(1) Guidelines should be provided from state to local political subdivisions for appropriate methods of maintaining accident records.

(2) Analytical teams from the Department of Public Safety should be established to review high accident rate locations on the primary highway system, and on all other systems upon request.

- (3) The Iowa State Highway Commission should increase its traffic engineering staff in order that complete before-and-after accident studies can be completed at all locations where spot or major improvements have been accomplished.

10. Traffic Records.

a. Purpose.

To provide appropriate data on traffic accidents, drivers, motor vehicles, and roadways so that such data will be available for planning and implementing at state and local levels.

b. Iowa compliance.

The Department of Public Safety has a traffic information system which provides for the collection, processing, storage, analysis, and dissemination of appropriate data on drivers, accidents, motor vehicles, and roadways. The Federal Highway Administration has earmarked \$844,675 to the state for establishment of a total traffic records system. Officials said \$271,551 will be obligated now with the balance--\$573,223--to be suspended pending availability of fiscal 1970 funds.

c. Federal comments on Iowa's proposed plan.

"The submission is complete insofar as the standard is concerned indicating what is now available and the plans to improve the data gathering system so that it can be used in the decision making process."

d. Legislation needed to ensure full compliance.

None.

e. Administrative action needed to ensure full compliance.

None.

11. Emergency Medical Services (E.M.S.).

a. Purpose.

To insure that victims of traffic accidents receive prompt and adequate emergency care.

b. Iowa compliance.

- (1) Placing twenty-five emergency vehicles in counties and cities which are in need of them.
- (2) Legislation is pending which would regulate emergency vehicles, equipment, drivers, and attendants. (House File 574 by Representative Pelton and House File 402 by Representative Mezvinsky, both bills were introduced first session of the 63rd General Assembly.)

c. Federal comments on Iowa's proposed plan.

"Iowa's program is partially in conformance with the requirements of this standard. The state has made, without federal assistance, two in-depth studies of its ambulance service, and the information is available to aid in planning. Their plans do not, however, include training and licensing of dispatchers and rescue vehicle operators."

d. Legislation needed to ensure full compliance.

- (1) A supporting E.M.S. coordinator and staff assistants either in a separate agency or in an existing state department.
- (2) Training and licensing of E.M.S. personnel and equipment. (Legislation now pending, H.F. 574 and H.F. 402.)

e. Administrative action needed to ensure full compliance.

- (1) Training programs for personnel involved in traffic control, construction, or maintenance.

12. Highway Design, Construction and Maintenance.

a. Purpose.

To assure that existing streets and highways are maintained in a condition that promotes safety; that capital improvements either to modernize existing roads as to provide new facilities meet approved safety standards; and to ensure appropriate precautions are taken to protect passing motorists as well as highway workers from accident involvement at highway construction sites.

b. Iowa's compliance.

The state's regular standing program of highway design, construction, and maintenance is deemed

adequate to improve highway safety. The authority for establishment, design, construction and maintenance rests with the respective government agencies having jurisdiction of the various highways, roads, and streets.

c. Action suggested by the federal government, but not required.

- (1) Guidelines and standards should be established for design criteria for urban streets which would include safety features for motorists, for pedestrians and occupants of out-of-control vehicles that leave the roadway.
- (2) A revised lighting priority list for primary highway junctions should be established.
- (3) A statewide, all systems, skid resistance testing program should be established.
- (4) Training programs for personnel involved in traffic control, construction or maintenance.
- (5) Reevaluate Iowa railroad crossing formula, so as to include accident history.
- (6) Establish a design review team that will review all new construction, at least on our primary highway system, and to provide recommendations for future design.

13. Traffic control devices.

a. Purpose.

To assure the full and proper application of modern traffic engineering practice and uniform standards for traffic control devices in reducing the likelihood and severity of traffic accidents.

b. Iowa compliance.

The state has a program relating to the use of traffic control devices and other traffic engineering measures. The authority for placement of traffic control devices on primary highways rests with the Iowa Highway Commission. Each political subdivision acts independently in establishing its own program on traffic control devices.

c. Federal comments on Iowa's proposed plan.

"The state's program indicates substantial conformance with the requirements of this standard. Current and planned activities appear adequate for a comprehensive state-wide plan."

d. Legislation needed to ensure full compliance.

- (1) Section 321.255, Code of Iowa (1966), should be changed to stipulate responsibility for elimination of nonuniform traffic control devices.
- (2) A state-wide, all systems, traffic control device needs and deficiency study and inventory should be considered.

e. Administrative action needed to ensure full compliance.

A state-wide continual systematic inventory, which includes engineering and traffic investigations, should be considered for use in establishing speed limits on the primary highway system.

14. Pedestrian safety.

a. Purpose.

To emphasize the need to recognize pedestrian safety as an integral, constant, and important element in community planning and all aspects of highway transportation.

b. Iowa compliance.

The state has a pedestrian safety program with responsibility distributed through the Department of Public Safety, Department of Public Health, and various local agencies.

c. Federal comments on Iowa's proposed plan.

"Iowa is only minimally responsive to the standard. There are some elements of the program for which no action is reported, or no need recognized. A generalized time schedule and some financial data is included. There is an on-going program of contacts and discussion between state and local officials. No plans were reported for land use plans review, driver familiarization with pedestrian problems, or protection of children at play."

d. Legislation needed to ensure full compliance.

None.

- e. Administrative action needed to ensure full compliance.
 - (1) An in-depth study of the pedestrian safety problem, program resources, objectives, responsibilities, and program effectiveness.
 - (2) Stricter enforcement of jaywalking laws.
 - (3) Implementation of K-12 safety curriculum in local school districts. This is a new and updated course in pedestrian and motor safety made available by the federal government.

15. Police Traffic Service.

a. Purpose.

To reduce the deaths and injuries by improving police traffic service in all aspects of accident prevention programs and police traffic supervision, with post-accident procedures to aid crash victims and to bring those responsible for the accidents to justice.

b. Iowa compliance.

Iowa has a state police traffic service existing within the Iowa Highway Patrol, in addition to traffic control activities of local political subdivisions.

c. Federal comments on Iowa's proposed plan.

"Iowa's program is partially in conformance with the requirements of this standard. The state and some of the political subdivisions are implementing some of the standard requirements. Deficiencies have been identified; however, no priorities or time schedule have been indicated."

d. Legislation needed to ensure full compliance.

None.

e. Administrative action needed to ensure full compliance.

None.

16. Debris hazard control and cleanup.

a. Purpose.

Prompt restoration of the scene of a traffic accident to a safe condition, to remove the additional hazards at

such locations, to relieve congestion, and to assure resumption of normal traffic flow.

b. Iowa compliance.

Maximum effectiveness of the Iowa accident cleanup functions ultimately requires full cooperation and coordination among a broad variety of public and private agencies, services, and organizations. At present Iowa is meeting this requirement.

c. Federal comments on Iowa's proposed plan.

"The state's program is in partial conformance with the requirements of the standard. First stage planning is underway. Full implementation is five years off."

d. Legislation needed to ensure full compliance.

None.

e. Administrative action needed to ensure full compliance.

Develop standards and criteria of performance relative to organization, operation, performance, personnel, and training.

(NOTE: The Office of Planning and Programming has done considerable work on the Federal Highway Safety Act in regard to Iowa's compliance. It has indicated to the Legislative Service Bureau that standards one, three, six, seven, and eight are considered the most important by the federal government, which would like to see some action taken with respect to full compliance on these standards by January 1, 1970.)

II. Federal Beautification Act of 1965.

A. Purpose.

The Highway Beautification Act is intended to promote scenic development and beautification of the federal-aid highway systems, through establishment of regulations controlling:

1. Outdoor advertising on the interstate and primary highway systems.
2. Junkyards.
3. Landscaping and roadside development.

B. Costs

75% federal, 25% state matching is provided in the advertising and junkyard sections of the Act. In addition a penalty of 10%

reduction in the total federal aid funds normally allocated to the state could be assessed, if Iowa fails to comply with both regulations.

C. Iowa compliance.

1. Chapter 306B, Code of Iowa (1966), controls advertising on the interstate system, but does not pertain to the primary highway system. Sections 319.10, 319.11, and 319.12 regulate advertising on primary roads and there is some concern as to their conformance with federal regulations.
2. Section 313.67, Code of Iowa (1966), creates a primary road scenic and improvement fund.

D. Legislation needed to ensure full compliance.

1. Check Code on primary road advertising to determine if it is adequate.
2. Formulate and enact laws regulating junkyards.

E. Administrative action needed to ensure full compliance.

None.

III. Relocation and Assistance.

A. Purpose.

To provide relocation payments and advisory assistance to all persons displaced by highway programs, in accordance with the provisions set forth in the relocation and assistance section of the Federal Highway Act of 1968.

B. Iowa's compliance.

There is legislation pending that would implement this program. Senate File 684 by Committee on Transportation would provide assistance payments to those persons displaced by highway relocations. Also a copy of the Iowa Highway Commission's proposed bill to implement this program is attached.

C. Legislation needed to ensure full compliance.

At this point, passage of S.F. 684. However, there is some concern on the part of the Highway Commission that old condemnation laws might conflict with S.F. 684.

D. Administrative action needed to ensure full compliance.

None.

REPORT OF THE

HIGHWAY COMMISSION STUDY COMMITTEE

HIGHWAY COMMISSION STUDY COMMITTEE REPORT

Final Report

NOTE: This report was adopted by the Legislative Council, with the changes and exceptions noted at the relevant points in the body of the report.

Pursuant to Senate Joint Resolution 25, the Legislative Council established the Highway Commission Study Committee in June, 1969, to conduct a study of the Iowa Highway Commission's policies in regard to "Land Use, Employment, and General Operations". At the Committee's organizational meeting, Senator Clifton C. Lamborn of Maquoketa was elected Chairman, and Representative Floyd P. Edgington of Sheffield was elected Vice Chairman. Other members of the Highway Commission Study Committee are Senators Hugh H. Clarke of Belmond, William F. Denman of Des Moines, Eugene M. Hill of Newton, Elmer F. Lange of Sac City, Charles G. Mogged of Fairfield, Roger J. Shaff of Camanche, and Bass Van Gilst of Oskaloosa, and Representatives Vernon N. Bennett of Des Moines, Adrian B. Brinck of West Point, Harold O. Fischer of Wellsburg, William H. Harbor of Henderson, Edward M. Mezvinsky of Iowa City, Leroy S. Miller of Shenandoah, and Laverne W. Schroeder of McClelland.

At the Committee's organizational meeting it was agreed that the various areas which the Legislature had directed the Committee to study were too broad for the entire Committee to cover during the period before the 1970 session. The Committee authorized the Chairman and Vice Chairman to divide the Committee membership into three subcommittees, appoint a chairman for each, and assign each subcommittee responsibility for one of the areas of study requested in the joint resolution. The subcommittees established, their memberships, chairmen and respective areas of study are listed in the following paragraphs. (Senator Lamborn, as Committee Chairman, was an ex officio member of each subcommittee.)

1. Subcommittee on Land Use Policies - Senator Clarke, Chairman; Senators Shaff and Van Gilst, Representatives Brinck and Edgington. The Subcommittee was requested to study:

- a. Highway Commission public relations in regard to land procurement, surveys, and road construction.
- b. Condemnation of land for the construction of public roads.
- c. The amount of surplus real estate the Highway Commission presently owns.
- d. Diagonal roads and their effect on Iowa farmland.

2. Subcommittee on General Operations - Representative Schroeder, Chairman; Senators Hill and Lange, and Representatives Mezvinsky and Miller. The Subcommittee was requested to study:

- a. Safety aspects of highways, including interchanges, bridges, and general road design.
- b. Enforcement policies of the Highway Commission in regard to overweight and overdimensional load permit violations.
- c. Highway Commission policy in regard to haul roads and detours.
- d. The emergency reallocation of road use tax funds by the Executive Council.
- e. Purchasing policies and the number of state vehicles permanently assigned to the Highway Commission.

3. Subcommittee on Employment Policies - Representative Harbor, Chairman; Senators Denman and Mogged, and Representatives Bennett and Fischer. The Subcommittee was requested to study:

- a. The legal staff arrangements now in effect at the Highway Commission.
- b. Engineering staff and use of outside consultants.
- c. Policies in regard to employees' transfers.

The chairman of each subcommittee was given the latitude to hold as many meetings as necessary to cover the area of study for which each was responsible. The Land Use Policies Subcommittee held five meetings, the Employment Policies Subcommittee four, and the General Operations Subcommittee three. Each Subcommittee submitted a report of its findings and recommendations to the full Committee for review.

The full Committee held a series of three meetings at which the Subcommittee reports were considered. The text of the three Subcommittee reports, with notations of the action taken upon each specific recommendation, appear as parts I, II, and III of this report. A number of the proposals by each of the Subcommittees are essentially suggestions that the Highway Commission change its policies or procedures relating to certain matters; these are summarized under the heading "Administrative Recommendations" in each of the three Subcommittee reports. Other proposals which call for statutory changes are summarized under the heading "Legislative Recommendations".

I. Report of the Land Use Policies Subcommittee

The Land Use Policies Subcommittee held five meetings, including one in Ames, at the Highway Commission office. Testimony was heard from members of the Highway Commission, Director of Highways Joseph R. Coupal, Highway Commission Chief Engineer Howard E. Gunnerson, and United States Bureau of Public Roads Regional Administrator Roger Turner, as well as from a number of farmers and landowners and their legal representatives.

In addition to the study areas assigned by the full Committee, topics considered by the Subcommittee included communications between Highway Commission members and the Commission staff, and location of proposed freeways, expressways, and interstates in the state for the next twenty years.

Recommendations

The following are the recommendations submitted by the Land Use Policies Subcommittee to the full Highway Study Committee:

A. Administrative Recommendations

1. Public relations of the Highway Commission in regard to land procurement.
 - a. At the second meeting of the Subcommittee, numerous farmers and landowners claimed that they had been mistreated by Highway Commission employees over appraisal figures and survey work. The Subcommittee recommends that the Highway Commission members and executive staff investigate to see if the claims made by the landowners are valid. If the claims are valid, the Commission is strongly urged to take the proper action that will alleviate the situation, and build a better public image for the Highway Commission across this state.

The foregoing recommendation was adopted by the full Committee.
 - b. The Subcommittee recommends that the Highway Commission mail its appraisal figures to the landowner, before the negotiator contacts such person to secure his land. This would allow the landowner, if he so desires, to contact a competent and qualified individual who can assist him in evaluating the Commission's appraisal, and thereby possibly avert condemnation proceedings in the courts.

The foregoing recommendation was adopted by the full Committee.

2. Condemnation of land for public roads.

- a. The Subcommittee did not have any administrative recommendations in this area. They urged the Highway Commission to continue its present policy in this area, and make every effort to avoid condemnation proceedings if at all possible.

The foregoing recommendation was adopted by the full Committee.

3. Surplus real estate owned by the Highway Commission.

- a. The Subcommittee recommends that the Highway Commission continue its policy of renting surplus land that it owns back to the adjacent farmers. If it is impossible to rent the land back to the farmer, then the Commission should utilize the land in some other manner, such as a conservation project.

The foregoing recommendation was adopted by the full Committee.

- b. The Subcommittee recommends that the Highway Commission create an agricultural assistant on the Highway Commission staff, whose function it would be to evaluate highway construction plans in terms of the quantity and quality of agricultural land which would be affected. (It was brought out at all four Subcommittee meetings that the road user is the supreme factor in projecting the highway needs of this state. The Subcommittee feels that this is not right and that some emphasis should be placed on Iowa's agricultural land, which may be vital in meeting future food needs.)

The foregoing recommendation was adopted by the full Committee.

4. Communications between Highway Commission members and executive staff.

- a. At the third Subcommittee meeting the Subcommittee members focused their attention on Commission policy. There was some concern whether the Director of Highways sets policy, or carries it out. The Subcommittee recommends that the Highway Commission members, and the Director of Highways close any gap that may exist in regard to Commission policy, and that the Highway Commission members at all times formulate policy.

The foregoing recommendation was adopted by the full Committee.

- b. The Subcommittee recommends that the Director of Highways support all Highway Commission policies. If the Commission issues a directive, the Director of Highways should follow that directive at all times and require the staff to do likewise.

The foregoing recommendation was adopted by the full Committee.

5. Diagonal roads.

The Subcommittee recommends that the Highway Commission attempt to avoid diagonal roads if at all possible. When a diagonal road is considered necessary, the Commission is strongly urged to meet with all of the individual landowners affected by the diagonal, and also meet with legislators representing the area affected, and try to work out the best suitable solution for all concerned.

The foregoing recommendation was adopted by the full Committee.

6. Location of proposed freeways, expressways, and interstates.

There were no administrative recommendations in this area.

B. Legislative Recommendations

1. Public relations in regard to land procurement, surveys, and road construction.

The Subcommittee recommends that a bill be proposed repealing the present "value before taking less value after taking" formula which the Highway Commission uses for land appraisal.

The full Committee concurs with the objective of the Subcommittee in making the foregoing recommendation, but believes this objective can best be realized by passage of the relocation and assistance bill to be recommended by the Federal Highway Programs Study Committee.

2. Condemnation proceedings involving land used for public roads.

- a. The Subcommittee recommends that a bill be drafted to transfer authority to appoint members of condemnation commissions from the Chief Justice of the Supreme Court, and place it with an agency designated by the General Assembly.

The foregoing recommendation was adopted by the full Committee. A copy of the bill appears as Appendix I to this report.

- b. The Subcommittee recommends that a bill be proposed to stipulate that when farmland is to be condemned, the condemnation commission must include at least one farmer.

The foregoing recommendation was adopted by the full Committee. A copy of the bill appears as Appendix II to this report.

3. Surplus real estate owned by the Highway Commission.

- a. The Subcommittee recommends that a zoning commission be established in the Highway Commission that would allow the Commission to zone certain sections of land so as to eliminate rapid development adjacent to highways, thereby reducing future cost if the Commission determines construction of an additional two lanes is necessary to carry the traffic on such highways.

The foregoing recommendation was adopted by the full Committee. A copy of the bill appears as Appendix III to this report.

- b. The Subcommittee recommends that a bill be proposed to allow the Highway Commission and the Conservation Commission to work together in making suitable arrangements for excess Highway Commission land to be used for conservation purposes.

The foregoing recommendation was adopted by the full Committee. A copy of the bill appears as Appendix IV to this report.

4. Diagonal roads.

The Subcommittee recommends passage of a bill entitled "An Act relating to the installation of limited access diagonal highways and highway placement."

The foregoing recommendation was adopted by the full Committee. A copy of the bill appears as Appendix V to this report.

NOTE: The Legislative Council voted to delete the preceding recommendation from the Highway Commission Study Committee's report, before adopting the report.

II. Report of the General Operations Subcommittee

The General Operations Subcommittee met three times. One meeting was held in Ames, at the Highway Commission office, during which the Subcommittee members toured the Highway Commission facilities and observed operation of a weight station south of Ames on I-35. The Subcommittee heard testimony from Highway Commission members, Mr. Coupal, Commerce Commissioner Dick Witt, Public Safety Commissioner Jack Fulton, Revenue Director William Forst, and members of the Highway Commission staff.

Recommendations

The following are the recommendations submitted by the General Operations Subcommittee to the full Highway Commission Study Committee:

A. Administrative Recommendations

1. Enforcement Policies; Possible Consolidation of Enforcement Functions.

No administrative recommendations.

2. Emergency Allocation of Road Use Tax Funds by the Executive Council.

Principal recommendations in this area are legislative. However, the Subcommittee criticizes the Highway Commission for its contention that an emergency, requiring an executive action to change allocations established by the General Assembly, existed almost immediately after the legislation establishing these allocations took effect.

The full Committee concurs with the foregoing finding.

3. Safety Aspects of Highway Design.

- a. The Subcommittee recommends that the Highway Commission reevaluate its priorities, which presently give preference to modernization of older highways over improvement of existing interstate highways, and undertake to bring existing portions of the interstate highway system in Iowa--constructed before the federal Bureau of Public Roads adopted the current American Association of State Highway Officials safety standards--up to such standards at the

earliest possible time, in view of the heavy proportion of total highway traffic which the Interstate System carries.

The foregoing recommendation was adopted by the full Committee.

- b. It is suggested that if, in the future, the Highway Commission finds itself being compelled by federal regulations to build federal-aid highways to standards lower than the highest available safety standards, the Commission should make every effort to make this fact known to the General Assembly and the public.

The foregoing recommendation was adopted by the full Committee.

- c. The following comments and recommendations were submitted by Representative Mezvinsky to the Subcommittee, and are forwarded to the full Committee for its consideration:

"Improvement in highway safety must be given the highest priority by the Iowa State Highway Commission. The Highway Commission has failed to make safety a prime consideration in the design, the construction, and the operation of the roads and streets within their jurisdiction. Roadside hazards on Iowa's Interstate system are frequent and unnecessarily severe in their effects. Prime examples are guardrail, signing, lighting, shoulders, curbs and drainage facilities. Attention should be given toward spot improvement projects with a focus on standardization. Uniformity between roadways and bridges must be developed. The roadway to bridge transitions must be designed to function on the side of safety. Clear and convincing evidence exists that the rail to railing transition between roadways and bridges is one of the weakest components of present roadside design.

"Automobile casualties often occur when cars strike objects closely adjacent to the regularly traveled portion of the road. In 1968, 50% of the fatal accidents on the Interstates and interchanges (16 of 32 fatal accidents) were caused by motor vehicles striking fixed objects such as guardrails, earthen dams and bridges. The providing of road and street shoulders that are free of obstruction should be given high priority in road improvement.

Where nearby fixed objects are not feasible of complete removal or relocation from the immediate roadside, installation of effective barriers to shield piers, sign supports, and other features that cannot reasonably be eliminated or relocated, should be installed at a maximum distance from the roadway rather than just outside the outer edge of the usable shoulder. The following programs need immediate attention:

(1) Widening all Interstate bridge structures to conform with the latest safety standards.

(2) Replacement of all Interstate directional signs presently on steel and concrete supports with 'break-away' supports.

(3) Elimination of unnecessary guard rails and careful construction and erection of the remaining guardrails.

(4) Restructuring median obstructions such as the drainage control dams using 6:1 or flatter slopes.

(5) Reevaluation of 'gore areas' on entrance and exit ramps of the Interstate to eliminate unnecessary obstacles in possible recovery areas.

(6) Providing an all-weather 8 ft. shoulder on existing heavily traveled primary roads. This shoulder should contain no obstructions so that slow-moving farm machinery could travel here in addition to providing the necessary recovery area for vehicles out of control.

(7) Speed limits on all segments of the public roads should not be greater than the maximum control capability of the vehicles utilizing the facility.

(8) Removal of obstacles closely adjacent to the traveled portion of urban streets. Utility poles should be removed from positions closely adjacent to the curb on high traffic volume city streets.

(9) Entrances and exits to the Interstates and freeways should be uniform with entrances and exits always occurring on the right.

"It is recommended that the Highway Commission submit not later than January 2 of each year a comprehensive and detailed written report to the House and Senate Transportation Committees with respect to highway safety during the immediately preceding calendar year. Such report shall include, but shall not be limited to (1) a statement of highway safety and stepped-up spot improvement programs and other efforts by traffic engineering and maintenance forces; (2) a statement of current highway safety problems; (3) recommendations for solving highway safety problems. The House and Senate Transportation Committees shall continually evaluate the performance of the Highway Commission in the area of traffic safety and report to the Legislature the Committees' findings."

The foregoing recommendations were adopted by the full Committee, with the addition of a tenth specific safety recommendation as follows:

"(10) The Highway Commission should seek a suitable design for, and build, a guardrail in the center of the median strip on interstate highways, to prevent vehicles which go out of control from crossing the median and colliding with vehicles traveling in the opposite direction."

In adopting the foregoing recommendations--as in adopting other administrative recommendations of the three Subcommittees--the full Committee does so without intent to request drafting of or seek passage of legislation embodying these recommendations.

- d. Representative Mezvinsky also submitted to the Subcommittee the following recommendation, which is forwarded to the full Committee for its consideration:

"In view of the growing transportation crisis, it is recommended that a Department of Transportation be established to coordinate and supervise all transportation developments."

After consideration of the foregoing recommendation, the full Committee adopted the following:

"In view of the growing transportation crisis, the Highway Commission Study Committee recommends that the House and Senate Transportation Committees

conduct a study of the feasibility of creating a Department of Transportation."

4. Haul Roads and Detours.

During the September 17 meeting it was indicated that, while county engineers have not been satisfied with Highway Commission policies in this area in the past, the policy adopted September 3 will be acceptable if it is continued in effect and followed by the Commission. The Subcommittee makes no recommendations for further changes in this policy, but is critical of the two-year lapse between the effective date of Chapter 254, Acts of the Sixty-second General Assembly (1967), and implementation of this act by the Highway Commission.

The full Committee concurs with the foregoing finding.

5. Other Matters.

- a. Subcommittee members suggested that the Highway Commission review its policies in regard to the number of sedans and similar vehicles needed at a particular maintenance or construction site, and attempt to reduce the number to one or two unless more are absolutely necessary.

The foregoing suggestion was adopted by the full Committee.

- b. Subcommittee members suggest that the Highway Commission review, in the light of inflation, policies now followed with regard to the length of time Highway Commission vehicles are used before being replaced.

The foregoing suggestion was adopted by the full Committee.

B. Legislative Recommendations

1. Enforcement Policies; Possible Consolidation of Enforcement Functions.

- a. The Subcommittee recommends to the full Highway Commission Study Committee a bill relating to the transfer of enforcement of certain vehicle laws and regulations to the Department of Public Safety.

The foregoing recommendation was adopted by the full Committee, with the provision that the bill be amended as follows:

--so as to provide that persons presently employed by the State of Iowa in the various agencies now having responsibility for enforcement of truck laws shall be transferred to the new division of the Department of Public Safety created by the bill, in such manner as not to lose the seniority such persons now hold as employees of the State of Iowa.

--so as to empower the new division of the Department of Public Safety to enforce federal Interstate Commerce Commission regulations pertaining to log-books on interstate trucks.

A copy of the bill appears as Appendix VI to this report.

- b. The Subcommittee recommends to the full Committee a bill to place jointly upon drivers, truck owners, and shippers the responsibility for violations of permits for movement of overdimensional loads.

The foregoing recommendation was adopted by the full Committee. A copy of the bill appears as Appendix VII to this report.

2. Emergency Allocation of Road Use Tax Funds by the Executive Council.

The Subcommittee recommends to the full Committee a bill to revise, or repeal and replace, sections 313.4 and 313.5, Code of Iowa (1966), so as to place solely with the General Assembly the authority to make and to revise allocations of money from the road use tax funds for the various categories of expenditure by the Highway Commission.

The foregoing recommendation was adopted by the full Committee. A copy of the bill appears as Appendix VIII to this report.

3. Safety Aspects of Highway Design.

No legislative recommendations.

4. Haul Roads and Detours.

No legislative recommendations.

5. Other Matters.

No legislative recommendations.

III. Report of the Employment Policies Subcommittee

The Employment Policies Subcommittee of the Highway Commission Study Committee conducted four meetings. The Subcommittee heard testimony from Mr. Coupal, former Merit Employment System Director Gerald Howell, Attorney General Richard Turner, Mr. Henry Holst, Special Assistant to the Attorney General at the Highway Commission, and representatives of the Iowa State Employees Association and the Highway Commission Chapter of the Employees Association.

Matters to which some consideration was given by the Subcommittee, in addition to the study topics assigned by the full Committee, include the policy of transferring resident engineers stations, and the substitution of a Highway Department administered by a Director of Highways appointed by the Governor and confirmed by the Senate for a term of four years, for the present Highway Commission.

Recommendations

The following are the recommendations submitted by the Employment Policies Subcommittee to the full Highway Commission Study Committee:

A. Administrative Recommendations

1. Merit System in regard to Highway Commission Employees.

No administrative recommendations.

2. Legal Counsel at the Highway Commission.

In regard to the Legal staff of the Commission, the Attorney General should continue as the chief legal officer for the Highway Commission and issue all legal opinions involving the Highway Commission. The Attorney General's legal staff assigned to the Commission should continue to represent the Commission in all court proceedings. In addition, there should be created within the Highway Commission an administrative legal staff, appointed by and responsible to the Director of Highways. This staff would do administrative legal work only, and would not be authorized to issue formal or official legal opinions to the Highway Commission nor to represent the Commission in court. The salaries of members of the administrative legal staff should not exceed those of attorneys in comparable positions on the staff of the Attorney General.

The foregoing recommendation was amended by deleting the portion relating to creation of an administrative

legal staff within the Highway Commission, and the amended recommendation was adopted by the full Committee.

B. Legislative Recommendations

1. Merit System in regard to Highway Commission Employees.

Based on the testimony received by the Subcommittee in regard to the problems caused by the implementation of the Merit System, it is recommended that the next session of the General Assembly make a detailed study of the entire Merit System to determine if other state agencies are having the same problems with the system that the Highway Commission is experiencing. The study should (either) recommend measures to improve the merit system(, or recommend its repeal).

The foregoing recommendation was adopted by the full Committee. A resolution to implement the recommendation appears as Appendix IX to this report.

NOTE: The Legislative Council voted to delete the parenthesized words from this recommendation, in adopting the Highway Commission Study Committee's report.

2. Legal Counsel at the Highway Commission.

It is recommended that the Attorney General's staff at the Highway Commission be required to keep a complete file of all law cases pertaining to the Highway Commission, that such file be made available to the public, and that any person violating this provision be subject to immediate removal from state employment.

The foregoing recommendation was adopted by the full Committee. A copy of the bill appears as Appendix X to this report.

NOTE: Before adopting the Highway Commission Study Committee's report, the Legislative Council voted to add to this recommendation the following language:

"In addition, there should be created within the Highway Commission an administrative legal staff, appointed by and responsible to the Director of Highways. This staff would do administrative legal work only, and would not be authorized to issue formal or official legal opinions to the Highway Commission nor to represent the Commission in court. The salaries of members of the administrative legal staff should not exceed those of attorneys in comparable positions on the staff of the Attorney General."

3. Replacement of Highway Commission by a Department of Highways.

It is recommended that the present five-member Highway Commission be replaced by a Department of Highways, administered by a Director of Highways to be appointed by the Governor, with confirmation by two-thirds of the members of the Senate, for a term of four years.

The foregoing recommendation was rejected by a split vote of the full Committee. A minority report was submitted to the Legislative Council in support of the recommendation, as follows.

Minority Report

The seven following legislators, members of the Highway Commission Study Committee, are in agreement that the commission form of administering the state highway agency should be repealed, and that a Department of Highways should be created, to be administered by a Director of Highways appointed by the Governor for a term of four years with confirmation by two-thirds of the members of the Senate, and have requested that a minority report to that effect be filed with the Legislative Council.

Senator Hugh H. Clarke
Senator William F. Denman
Senator Charles G. Mogged
Representative Vernon N. Bennett
Representative Harold O. Fischer
Representative William H. Harbor
Representative Laverne W. Schroeder

An eighth member of the Study Committee submitted the following letter:

"Mr. Paul Romans, Committee Secretary
Highway Commission Study Committee

Dear Mr. Romans:

I do not wish to place my name on the minority report advocating this change in the administration of the Highway Commission.

However, this does not mean that I am satisfied with the manner in which the Highway Commission has operated. I have not had a chance to study the pros and cons of the two administrative methods.

Perhaps, the present lack of approval of the Highway Commission is as much the fault of the Legislature for not keeping a continuing eye on the Commission.

I would like to see a committee appointed to study alternative methods of administering a Highway Department.

Paul, I would like to have the contents of this letter be made a part of the minority report or at least filed with the Legislative Council.

Thank you for your cooperation on this matter.

Sincerely,

/s/ A. BRINCK

Adrian Brinck"

NOTE: The Legislative Council defeated a motion to reverse the action of the majority of the Highway Commission Study Committee, and adopt the preceding minority report as a part of the Study Committee's report.

SENATE FILE

By

Passed Senate, Date _____ Passed House, Date _____
 Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
 Approved _____

A BILL FOR

1 An Act relating to the selection of condemnation commissions.

2 *Be It Enacted by the General Assembly of the State of Iowa:*

3 Section 1. Section four hundred seventy-two point six
4 (472.6), Code 1966, is hereby amended as follows:

5 1. By striking from lines three (3) and four (4) the words
6 "chief justice of the supreme court" and inserting in lieu
7 thereof the words "agency designated by the general assembly".

8 2. By striking from line five (5) the words "chief justice"
9 and inserting in lieu thereof the word "department".

10 3. By striking from line thirteen (13) the words "chief
11 justice" and inserting in lieu thereof the word "department".

12 4. By striking from line fourteen (14) the words "chief
13 justice" and inserting in lieu thereof the word "department".

14 EXPLANATION

15 This bill changes the present method of selecting the con-
16 demnation commission jurors in cases where damages are payable
17 out of the state treasury. Presently, the chief justice of the
18 supreme court appoints the jurors. This bill provides that the
19 appointments be made by an agency designated by the general
20 assembly. It will be the duty of the general assembly to
21 specify by legislative enactment the proper agency.

22

23

24

25

SENATE FILE

By

Passed Senate, Date _____ Passed House, Date _____
 Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
 Approved _____

A BILL FOR

1 An Act relating to condemnation commissions.

2 *Be It Enacted by the General Assembly of the State of Iowa:*

3 Section 1. Section four hundred seventy-two point four
 4 (472.4), Code 1966, is hereby amended by adding at the end
 5 thereof the following new paragraph:

6 "If the real estate or a portion thereof which is being
 7 condemned is used for agricultural purposes, at least one of
 8 the resident freeholders appointed to the commission shall
 9 be actively engaged in the business of farming."

10 Sec. 2. Section four hundred seventy-two point six (472.6),
 11 Code 1966, is hereby amended by adding at the end thereof the
 12 following new paragraph:

13 "If the real estate or a portion thereof which is being
 14 condemned is used for agricultural purposes, at least one of
 15 the resident freeholders appointed to the commission shall be
 16 actively engaged in the business of farming."

17 EXPLANATION

18 This bill provides that at least one member on a condemna-
 19 tion commission shall be a farmer when the real estate being
 20 condemned is agricultural land.

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SENATE FILE

By

Passed Senate, Date _____ Passed House, Date _____
 Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
 Approved _____

A BILL FOR

1 An Act relating to primary highways.

2 *Be It Enacted by the General Assembly of the State of Iowa:*

3 Section 1. Chapter three hundred six (306), Code 1966, is
4 hereby amended by adding the following new section:

5 "Whenever the highway commission determines by engineering
6 studies that it will be necessary within ten years to widen any
7 highway and that additional right-of-way will be required, the
8 highway commission may restrict any adjoining property owner
9 from constructing buildings or other improvements within speci-
10 fied distances, not to exceed one hundred feet, along such high-
11 way. Each property owner upon which such restrictions are im-
12 posed shall be given notice thereof by ordinary mail; and the
13 highway commission shall also file, in each county where such
14 restrictions are imposed, affidavits which set forth such re-
15 strictions and which contain a legal description of all real
16 property affected by such restrictions."

17 EXPLANATION

18 This bill will permit the highway commission to impose re-
19 strictions on the construction of improvements along highways
20 that will need to be widened within ten years.

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SENATE FILE

By

Passed Senate, Date _____ Passed House, Date _____
 Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
 Approved _____

A BILL FOR

1 An Act relating to land acquired for highway purposes and not
 2 immediately needed for such purpose.

3 *Be It Enacted by the General Assembly of the State of Iowa:*

4 Section 1. Chapter three hundred six (306), Code 1966, is
 5 hereby amended by adding the following new section:

6 "If land acquired by the highway commission for improvement
 7 of any highway is not immediately needed for such purpose, the
 8 highway commission may enter into agreements to permit the use
 9 of such unneeded land by the conservation commission without
 10 charge. Such agreements may be made in lieu of the sale of
 11 such land as provided in section three hundred six point six-
 12 teen (306.16) of the Code, or the rental of such land as pro-
 13 vided in section three hundred six point thirty-two (306.32)
 14 of the Code."

EXPLANATION

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 16 This bill will permit the highway commission to use unneeded
 17 land for conservation purposes.

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HOUSE FILE

By

Passed House, Date _____ Passed Senate, Date _____
 Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
 Approved _____

A BILL FOR

1 An Act relating to the installation of limited access diagonal
 2 highways and highway placement.

3 *Be It Enacted by the General Assembly of the State of Iowa:*

4 Section 1. Chapter three hundred six (306), Code 1966, is
 5 hereby amended by adding thereto the following:

6 "In areas of the state the secondary roads of which are laid
 7 out in a grid system which is oriented on cardinal points, it
 8 shall be illegal to install a limited access highway, or section
 9 of a highway, which extends in a diagonal direction for a dis-
 10 tance of more than five miles at an angle which is less than
 11 forty-five degrees with reference to the direction of those
 12 secondary roads of the area which extend in the same direction
 13 as the overall general direction of the highway, except with
 14 the approval of the General Assembly by concurrent resolution.
 15 In all rural, agricultural areas of the state, when alternate,
 16 reasonably comparable highway routes are available, the one
 17 shall be selected which will use the least valuable land from
 18 an agricultural standpoint as determined by assessed valuations
 19 existent five years prior to the date of the official announce-
 20 ment of the related highway improvement program."

21 Sec. 2. This Act shall take effect and be in force after its
 22 publication in The Wright County Monitor, a newspaper published
 23 at Clarion, Iowa, and the Hampton Chronicle, a newspaper pub-
 24 lished at Hampton, Iowa.

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EXPLANATION

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Predictions are that well within the foreseeable future the population of the world will be expanded to the extent that production of an adequate supply of food and fiber will be a definite problem. Accordingly it is the responsibility of the present generation to conserve production facilities to the full extent possible. To this end it should be the policy of the State of Iowa to use the least productive farmland for nonfarm applications to the full extent that such is feasible and it should further be the policy of this state to limit installation of diagonal sections of highways in the rural, level-land areas of the state to instances where the gain in route shortening is very significant. The reason for the latter policy is that diagonal highways cut adjoining farm fields into triangular parcels which cannot be farmed efficiently due to the large number of point rows which are necessarily present. At less than a forty-five degree angle, the gain of a diagonal is minimal. For example, suppose that a ten-mile east-west distance and a twenty-mile north-south distance were involved, the latter extending north from the east end of the east-west segment. If no diagonal were used the total distance to travel would be thirty miles. If a diagonal of forty-five degrees is used, the total travel distance would be roughly twenty-four miles including approximately fourteen miles of diagonal road. If a diagonal were run from the west-most point to the north-most point, approximately twenty-two point four miles of road would result, all diagonal. Thus, for roughly eight point four more miles of diagonal, only approximately one point six miles would be saved.

SENATE FILE

By

Passed Senate, Date _____ Passed House, Date _____
 Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
 Approved _____

A BILL FOR

1 An Act relating to enforcement of motor vehicle laws and regu-
2 lations.

3 *Be It Enacted by the General Assembly of the State of Iowa:*

4 Section 1. Section eighty point seventeen (80.17), Code 1966,
5 is hereby amended by adding thereto the following new numbered
6 subsection:

7 "7. The division of motor truck regulation."

8 Sec. 2. Chapter eighty (80), Code 1966, is hereby amended
9 by adding thereto the following new section:

10 "The division of motor truck regulation shall enforce the
11 following provisions of law relating to motor trucks:

12 1. Size, weight, and load provisions contained in chapter
13 three hundred twenty-one (321) of the Code.

14 2. Motor vehicle fuel tax provisions contained in chapter
15 three hundred twenty-four (324) of the Code.

16 3. Motor carrier and truck operator provisions contained
17 in chapters three hundred twenty-five (325), three hundred
18 twenty-seven (327), three hundred twenty-seven A (327A), and
19 three hundred twenty-seven B (327B) of the Code.

20 4. Motor vehicle registration reciprocity contained in
21 chapter three hundred twenty-six (326) of the Code.

22 5. Hours of service provisions contained in section seven
23 (7) of this Act.

24 The commissioner may employ such enforcement officers or
25 other personnel as deemed necessary in carrying out the en-

1 enforcement responsibilities imposed under this section. Such
2 enforcement officers shall not be considered members of the
3 Iowa highway safety patrol, but shall be peace officers for
4 purposes of this section. The commissioner shall furnish en-
5 forcement officers with necessary equipment and supplies pur-
6 suant to section eighty point eighteen (80.18) of this chapter,
7 including uniforms which are distinguishable in color and de-
8 sign from those of the highway safety patrol. Enforcement
9 officers shall be furnished with and shall conspicuously dis-
10 play badges of authority."

11 Sec. 3. Section three hundred twenty-one point four hundred
12 seventy-six (321.476), Code 1966, is hereby amended by striking
13 from lines one (1) and two (2) the words "state highway commis-
14 sion" and inserting in lieu thereof the words "division of
15 motor truck regulation of the department of public safety".

16 Sec. 4. Section three hundred twenty-one point four hundred
17 seventy-seven (321.477), Code 1966, is hereby repealed and the
18 following enacted in lieu thereof:

19 "Enforcement officers in the division of motor truck regula-
20 tion shall control and direct traffic, weigh vehicles, and make
21 arrests for violations of the motor vehicle laws relating to
22 the registration, size, weight, and load of motor vehicles and
23 trailers and registration of a motor carrier's interstate trans-
24 portation service with the Iowa commerce commission and hours
25 of service violations provided for in section seven (7) of this
26 Act. The provisions of section three hundred twenty-one point
27 four hundred eighty-five (321.485) of the Code shall apply to
28 such enforcement officers.

29 The commissioner of public safety may, after due notice and
30 hearing, revoke the reciprocity registration or any other permit
31 or license required for operation upon Iowa highways of a motor
32 truck operated by a person who violates a summons issued pur-
33 suant to section three hundred twenty-one point four hundred
34 eighty-five (321.485) of this chapter. Such action shall in no
35 way restrict action against the truck operator pursuant to sec-

1 tion three hundred twenty-one point four hundred eighty-seven
2 (321.487) of the Code."

3 Sec. 5. Sections three hundred twenty-one point four hun-
4 dred seventy-eight (321.478) through three hundred twenty-one
5 point four hundred eighty (321.480), Code 1966, are hereby re-
6 pealed.

7 Sec. 6. Section three hundred twenty-one point four hundred
8 eighty-one (321.481), Code 1966, is hereby amended by striking
9 lines one (1) and two (2) and inserting in lieu thereof the
10 following:

11 "Nothing in sections three hundred twenty-one point four hun-
12 dred seventy-six (321.476) and three hundred twenty-one point
13 four hundred seventy-seven (321.477) of the Code, shall be con-
14 strued to limit or impair".

15 Sec. 7. Chapter three hundred twenty-one (321), Code 1966,
16 is hereby amended by adding the following new section:

17 "Hours of Service.

18 1. As used in this section

19 'Motor truck operator' shall include:

20 a. Motor carriers as defined in section three hundred twenty-
21 five point one (325.1), subsection two (2), of the Code.

22 b. Charter carriers as defined in section three hundred
23 twenty-five point one (325.1), subsection six (6), of the Code.

24 c. Truck operators as defined in section three hundred twenty-
25 seven point one (327.1), subsection two (2), of the Code.

26 d. Contract carriers as defined in section three hundred
27 twenty-seven point one (327.1), subsection five (5), of the
28 Code.

29 e. Liquid transport carriers as defined in section three hun-
30 dred twenty-seven A point one (327A.1), subsection one (1), of
31 the Code.

32 f. Any driver of a motor vehicle employed by a motor carrier,
33 charter carrier, truck operator, contract carrier, or liquid
34 transport carrier.

35 2. It shall be unlawful for any motor truck operator to per-

1 form an interstate transportation service for compensation
2 upon the highways of this state in violation of sections three
3 hundred ninety-five point one (395.1) through three hundred
4 ninety-five point thirteen (395.13), inclusive, of the inter-
5 state commerce commission regulations, and any amendments
6 thereto, concerning hours of service of drivers.

7 3. The commissioner may promulgate rules and regulations
8 as provided in Chapter seventeen A (17A) of the Code concern-
9 ing hours of service for motor truck operators engaged in
10 intrastate transportation upon the highways of this state.
11 Such rules and regulations may limit and regulate the hours
12 that a driver may work during any specified period, and may
13 require that the motor truck operator and driver keep speci-
14 fied records or log books.

15 4. It shall be unlawful for any motor truck operator to
16 perform an intrastate transportation service for compensation
17 upon the highways of this state in violation of regulations
18 concerning hours of service of drivers promulgated by the com-
19 missioner as provided in this Act.

20 5. Any person convicted of any violation of this section
21 shall be guilty of a misdemeanor.

22 6. Any peace officer may enforce the regulations of the
23 commissioner and of the interstate commerce commission con-
24 cerning hours of service; and may inspect the records or log-
25 book of any motor truck operator and of the driver of any
26 motor truck found upon a public highway or in any public place.

27 Sec. 8. Section three hundred twenty-four point seventy-
28 five (324.75), Code 1966, as amended by chapter two hundred
29 eighty-seven (287), section forty-four (44), Acts of the Sixty-
30 second General Assembly, is hereby repealed and the following
31 enacted in lieu thereof:

32 "The division of motor truck regulation of the department
33 of public safety shall enforce the provisions of this chapter.

34 It is the duty of all sheriffs, deputy sheriffs, constables,
35 and other peace officers to aid in enforcing the provisions of

1 this chapter, and to make investigations at the request of the
2 commissioner of public safety in their respective counties and
3 report to the commissioner. Such officers may stop conveyances
4 suspected to be illegally transporting motor fuel on the high-
5 ways, and may investigate the cargo for that purpose and seize
6 and impound such cargo and conveyance when it appears that such
7 conveyance is being operated in violation of the provisions of
8 this chapter."

9 Sec. 9. Chapter three hundred twenty-five (325), Code 1966,
10 is hereby amended by adding thereto the following new section:

11 "The division of motor truck regulation of the department of
12 public safety shall enforce the provisions of this chapter. The
13 commerce commission shall provide the commissioner of public
14 safety with such information and records as are necessary for
15 such enforcement."

16 Sec. 10. Section three hundred twenty-five point thirty-six
17 (325.36), Code 1966, is hereby amended by striking from line
18 four (4) the words "and enforcement".

19 Sec. 11. Section three hundred twenty-six point three (326.3),
20 Code 1966, is hereby amended by inserting in line fifteen (15)
21 after the word "board" the following:

22 ", and the division of motor truck regulation in such depart-
23 ment shall be responsible for enforcing the provisions of this
24 chapter."

25 Sec. 12. Section three hundred twenty-seven point thirteen
26 (327.13), Code 1966, is hereby amended by striking from lines
27 four (4) and five (5) the words "and enforcement".

28 Sec. 13. Chapter three hundred twenty-seven (327), Code 1966,
29 is hereby amended by adding thereto the following new section:

30 "The division of motor truck regulation in the department of
31 public safety shall enforce the provisions of this chapter. The
32 commerce commission shall provide the commissioner of public
33 safety with such information and records as are necessary for
34 such enforcement."

35 Sec. 14. Chapter three hundred twenty-seven A (327A), Code

1 1966, is hereby amended by adding thereto the following new sec-
2 tion:

3 "The division of motor truck regulation in the department of
4 public safety shall enforce the provisions of this chapter. The
5 commerce commission shall provide the commissioner of public
6 safety with such information and records as are necessary for
7 such enforcement."

8 Sec. 15. Section three hundred twenty-seven B point two
9 (327B.2), Code 1966, is hereby repealed and the following en-
10 acted in lieu thereof:

11 "The division of motor truck regulation in the department
12 of public safety shall enforce the provisions of this chapter.
13 The commerce commission shall provide the commissioner of public
14 safety with such information and records as are necessary for
15 such enforcement."

16 Sec. 16. Any employee of the highway commission, commerce
17 commission, reciprocity board or the department of revenue whose
18 duty assignments will be terminated because of this Act may be
19 reassigned to other duties or may be transferred to the division
20 of motor truck regulation in the department of public safety.
21 The Iowa merit employment commission shall promulgate rules and
22 regulations to carry out such reassignment or transfer and shall
23 arbitrate and decide any written appeal made by any employee
24 concerning any transfer, reassignment or reclassification made
25 necessary by this Act. No employee shall lose any benefits he
26 may have accrued, including but not limited to salary, retire-
27 ment, vacation, sick leave, or longevity, because of the re-
28 assignment provided for in this section.

29 Sec. 17. The comptroller, pursuant to section eight point
30 thirty-nine (8.39) of the Code, shall determine the portion of
31 each appropriation made to the highway commission, commerce
32 commission, reciprocity board and the department of revenue by
33 the 1969 regular session of the Sixty-third General Assembly
34 that will be in excess of their necessity because of the trans-
35 fer of duties and personnel as provided in this Act, and shall

1 transfer such amounts to the department of public safety for
2 use by the division of motor truck regulation.

3

EXPLANATION

4 This bill will combine the enforcement duties concerning
5 motor vehicles in one new division in the department of public
6 safety. This new agency will enforce the size, weight, and
7 load laws now enforced by the highway commission, the motor
8 fuel tax laws now enforced by the department of revenue, the
9 registration laws now enforced by the reciprocity board, and
10 the motor carrier and truck operator regulatory laws now en-
11 forced by the commerce commission.

12 This bill will also regulate hours of service of motor truck
13 operators and assign the enforcement thereof to the new division
14 in the department of public safety.

15 In addition, section 4 of the bill provides for the revoca-
16 tion of a reciprocity registration or any other permit or li-
17 cense of a person who violates a summons issued by a peace
18 officer. It is the intent of this provision to allow peace
19 officers to issue summons rather than having to bring every
20 violator before a court at the time of citing him for a viola-
21 tion, and to provide an additional method of enforcing such
22 summons.

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HOUSE FILE

By

Passed House, Date _____ Passed Senate, Date _____

Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____

Approved _____

A BILL FOR

1 An Act relating to penalties for violation of load permits.

2 *Be It Enacted by the General Assembly of the State of Iowa:*

3 Section 1. Section three hundred twenty-one point four
4 hundred fifty-two (321.452), Code 1966, is hereby amended by
5 inserting in line five (5) after the word "owner" the words
6 "or any other person".

EXPLANATION

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8 This bill provides that any other person which would include a
9 consignor, who causes or knowingly permits any vehicle to be
10 moved or driven on the highways which exceeds the size, weight,
11 and load limitations provided in Chapter 321 may be subject to
12 the penalties provided for any violations, in addition to the
13 driver and owner of the vehicle as is presently provided by law.

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HOUSE FILE

By

Passed House, Date _____ Passed Senate, Date _____
 Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
 Approved _____

A BILL FOR

1 An Act relating to the expenditure of funds deposited in the
 2 primary road fund.

3 *Be It Enacted by the General Assembly of the State of Iowa:*

4 Section 1. Section three hundred thirteen point four
 5 (313.4), Code 1966, as amended by section one (1) of chapter
 6 two hundred fifty-four (254), Acts of the Sixty-second General
 7 Assembly, is hereby repealed.

8 Sec. 2. Section three hundred thirteen point five (313.5),
 9 Code 1966, is hereby repealed and the following enacted in
 10 lieu thereof:

11 "The highway commission shall submit to the comptroller, as
 12 provided by chapter eight (8) of the Code, a detailed estimate
 13 of the amount required by the highway commission during each
 14 succeeding biennium for the support of the commission and for
 15 engineering and administration of highway work and maintenance
 16 of the primary road system. Such estimate shall be in the
 17 same general form and detail as is required by chapter eight
 18 (8) of the Code and chapter eight (8) shall apply to the bud-
 19 geting, appropriation, and expenditure of funds in the primary
 20 road fund in the same manner as such chapter applies to other
 21 departments."

22 Sec. 3. This Act shall become effective July 1, 1971.

23

EXPLANATION

24 This bill will require the appropriation and budgeting of
 25 funds by the highway commission which it receives from the

1 highway commission to expend funds appropriated by the General
2 Assembly from the primary road fund for the construction and
3 maintenance of the primary road system, including administration.
4 In addition, section 313.5 presently provides that the highway
5 commission may receive additional funds from the primary road
6 fund "on proper showing" when authorized by the Executive
7 Council. Present law also provides that unexpended funds appro-
8 priated from the primary road fund shall revert at the end of
9 any year. This bill would allow the expenditure of any unex-
10 pended funds from the first fiscal year of the biennium to be
11 expended in the second year of the biennium because of applying
12 the provisions of chapter eight. All expended funds would
13 revert to the primary road fund on September 30 following the
14 end of the biennium. This bill does not provide for the use of
15 funds in the primary road fund in any manner different than
16 presently dedicated by the Constitution.

17 A possible alternative to this bill would be to provide that
18 the allocation to the highway commission of funds from the
19 primary road use tax fund shall not exceed a specified percentage
20 of funds appropriated by the General Assembly. More definite
21 guidelines could be provided to the executive council for the
22 allocation of such funds. On the basis of case law, and 640AG44,
23 it does not appear that a legislative committee could perform
24 the allocation function that the executive council presently
25 provides since the cases hold that a legislative committee cannot
26 perform functions that are reserved to the General Assembly.

27 The effective date clause has been inserted because of the
28 fact that Iowa is in the middle of its budgeting process. The
29 subcommittee may desire to make the bill effective July 1, 1970.

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HOUSE CONCURRENT RESOLUTION

By

WHEREAS, information received during the interim period between the first and second sessions of the Sixty-third General Assembly by the Highway Commission Study Committee reveals that there are a number of problems which have arisen through implementation of the state merit system; and

WHEREAS, it is contended by many highway commission employees that the implementation of the merit system has resulted in the establishment of unrealistic job qualifications, and improper salary levels and classifications; and

WHEREAS, the result is that the morale of Highway Commission employees appears to be at a low level and it is difficult to hire qualified professional persons and retain those presently employed; and

WHEREAS, it appears that the problems encountered by the Highway Commission in the implementation of the merit system may parallel problems encountered by other state departments; NOW THEREFORE,

BE IT RESOLVED BY THE HOUSE, THE SENATE CONCURRING, That the House and Senate Standing Committees on State Government shall establish a joint subcommittee for the purpose of conducting an in-depth study of the entire merit system and its implementation in order to determine if the resulting problems of the merit system can be solved and the system improved, or if the system should be abolished; and

BE IT FURTHER RESOLVED, That the study be conducted during the Second Session of the Sixty-third General Assembly and the results of such study be reported to the members of the General Assembly prior to adjournment.

SENATE FILE

By

Passed Senate, Date _____ Passed House, Date _____
 Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
 Approved _____

A BILL FOR

1 An Act relating to the duties of the special assistant
 2 attorney general assigned to the highway commission.

3 *Be It Enacted by the General Assembly of the State of Iowa:*

4 Section 1. Section three hundred seven point nine (307.9),
 5 Code 1966, is hereby amended by adding thereto the following:

6 "Such special assistant attorney general shall maintain in
 7 his office a central file of all pending and completed condem-
 8 nation appeals and other legal cases involving highway commis-
 9 sion business. These files shall be available for public in-
 10 spection, and shall contain sufficient information to permit
 11 an understanding of the progress and status of any case; but
 12 these files need not contain the work product of any attorney.
 13 Any person willfully violating the provisions of this Act shall
 14 be subject to immediate dismissal from state employment."

EXPLANATION

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 16 This bill will require the special assistant attorney gen-
 17 eral assigned to the highway commission to keep a central file
 18 at Ames of all legal cases involving highway commission business.

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REPORT OF THE

MEDICAID STUDY COMMITTEE

MEDICAID STUDY COMMITTEE

Interim Report

NOTE: This report was adopted by the Legislative Council as submitted.

House Concurrent Resolution 29 of the Sixty-third General Assembly, adopted at the 1969 session, directed that the Legislative Council "conduct a legislative review and study" of Iowa's Medicaid Program. The resolution directed that the review and study extend to "means of processing and paying claims for assistance, the means by which the eligibility of applicants is determined, the justifiability of charges made by vendors for supplies and services under the program, possible revision of the eligibility requirements, and such other areas as the study committee may desire". Accordingly, the Medicaid Study Committee was established and, at its organizational meeting on July 30, 1969, Representative Joan Lipsky of Cedar Rapids was elected Chairman and Representative Charles P. Miller of Burlington was elected Vice Chairman of the Committee. Other legislators serving on the Committee are Senators Minnette Doderer of Iowa City, Ernest Kosek of Cedar Rapids, J. Leslie Leonard of Linn Grove, William Palmer of Des Moines, Marvin Smith of Paullina, and Richard L. Stephens of Crawfordsville, and Representatives A. June Franklin of Des Moines, James T. Klein of Lake Mills, Clair Strand of Grinnell, and Donald E. Voorhees of Waterloo.

As of December 4, 1969, the Study Committee has held five meetings, two of which were two-day meetings. In the course of these meetings, testimony has been taken from representatives of the Midwest Regional Office of the United States Department of Health, Education, and Welfare; the Commissioner and Deputy Commissioner of the Department of Social Services and Director and staff of the Department's Bureau of Medical Services; county social welfare directors and workers; professional associations representing vendor groups involved in providing health care services and supplies under the Medicaid program, as well as individual practitioners from most of these groups; and officials of Blue Cross-Blue Shield (the state's private fiscal agent for the Medicaid program) and of two other firms writing private group health insurance contracts*. A subcommittee (Representative Voorhees, Chairman, Senator Stephens and Representative Franklin) was appointed to review a random sample of Medicaid cases selected by them personally, and to contact the recipients involved in these cases to ascertain their views of the Medicaid program.

The present interim report, which has been prepared in response to the request of the Legislative Council for submission

*See Appendix I for complete list of individuals who have participated in Medicaid Study Committee meetings.

of study committee reports by December 16, 1969, contains several preliminary recommendations. House Concurrent Resolution 29 provides that the Study Committee shall make its final report by March 1, 1970. As will be explained subsequently in this report, the Medicaid program presently faces a potential financial problem of considerable, but as yet uncertain, dimensions due to a recent federal court decision. It is hoped that the status and needs of the program can be ascertained more exactly on or before March 1, 1970.

Historical Background

The program commonly known as Medicaid was enacted by Congress simultaneously with the Medicare program, in 1965. Together, these related but quite different programs are the most recent major additions to the Social Security Act first passed in 1935.

Medicare--Title XVIII of the Social Security Act--is a two-part medical insurance program for all persons 65 years of age or older. Part A provides for payment of most costs of care in hospitals or related health facilities from funds raised by employer-employee contributions. Under Part B, most costs of doctors' care and of certain other health services are covered through monthly insurance premiums paid by or for Medicare participants and matched by a federal contribution. Medicare is operated directly by the federal government.

Medicaid--Title XIX of the Social Security Act--is a commitment by the federal government to bear a substantial portion of the cost to any state which elects to provide some or all of an array of hospital, doctor's, and other specified health services and supplies to persons who would find it difficult or impossible to pay for such services themselves. Implementation of Medicaid by the states is optional. The range of services provided under the program may vary considerably from state to state.

Prior Welfare Medical Provisions

The Social Security Act of 1935 included provisions for the federal government to participate financially with the states in providing monetary assistance to three specific categories of needy persons, the elderly, the blind, and families with dependent children. A fourth assistance category, permanently and totally disabled persons, was later added.

Originally, the cost of needed medical care was taken into account only as one factor in computing the individual recipient's assistance grants under each of the four categories. Beginning in 1950 "vendor payments"--payments by states directly to individuals or institutions providing health services to welfare recipients--were also authorized by federal law. Most of the states have made use of this authority. However, there

was a lack of uniformity in the health care benefits available to needy persons within each of the four categories.

With the passage of the Medical Assistance to the Aged, or "Kerr-Mills", Act in 1960, Congress in effect set up another welfare category, the "medically needy" aged. This category was composed of persons over 65 years of age with resources sufficient to make them ineligible for Old Age Assistance but not sufficient to pay for needed medical care. Federal aid was provided for states which established medical assistance programs to meet the needs of these persons.

The Advent of Medicaid

The enactment of Medicaid by Congress in 1965 provided a framework within which states could, with federal financial participation, greatly expand medical assistance programs benefiting both categorical welfare program recipients and various groups of "medically needy" persons, rather than just those over 65 years of age. States which establish Medicaid programs thereby replace both the Kerr-Mills medical assistance to the aged program and the separate medical aid provisions of Old Age Assistance, Aid to the Blind, Aid to Families with Dependent Children, and Aid to the Permanently and Totally Disabled programs.

Iowa's Medicaid Law

Medicaid has been implemented in Iowa under authority of the Medical Assistance Act, which appears as Chapter 223, Acts of the Sixty-second General Assembly (1967). Administration of Medicaid in Iowa was delegated to the State Board of Social Welfare, and thus passed automatically to the new Department of Social Services when that Department officially came into existence in 1968.

In contrast to Iowa's Medical Assistance Act, which is relatively short and easily read, Title XIX of the Social Security Act (the federal Medicaid law) is rather lengthy and contains numerous requirements for and restrictions upon states which implement Medicaid, and these are interpreted and carried into effect by numerous federal regulations. It is neither necessary nor possible to undertake a detailed explanation of the Medicaid laws and regulations in this report, but in order to properly evaluate the problems Iowa's Medicaid program is presently facing, a few of the key requirements must be outlined in some detail.

I. - Eligibility

The federal law requires that each state establishing

a Medicaid program must extend its benefits equally* to all residents of the state who are receiving cash payments under any federally-aided categorical welfare program. In Iowa, therefore, the minimum group of persons eligible for Medicaid benefits are the recipients of old age assistance, blind assistance, aid to dependent children, and aid to the permanently and totally disabled and some dependents of such recipients. (Actually, due to technicalities of federal and state law, the state must also make Medicaid benefits available to certain persons not presently eligible for one of the aforementioned programs, but who could be made eligible under existing federal law by changes in state law.)

In addition, a state may also include in its Medicaid program, at its discretion, all or any one of certain other groups of needy or "medically needy" persons specified in federal law. However, if a state elects to do so it must extend benefits equally to all persons so included, and it must at a minimum extend such discretionary additional coverage to all persons eligible for any of the federally-aided categorical welfare programs in all respects except financial need.

A very significant additional requirement of the original Medicaid law is that federal financial participation in any state's Medicaid program shall continue only so long as

"the state makes a satisfactory showing that it is making efforts in the direction of broadening the scope of the care and services made available . . . and . . . liberalizing the eligibility requirements for medical assistance, with a view toward furnishing by July 1, 1975 (see below), comprehensive care and services to substantially all individuals who meet the plan's eligibility standards with respect to income and resources, including services to enable such individuals to attain or retain independence or self-care." - Quoted from Social Security Act, Title XIX, section 1903(e).

An amendment to the above-quoted provision, signed by the President on August 9, 1969, delays the specified date for completion of the prescribed broadening of services to July 1, 1977, and suspends the operation of this provision entirely until July 1, 1971.

Iowa's Eligibility Standards

Section four of the 1967 Medical Assistance Act,

*An exception to the equal benefits rule permits states to pay, on behalf of indigent residents over 65 years of age, all or part of the "deductible" which Medicare residents must pay toward hospital or nursing home services, and also to pay such persons' premiums for Medicare coverage, without thereby incurring any additional obligation to other Medicaid recipients.

relating to eligibility, states that medical assistance may be provided to or on behalf of any individual or family whose residence is in Iowa,

"whose income and resources are insufficient to meet the cost of necessary medical care and services, and has no spouse or parent responsible under the law of this state and . . . able to provide him or them with such needed medical care and services."

The determination of ability of a spouse or parent to provide needed care is made by the county board of social welfare. However, medical assistance is not available under the Act to any individual or family:

1. Whose annual cash income after deduction of health care expenses exceeds \$1,600 for an individual, or \$1,600 for the first adult, \$800 for the second adult, and \$600 for each additional member of a family.
2. Whose resources after deduction of health care expenses exceed \$2,000 for an individual, or \$2,000 for the first member, \$1,000 for the second member, and \$200 for each additional member of a family. In determining the resources available to an applicant for medical assistance, no consideration is given to the value of real property occupied as a residence, household goods and furnishings, personal effects, tools necessary to a trade, occupation, or profession up to a maximum value of \$6,000, and the cash surrender value of life insurance up to a maximum of \$1,000.

These income and resource limits for Medicaid in effect would enable some persons to receive Medicaid benefits whose incomes or resources make them ineligible for old age assistance, blind assistance, aid to dependent children, or aid to the disabled-- or who are in fact eligible, but have not applied, for benefits under one of these categorical welfare programs.

However, section five of the Iowa Medical Assistance Act includes, in subsection one, paragraph d, authority for the Department of Social Services to "establish standards of, or qualifications for, eligibility (for Medicaid benefits) which are more restrictive than those authorized by section four" of the Act, quoted in the preceding paragraph, provided that no such standards or qualifications could operate to make any recipient of one of the four categorical welfare programs ineligible for Medicaid. Pursuant to this authority, the Department initially restricted Medicaid benefits to:

1. Money payment recipients of the categorical welfare

programs and certain dependent relatives of these recipients.

2. Individuals and families eligible for one of the categorical welfare programs in all respects except that:

- their income, resources, or both are in excess of maximum eligibility limits.
- they do not meet applicable residence requirements.
- with respect to certain children under age 21 and otherwise eligible for ADC, they are neither disabled nor regularly attending a high school or receiving vocational or technical training.

In February, 1969, faced with a deficit in the Medical Assistance appropriation for the 1967-1969 biennium, the Department terminated the eligibility of individuals and families under item 2 for further Medicaid benefits.

The cutoff of Medicaid benefits to this group, commonly referred to as the "medical only recipients", was virtually dictated by the lack of funds and the fact that this was the only group to whom benefits could be denied without violating the federal Medicaid law. This circumstance is particularly unfortunate because availability of Medicaid benefits to the medical only recipients was an incentive to many of them to remain off categorical welfare rolls, since Medicaid would bear one of the major items of expense to many low-income families and--in the case of the elderly--does not involve a lien on the property of the recipient as does old age assistance. Conversely, the cutoff of benefits to the medical only recipients tends to create an incentive for them to apply for benefits under a categorical welfare program since this is the only way such persons can now become eligible for Medicaid. Some county welfare directors have stated that they have advised elderly persons with limited incomes, who are ineligible for old age assistance because they have not spent money which they have saved in earlier years, to use such savings for necessary medical expenses and then apply for old age assistance when the savings are depleted.

Also, the cutoff of Medicaid benefits to medical only recipients has in some cases forced such persons to look to county general welfare funds for the cost of necessary medical care, where there is no possibility of establishing eligibility for a categorical welfare program. This appears to have been particularly burdensome to the poor funds of some of the counties, since such expenses were not anticipated when the 1969 budgets were prepared and the cutoff of Medicaid benefits to medical only recipients occurred early in the 1969 county budget year.

The Dimery Case

The limitation of eligibility for Medicaid benefits to

money payment recipients of the categorical welfare programs was continued at the beginning of the 1969-1971 biennium, and remains in effect as this interim report is prepared. However, on October 27, 1969, a special three-judge panel in the United States District Court for the Southern District of Iowa, Central Division, ruled in the case of Porter Dimery, et. al., vs. Department of Social Services, that section five, subsection one, paragraph d, of the 1967 Iowa Medical Assistance Act is an unconstitutional delegation of legislative power to the Department. Since the paragraph cited is the authority on which the Department relied in establishing its original Medicaid eligibility regulations, as well as in effecting the subsequent cutoff of benefits to medical only recipients, the apparent effect of the court's ruling, if upheld on appeal, will be to make all persons and families within the limitations established by section four of the Medical Assistance Act eligible for benefits. This would cause a vast expansion of the Medicaid eligibility roll in Iowa, although the actual effect on costs of the program cannot be determined at this time.

Recommendations

In view of the present unsettled status of a key eligibility provision of the state Medical Assistance Act, the Medicaid Study Committee is not in a position to make a recommendation with respect to any possible revision of eligibility requirements of the Act at this time. It is hoped that a specific recommendation can be made in the not too distant future. However, as a practical matter, it should be realized by all concerned that the Medicaid eligibility standards upon which the Department of Social Services is operating as this interim report is prepared are as restrictive as federal law will presently permit.

Assuming that the federal court decision in the Dimery case stands, it will apparently be necessary to spell out in the Medical Assistance Act more specifically exactly what persons are eligible for Medicaid benefits in Iowa. The immediate legal problem created by the decision presumably could be met by simply writing the standards which the Department of Social Services has in fact been following into law, however this would leave no flexibility for the state to begin broadening coverage of the Medicaid program in the manner which federal law, as presently written, will require after July 1, 1971.

II. - Services Provided

The federal law requires that each state establishing a Medicaid program offer, as a minimum, either the "five basic services" (inpatient hospital care, outpatient hospital care, laboratory and x-ray services, skilled nursing home care, and physicians' services) listed in the Medicaid law, or seven of the total array of fifteen services listed in the law. The most recent contract between the Department of Social Services and the

private carrier for the Medicaid program (see subsequent section of this report entitled "Administration") states that, in Iowa,

Services for which payment may be made through the Medical Assistance program include care in the home, office, clinic, hospital, or skilled nursing home provided or prescribed by doctors of medicine or osteopathy, chiropractors, podiatrists, dentists, optometrists, opticians, and sickroom supply and medical appliance dealers, licensed to practice in the state of Iowa (if legally required to be licensed) or by members of such professions in other states provided such practitioners are duly licensed in that state. Such services shall include prescribed drugs, medications, sickroom supplies and medical appliances, laboratory, diagnostic and therapeutic services, board, room and services in licensed hospitals and skilled nursing homes and such other services and supplies as may be authorized by practitioners within the scope of their practice and the limitations of the program, if furnished by a vendor included within the scope of the program and shall include such other services and supplies as may be added by the Department.

The various professional and occupational, or "vendor", groups identified in the Medicaid carrier's contract as providing the services and supplies paid for by Medicaid, and the basis upon which payment is made to each group, are as follows:

1. Physicians (medical and osteopathic) "usual, customary, and reasonable charges unless otherwise directed by federal regulations."
2. Retail pharmacies usual, customary, and reasonable charge, but not to exceed cost of drug dispensed plus \$2.00 professional fee, for drugs; suggested retail price or usual community price, whichever is lower, for sickroom supplies, medical equipment and appliances.
3. Hospitals identical with basis of payment for part A of Medicare, except deductible and coinsurance provisions do not apply; Medicaid will pay deductible and coinsurance costs for any patient over 65 who is covered by Medicare.
4. Dentists "usual, customary, and reasonable charges," but not to exceed maximums established by Department of Social Services, and only for those services and supplies listed on a schedule prepared by the Department.

5. Podiatrists essentially same as for dentists, except federal rules and regulations governing part B of Medicare apply to services covered by Medicare.
6. Optometrists essentially the same as for dentists, with respect to professional services; payment for eyeglasses and other supplies dispensed is at rate of laboratory cost.
7. Opticians essentially the same as for optometrists, but Department's schedule of services and supplies for which payment will be approved may not necessarily be the same for optometrists and opticians.
8. Chiropractors "usual and customary," but not to exceed maximum established by Department (presently \$3.50 per office call), only for those procedures listed on a schedule prepared by Department, and not to exceed 4 office calls per month nor 1 x-ray examination per year.
9. Skilled nursing homes identical with basis of payment for part A of Medicare, except deductible and coinsurance provisions do not apply.
10. Home health agencies identical with basis of payment for Medicare, except outpatient physical therapy is not covered.
11. Medical equipment, etc. payment, not to exceed maximums established by Department, is made for all items prescribed by physicians except hearing aids and batteries; prior authorization by county welfare department required for items over \$50, and by both county and state Department for items over \$150; rental arrangements permissible where economically feasible.
12. Ambulance service "usual, customary, and reasonable charge," but not to exceed charge to general public for same service, and only for same services as are covered by Medicare.

All claims for health care services rendered or supplies provided to Medicaid recipients are required, by the Medicaid carrier's contract with the Department of Social Services (and ultimately by the federal Medicaid law), to be subjected to procedures collectively designated "utilization review". Appendix II is a flow chart describing these general procedures. The specific procedures involved differ somewhat for the various vendor groups involved in the Medicaid program; for detailed information legislators may wish to consult Schedule L of the Contract for Administration of the Medical Assistance Program, copies of which may be obtained from the Department of Social Services or the Legislative Service Bureau.

Basically, what is initially done is to identify and evaluate all claims representing either a type or amount of service or a charge for the service rendered which is unusual. The guidelines for determining which claims are to receive further evaluation on these bases are called "parameters". Appendix III is a form used by the carrier in reviewing physicians' claims which, in one way or another, exceed applicable parameters.

The fact that a claim exceeds applicable parameters does not necessarily indicate that the claim cannot or should not be paid. The aspect of the claim which exceeds one or another of the applicable parameters may be satisfactorily explained upon review by the carrier's claims examiners or professional consultants (see Appendix II); if not, the claim and relevant information is referred to the Department for further evaluation. If the questions regarding the claim are not resolved by the Department, it is referred to a peer review committee composed of professionals in the same field as the practitioner submitting the claim, and the Committee has the responsibility to make whatever further review is necessary in order to arrive at a recommendation to the Department in the matter.

The peer review committees, most of which are organized on a regional rather than a statewide basis, also play a role in the post-payment evaluation of Medicaid. For example, medical and osteopathic peer review committees reviewed the overall performance with respect to Medicaid patients of all Iowa physicians who received more than \$15,000 from Medicaid in the calendar year 1968; dental peer review committees similarly reviewed dentists paid more than \$12,000 by Medicaid in 1968. Some Medicaid Study Committee members have questioned the adequacy of reviews with such high threshold levels in terms of total annual payments.

The Department of Social Services has stated that the 1968 post-payment reviews of individual practitioners were a starting point, and has indicated that more inclusive reviews are likely in the future. The Department has praised the attitude of most professional groups in connection with peer review programs, and has asserted that Iowa is one of the leading states in planning and implementing peer review. The Department has also stressed that the overall concept of utilization review is

intended not only to detect instances of abuse through provision of unneeded services or claims for excessive fees, but also to spot instances of failure to provide needed health care treatment and supplies.

In summary, although there are certainly safeguards against abuse built into the Iowa Medicaid program and it is not intended to suggest that these are ineffective, heavy dependence is placed upon the honesty and professional ethics of the practitioners who provide the services and supplies for which Medicaid pays. In evaluating this fact, it must be kept in mind that the professional people who serve upon the various peer review committees generally do so voluntarily. The Department of Social Services bases its procedure on the proposition that the necessary expenditure for a staff of professional health care people who would devote full time to policing Medicaid, taking over some functions of peer review committees, would be very unlikely to reduce the total Medicaid benefits being paid out by an amount great enough to offset the increased administrative costs.

The Committee believes that a desirable policy would be continued reliance upon the existing peer review procedure, but with a systematic attempt to better interpret to the general public, and particularly the Legislature, the role of the peer review committees and, at the same time, to interpret to the peer review committees the concerns of the public regarding Medicaid. A recommendation appears at the conclusion of this section of the Committee's report.

Cost of Medicaid Services

The cost of the Medicaid program to the state treasury is, obviously, one of the General Assembly's paramount concerns regarding the program. It should be clearly understood that a portion of the increased cost is due to a reduction in federal financial participation in the Iowa Medicaid program from approximately 60 to approximately 55 percent, effective July 1, 1969. This reduction was necessary under federal law because Iowa's per capita income had improved in relation to other states in the preceding fiscal year. Therefore, the cost to the state of the Medicaid program during the 1969-1970 fiscal year is relatively heavier than for the previous fiscal year.

As pointed out in section I of the Committee's report, the eligibility standards for Medicaid in Iowa as of the date of the report are as restrictive as federal law will allow. Therefore, if significant restructuring of the program is to be undertaken as a cost control measure, it will apparently have to be done in the areas of services offered or administration.

The federal Medicaid law states in effect that the Secretary of Health, Education, and Welfare shall not approve

a state Medicaid program if he determines that the plan would result in a reduction in the previous level of assistance to categorical welfare recipients. Representative Wilbur Mills, Chairman of the U.S. House Ways and Means Committee, has recently stated that the intent of this provision was to prevent states from reducing cash payments to recipients and diverting the funds thus saved to pay for medical care. However, the Department of Health, Education, and Welfare originally interpreted this provision to mean that a state could not adopt a Medicaid program providing a lesser level of health care benefits than were previously being provided to categorical welfare recipients. Because of this interpretation, Iowa found itself "locked into" providing all categorical welfare recipients--and also, originally, the medical only recipients--the same relatively broad range of services available to the needy aged under the state's Medical Aid to the Aged (Kerr-Mills) program, which preceded Medicaid.

Imposition of a Deductible - Comments to the Medicaid Study Committee by professional persons providing care and services under Medicaid indicate some of them believe that there have been requests on the part of some Medicaid recipients for services not actually needed, or which the recipient would not seek if he or she were required to pay even a small portion of the cost. Some members of the Committee have expressed interest in imposing a "deductible" under Medicaid in Iowa, that is, requiring the recipient to pay a small portion of the cost of some or all services received under Medicare. However, the federal Medicaid law as presently interpreted by the Department of Health, Education, and Welfare, does not permit imposition of a deductible on categorical welfare recipients, who are the only persons presently covered by Medicaid in Iowa.

Reduction of Scope or Extent of Services - It was found possible early in 1969, under then-existing federal law, to take one significant step to limit the services provided under Iowa's Medicaid program, in order to reduce its cost. Since February 1, 1969, Medicaid has paid only for the first ten days of any recipient's stay as an inpatient in a hospital. This presumably has provided an added incentive to discharge Medicaid patients from hospitals as soon after admission as possible, but in cases where it is impossible for Medicaid patients to leave hospitals within ten days after admission, it has forced the patients to look to county general welfare funds or private charity if the hospital is to be paid for more than ten days' care.

The federal Medicaid amendment approved August 9, 1969, specifically permits a state to "reduce the scope or extent of the care and services provided under (Medicare), or to terminate any of such care and services," if in doing so certain conditions are met. These conditions are, essentially, that the state continue to offer at least the "five basic services" listed in the first paragraph of part II of this report, on page 7 (or, alternatively, any seven of the fifteen services listed in the federal

Medicaid law), and that the total expenditure of nonfederal funds by the state for Medicaid not be less after the reduction or termination of services than it was before the reduction or termination. Also, the Governor must certify that the state is "fully complying with" the utilization and cost control provisions of its state Medicaid plan, and that the reduction or termination of services "is not made for the purpose of increasing the standard or other formula for determining payments for" the services which the state does continue to offer under its Medicaid program.

In other words, the state may reduce the scope or extent of its Medicaid benefits, or terminate some services previously offered under the program, in order to try to arrest further increases in the cost of the program, but it may not make a net reduction in the amount of nonfederal money being expended for the program. Also, it may not reduce services, or terminate some of them, in order to raise fees allowed providers of those services and supplies which the state does continue to provide under Medicaid.

As this interim report is prepared, the Department of Social Services is reviewing the options open to Iowa under the August 9 federal Medicaid amendment. It is clear that the state will not be able to reduce the overall cost of the program below present levels, even if this were found acceptable in terms of the effects on the people being served, but it is not clear at this time how the effects of a reduction in scope of services offered would balance against the possibility of preventing or slowing further increases in the cost of the program. The Committee may subsequently wish to make a recommendation on this matter, in the light of further evaluation by the Department of Social Services of the options open to Iowa under the August 9, 1969 amendment, but is not prepared to do so at this time.

Recommendation

As previously noted, the Committee believes there would be value in formalizing lines of communication between peer review committees and legislators and, by extension, the general public. To this end, it is recommended that the Department of Social Services assist the General Assembly in arranging, with the several professional groups whose members provide health care services and supplies to Medicaid recipients, to involve designated legislators as observers and, to the extent feasible, participants in the peer review process. This might be done either at the state level, or by arranging for legislators to meet with regional peer review committees.

III. - Administration

Iowa's Medicaid program is administered by the Department of Social Services' Bureau of Medical Services, of which Dr. Elmer M. Smith is director. Dr. Smith's staff presently includes

two full-time and two part-time professional persons, in addition to himself, and a very small clerical staff.

In discharging its responsibilities under the Medical Assistance Act, the Department is required to "advise and consult at least semiannually with a council composed of" the president of, or other member designated to represent, each of the major professional groups providing services or supplies to Medicaid recipients, as well as a state senator and a state representative of each major political party, a public representative chosen by the Governor, and the Commissioner of Public Health and Dean of the University of Iowa College of Medicine or their respective designees. Appendix IV is a list of the members of this group, officially designated the Medical Assistance Advisory Council.

Employment of Private Carrier

One of the key provisions of the 1967 Medical Assistance Act requires that the Department "to the extent possible, contract with a private organization or organizations . . . (to) handle the processing of and the payment of claims for services rendered under" Medicaid, and that the Department "give due consideration to the advantages of contracting with any organization which may be serving in Iowa as 'intermediary' or 'carrier' under Title XVIII of the federal Social Security Act," (i.e., Medicare). Pursuant to this provision, the Department has from the inception of the program contracted with Hospital Service, Incorporated, of Iowa and Iowa Medical Service (Blue Cross-Blue Shield), which is the Medicare carrier for Iowa, to serve as carrier for the state's Medicaid program.

Blue Cross-Blue Shield has been the only bidder on the Iowa Medicaid carrier contract, which is renewed annually. One other firm at one time indicated an interest in the contract, but did not pursue the matter to the point of entering a bid. The contract for Blue Cross-Blue Shield's services during the July 1, 1969-June 30, 1970 fiscal year was not actually signed until mid-November, 1969, due to prolonged negotiation of certain points. The basic price being paid the carrier by the Department for handling of claims during the current fiscal year is \$1.19 per claim, subject to an administrative cost analysis to be completed by September 30, 1970 which could result in an additional billing to the Department of not to exceed 10 percent of the bid price or a refund by the carrier to the Department if the cost analysis shows that administrative costs were less than \$1.19 per claim. This compares to a basic contract price of 92¢ per claim, with a somewhat different adjustment procedure, during the preceding fiscal year.

It has been suggested by some parties that the state could, or probably could, act as its own Medicaid carrier at a lower overall cost than is presently being incurred in employment of a private firm to act as carrier. Department of Social Services Administrative Officer James Rowen stated to the Com-

mittee that he would not be willing to say whether the state could or could not effect a net saving by acting as its own Medicaid carrier without a thorough study of the matter. (Minutes of the Medicaid Study Committee meeting of July 30, page 12.)

In hearings held in the course of its September 16-17 meeting, and also on November 5, the Committee inquired of each of the vendor groups involved in the Medicaid program whether members of the group are satisfied with the performance of the carrier. Varying degrees of satisfaction and dissatisfaction were expressed. Several individuals suggested a return to the practice followed under the former Kerr-Mills program of submitting vendors' claims to the county department of social welfare for processing and transmission to the state level.

Presently, vendor claims are submitted directly to the carrier for processing and payment. The time lapse between submission of claims and receipt of payment from the carrier has in the past been a source of great dissatisfaction by vendors. Most vendor group representatives and individual practitioners who attended meetings of the Committee indicated that they consider the carrier's recent performance much more satisfactory, although there continue to be complaints about inability to obtain payment of some long standing claims and certain other aspects of the carrier's operation.

Role of County Welfare Offices

Under the Medicaid program, eligibility determination has remained basically a function of the county departments of social welfare. At present, this function is in effect "automatic" with respect to Medicaid per se, since establishment of eligibility for one of the categorical welfare programs is a prerequisite to eligibility for Medicaid. (County welfare departments formerly also determined eligibility of medical only recipients.) Once eligibility is established, the information is transmitted to the state Department, which is responsible for providing the carrier with continuously updated eligibility information for the entire state coded on magnetic tape. Vendors' claims for supplies and services provided Medicaid recipients are submitted directly to the carrier, not through the county social welfare departments.

Up until the present time, county social welfare departments have been issuing Medicaid eligibility identification cards to recipients at the local level. However, the state Department on December 1, 1969, began issuance of monthly eligibility cards in the form of stubs attached to the benefit checks issued to categorical welfare recipients. It is believed that this procedure will greatly reduce problems which have been experienced with continued use of previously issued cards by individuals who are no longer eligible for Medicaid, and hopefully will make possible a further reduction in the time required for

payment of claims by the carrier.

Officials of the Department of Social Services who have attended Committee meetings have indicated they are not necessarily flatly opposed to having Medicaid claims submitted initially to county social welfare departments, but have pointed out that Medicaid is a much larger program than the former Kerr-Mills program under which health care vendor claims were submitted to the county offices. Some county social welfare directors who appeared before the Committee stated that, as their offices now attempt to help local vendors with problems relating to claims submitted to the carrier and returned for one reason or another, the net additional burden on their staffs might not be too great if Medicaid claims were initially submitted to county social welfare departments. Perhaps more importantly, most of the county directors who appeared seemed to agree that lack of opportunity to review current claims for welfare recipients' health care services and supplies deprives county welfare workers of a valuable source of information about the recipients' needs and overall situations.

Recommendations

1. It is recommended that the Medical Assistance Advisory Council, presently composed of eighteen members, be enlarged to include four public representatives appointed by the Governor, rather than one. This recommendation represents an accommodation between somewhat conflicting desires of Committee members that, on the one hand, public representation on the Council be greater and, on the other hand, that the size of the Council not become unwieldy.

2. The Medicaid Study Committee endorses and urges that the 1970 session pass House File 610, introduced in the 1969 session and presently assigned to the House Social Services Committee. (Similar legislation was under consideration by the Senate Social Services Committee during the 1969 session, but was not formally introduced.) The effect of this bill is to substitute for the present requirement that the Department of Social Services contract with a private carrier to process Medicaid claims, permissive authority for the Department to do so. This change is recommended in part because there has been only one bidder--the present carrier--on the contract to date, and the option for the state to act as its own carrier may introduce an element of competition into the bidding and negotiation on the contract. Also, with the adoption of the bill, the Department would not be placed in an impossible situation if the present carrier should exercise its right to cancel the contract and no other qualified bidder could be found. Finally, the bill gives the Department the option to act as its own carrier, so that it may take advantage of any future opportunity to reduce administrative costs in this manner.

NOTE: It will be necessary for Iowa to enact legislation for the licensing of nursing home administrators before July 1, 1970, in order to comply with the federal Medicaid law. Bills intended to bring the state into compliance with this requirement were before the Sixty-third General Assembly in 1969, but were not passed. The Medicaid Study Committee has not considered in any detail the question of what provisions should be included in such legislation, but wishes to call to the attention of the Legislature the urgency of passing a nursing home administrators licensing measure during the 1970 session.

Summary

The Medicaid Study Committee's assignment has been complex, and in some degree frustrating. The broad scope of the federal Medicaid law, the complexity of this law and the regulations and directives issued pursuant to it, and the relatively rapid implementation of the program by understaffed agencies at both the federal and state level have produced many problems which continue to require much time and effort toward solution. Very shortly before this interim report was completed, a federal study committee released a preliminary report recommending a number of significant steps toward improving administration and effectiveness of the Medicaid program.

At the state level, it has been found that the options for making significant changes in the Medicaid program are limited to a considerable degree by federal regulations. The recommendations which the Committee submits with this interim report do not contemplate basic or far-reaching changes in Iowa's Medicaid program, although as noted in this report the Committee has not yet formulated recommendations on two major points, eligibility and scope of services.

Nevertheless, it is believed that the Committee has already made some important contributions to the improved functioning of the Medicaid program in Iowa. The Committee's meetings with representatives of vendor groups, the Department of Social Services, the private carrier, and county social welfare directors and workers have, we believe, helped to open lines of communication and improve relationships among these groups. The signing in November, 1969, of the new contract between the Department and the carrier, embodying a number of improvements in terms of more specific guidelines for procedure by the carrier in certain areas, is believed to have been a significant step forward in which the Committee played an indirect role. The adoption, effective December 1, 1969, of monthly eligibility cards for Medicaid recipients issued by computer simultaneously with issuance of welfare benefit checks was encouraged, and perhaps accelerated, by the Committee.

In accordance with the terms of House Concurrent Resolution 29, the Medicaid Study Committee intends to continue its work prior to and, if necessary, beyond the convening of the 1970 session of the General Assembly. Every reasonable effort will be made to submit a final report as far in advance of the March 1 deadline as possible.

APPENDIX I

Persons and Representatives of Groups and Firms Appearing before Medicaid Study Committee

The Medicaid Program is administered by the Bureau of Medical Services of the Department of Social Services, and all claims for payment for services or supplies provided recipients are processed by the Department's private contract carrier, Hospital Service, Inc., of Iowa and Iowa Medical Service (Blue Cross-Blue Shield). The Department and the carrier were represented at the Medicaid Study Committee's initial meeting on July 30, 1969, and at all succeeding meetings of the Committee to date, by one or more of the following persons:

Mr. James N. Gillman, Commissioner of Social Services
Mr. James R. Rowen, Acting Deputy Commissioner of
Social Services
Dr. Elmer M. Smith, Director, Bureau of Medical Services
Mr. Charles Ballinger, Bureau of Medical Services
Miss Mary E. Staggs, Bureau of Medical Services
Mr. Richard Borchert, Blue Cross-Blue Shield

In addition, the following persons appeared by invitation of the Committee and participated directly in meetings held on the dates indicated. (The list does not include a number of persons who attended but did not participate in one or more meetings of the Committee.)

August 20, 1969

Mr. William Guy, President, Blue Shield
Mr. Paul K. Williams, Director, Clay County Department
of Social Welfare

September 16-17, 1969

Dr. Earl Vorland, Iowa Chiropractic Society
Dr. John Miller, Iowa Chiropractic Society
Dr. Larry Lindemann, Iowa Chiropractic Society
Dr. D. E. McAreavy, Iowa Chiropractic Society
Dr. Robert E. Glenn, President, Iowa Dental Association
Dr. Homer Hake, Secretary, Iowa Dental Association
Dr. Richard J. Fuller, (dentist) Des Moines
Dr. John E. Goodrich, Dental Director, Department of Health
Mrs. Marilyn Russell, Chairman, Assembly of Certified
Homes Health Agencies of Iowa
Miss Marian Van Fossen, Public Health Nursing Association,
Linn County
Mrs. Nancy Buitendorf, Director of Home Health Agency
serving Benton, Iowa, Poweshiek, and Tama Counties
Dr. Thomas E. Ward, President, Iowa Optometric Association

Appendix I (continued)

Dr. Max Smith, (optometrist) Washington
Dr. Larry DeCook, (optometrist) Newton
Dr. Stewart E. Reed, Iowa Podiatry Society
Dr. William Krigsten, President, Iowa Medical Society
Mr. Eldon Huston, Assistant Executive Vice President,
Iowa Medical Society
Dr. L. J. O'Brien, Iowa Medical Society
Dr. Robert B. Stickler, (medical physician) Des Moines
Dr. Gene K. Van Zee, (medical physician) Pella
Dr. Kenneth Carroll, Vice President, Iowa Society of
Osteopathic Physicians and Surgeons
Dr. R. G. Hatchitt, (osteopathic physician) Des Moines
Mr. Alden Godwin, President, Iowa Nursing Home Association
Mr. Earl Hawthorne, Park Manor, Inc. (nursing home)
Burlington
Mr. Harold Hymans, Garden Court Nursing Homes, Des Moines
Mr. Charles Ingersoll, Iowa Hospital Association
Mr. Louis B. Blair, St. Luke's Methodist Hospital,
Cedar Rapids
Dr. Gerhardt Hartman, University of Iowa Hospital,
Iowa City

November 5-6, 1969

Mr. Robert G. Gibbs, Executive Secretary, Iowa
Pharmaceutical Association
Mr. Gale W. Stapp, President, Iowa Pharmaceutical
Association
Mr. Al Van Houweling, Chairman, Committee on Public
Assistance, Iowa Pharmaceutical Association
Mr. A. Phillip Coontz, (pharmacist) Waterloo
Mr. William Monroe, (pharmacist) Burlington
Mr. Marion Williams, (pharmacist) Des Moines
Mrs. Cleo Marsolais, Director, Johnson County
Department of Social Welfare
Mrs. Gladys J. Harper, Des Moines County Department
of Social Welfare
Mrs. Jean Peterson, Director, O'Brien County Department
of Social Welfare
Mr. Leland Ahern, Director, Polk County Department of
Social Welfare
Miss Marilyn McManus, Supervisor, Medical Assistance
Division, Polk County Department of Social Welfare
Mrs. Roberta McClure, former supervisor, Medical Assistance
Division, Polk County Department of Social Welfare
Mrs. Doris McQuerry, Food Stamp Division, Polk County
Department of Social Welfare
Miss Hattie Hall, Old Age Assistance Division, Polk
County Department of Social Welfare
Rev. Milan Thompson, Director, Washington County Department
of Social Welfare
Mr. William McDermit, Associate Regional Commissioner,
Division of Medical Services, United States Department
of Health, Education, and Welfare

Appendix I (continued)

Mr. Paul Nixon, Assistant Regional Commissioner, Division
of Medical Services, United States Department of Health,
Education, and Welfare
Mr. Michael Higgins, United States General Accounting Office
Mr. Maurice R. Griffin, Regional Claim Manager, Mutual
of Omaha Insurance Company
Mr. Jack Dillon, Claims Manager, Chet Elson and Associates
of Des Moines, Inc., general agent for Mutual of Omaha
Insurance Company
Mr. Kenneth Barrows, Second Vice President, Claims Department,
The Bankers Life Company
Mr. Jerry Eischeid, Supervisor, Regional Claims Services,
The Bankers Life Company

Claims Review Subcommittee - November 17, 1969

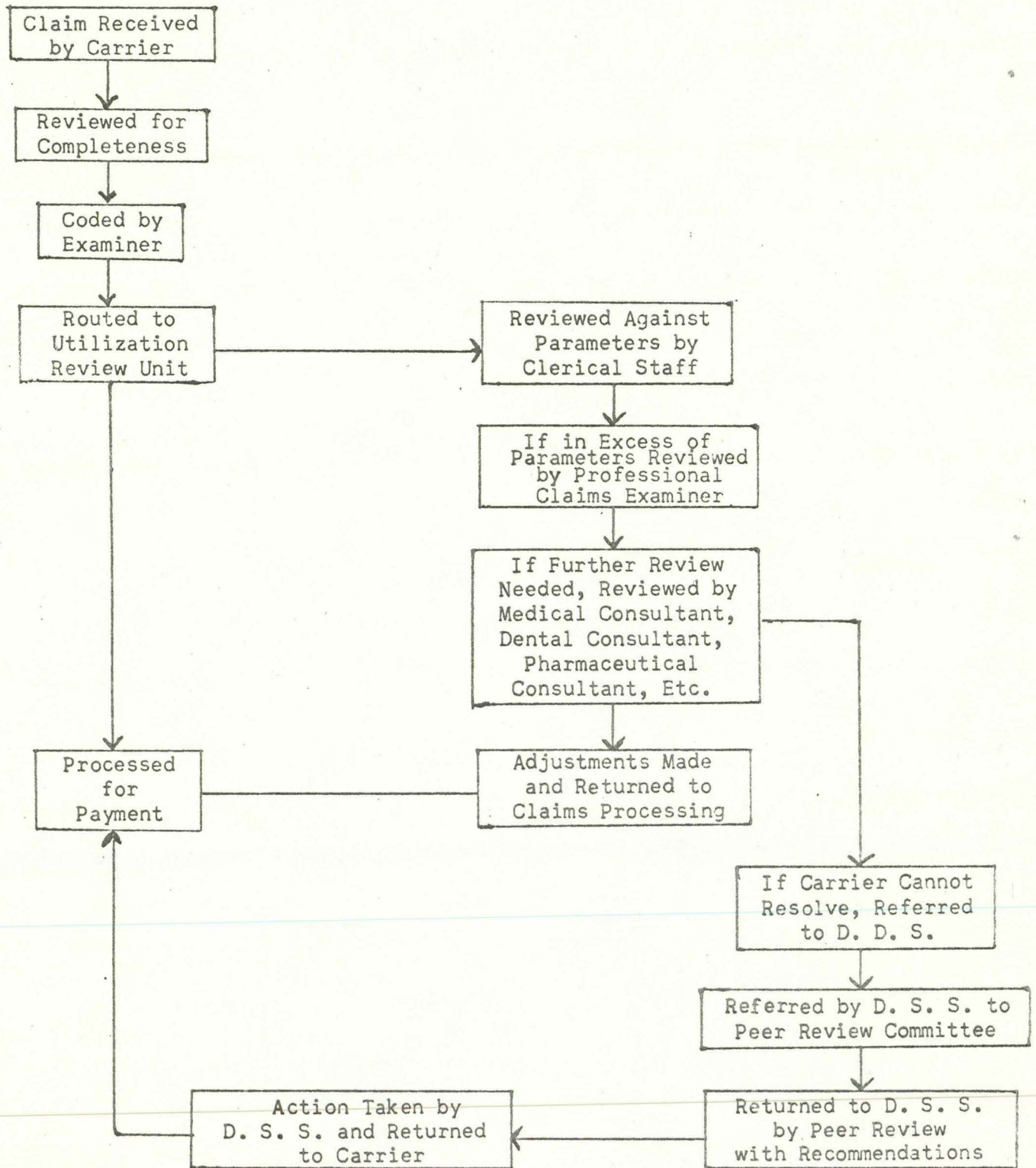
Mr. Cleo Green, Director, Data Processing Division,
Department of Social Services
Mr. Bill Waddams, Blue Cross-Blue Shield

APPENDIX II

State of Iowa
Department of Social Services

Title XIX - Medical Assistance

UTILIZATION REVIEW PROCEDURE



TITLE XIX
 QUALITY ASSURANCE ROUTING FORM

TO: QUALITY ASSURANCE DEPARTMENT FROM: _____ DATE: _____
 LIBERTY BUILDING - 6th FLOOR Q.A. REC'D DATE _____ Q.A. DISPO. DATE _____

REASON FOR REFERRAL:

- 1. OUTPATIENT DIAGNOSTIC X-RAY AND/OR LABORATORY CLAIMS FOR FIVE OR MORE SERVICES OR FOR MORE THAN \$35 TOTAL CHARGE.
- 2. CLAIMS FOR RECIPIENT UNDER 65 FOR PERIODS OF HOSPITALIZATION THAT EXCEED 15 CONSECUTIVE DAYS OR 30 CONSECUTIVE DAYS FOR C.V.A.'s, CORONARY DISEASES, HIP FRACTURES AND PSYCHIATRIC CARE RENDERED BY A PSYCHIATRIST.
- 3. CLAIMS FOR RECIPIENT OVER 65 THAT SHOW THIRTY OR MORE HOSPITAL VISITS WITH THE EXCEPTION OF HIP FRACTURES, CORONARY DISEASES, STROKES AND PSYCHIATRIC CARE WHEN RENDERED BY A PSYCHIATRIST.
- 4. CLAIMS IN EXCESS OF 2 FOR SERIES OF HOSPITALIZATION WITH THE EXCEPTION OF OBSTETRICAL CARE, T & A's AND ACCIDENTAL INJURIES.
- 5. CLAIMS THAT INDICATE TWO OR MORE PHYSICIANS ARE TREATING THE SAME DIAGNOSIS WITH NO EVIDENCE THAT SUPPLEMENTAL SKILLS ARE REQUIRED.
- 6. GANG VISITS (OFFICE & HOME) FOR 2 OR MORE MEMBERS OF A FAMILY ON THE VISIT.
- 7. CLAIMS FOR INJECTIONS IN EXCESS OF FIVE PER MONTH.
- 8. CLAIMS FOR NURSING HOME VISITS IN EXCESS OF 2 PER MONTH OR E.C.F. IN EXCESS OF 5 PER MONTH.
- 9. CLAIMS FOR OFFICE, CLINIC, OR HOME VISITS IN EXCESS OF 5 PER MONTH.
- 10. DOCTOR KICK-OUT (SEE LIST).
- 11. OTHER _____

BREAKDOWN OF CHARGES:

DOCTOR:				<input type="checkbox"/> M.D.	<input type="checkbox"/> D.O.	<input type="checkbox"/> G.P.	<input type="checkbox"/> SPECIALIST
DATES OF SERVICE	PL. of Trt.	Day Vst.	SERVICES PERFORMED	DIAGNOSIS		CHARGE	

BREAKDOWN OF CHARGES:

DOCTOR:				<input type="checkbox"/> M.D.	<input type="checkbox"/> D.O.	<input type="checkbox"/> G.P.	<input type="checkbox"/> SPECIALIST
DATES OF SERVICE	PL. of Trt.	Day Vst.	SERVICES PERFORMED	DIAGNOSIS		CHARGE	

REMARKS: _____

QUALITY ASSURANCE DISPOSITION

- PAY ENTIRE _____
- DISALLOW _____
- PARTIAL DISALLOW \$ _____
- ADDITIONAL INFORMATION NEEDED - REQUEST _____

ADJUDICATOR:

DATE	BY

APPENDIX IV

Members of Medical Assistance Advisory Council

<u>Member</u>	(representing)	<u>Organization</u>
L. J. O'Brien, M.D.		Iowa Medical Society
Ronald K. Woods, D.O.		Iowa Society of Osteopathic Physicians and Surgeons
A. G. Kegler, D.D.S.		Iowa State Dental Society
Nellie Osterlund, R.N.		Iowa State Nurses Association
Robert G. Gibbs		Iowa Pharmaceutical Association
Stewart E. Reed, D.S.C.		Iowa Podiatry Society
Richard C. Schiller, O.D.		Iowa Optometric Association
Darrell G. Hartline		Iowa Hospital Association
Mrs. Alixe P. Nuzum		Iowa Osteopathic Hospitals
Alden R. Godwin		Iowa Nursing Home Association
E. C. Vorland, D.C.		Iowa State Board of Chiropractic Examiners
Representative A. June Franklin		State Representative (Democratic)
Representative Joan Lipsky		State Representative (Republican)
Senator Ernest Kosek		State Senator (Republican)
Senator William Palmer		State Senator (Democratic)
James F. Speers*		Commissioner of Health
William O. Rieke		College of Medicine, University of Iowa
Sue M. Reed		Public Member

*Dr. Speers has resigned as Commissioner of Health effective
December 31, 1969.

REPORT OF THE

MUNICIPAL LAWS REVIEW STUDY COMMITTEE

MUNICIPAL LAWS REVIEW STUDY COMMITTEE
Progress Report

NOTE: This report was received without formal action by the Legislative Council, since it contains no recommendations. In answer to a question from the Council, Study Committee Chairman Senator Ralph W. Potter expressed the opinion that the \$25,000 appropriation made by H.J.R. 15 of the 63rd General Assembly will be sufficient to complete the study.

House Joint Resolution 15, passed by the First Regular Session of the Sixty-third General Assembly, established a twelve-member study committee for the purpose of making a comprehensive study and reviewing the statutes relating to municipal corporations. Seven legislative members and five nonlegislative members were appointed to the Committee, in accordance with the provisions of H.J.R. 15. The members are:

Senator Ralph W. Potter
Senator Alan Shirley
Senator John W. Walsh
Representative William H. Huff III
Representative Stanley T. Shepherd
Representative Ed Skinner
Representative Nathan Sorg
Mayor Loren Hickerson, Iowa City
Mayor Chester Lee, Clarinda
Mayor Harold Gartner, Titonka
City Attorney Philip T. Riley, Des Moines
Mr. Howard Bell, Ames

The Committee was further charged with the duty to:

1. Review state statutes as they apply to city and town government.
2. Recommend appropriate revisions which will implement home rule and facilitate the solution of local problems by local initiative.
3. Make comprehensive recommendations to the general assembly by way of code revision bills and other reports.
4. Submit a report to the governor and to the general assembly no later than thirty days after convening of the general assembly in 1970, unless it is impossible to complete the project by that date, but no later than thirty days after convening of the general assembly in 1971.

Because of the complexity of the present municipal statutes, and because of the Committee's duty to submit comprehensive recommendations to implement home rule, the Committee finds that it is impossible to complete the project within thirty days after the convening of the General Assembly in 1970. Therefore, the Committee submits this progress report to inform the General Assembly of its accomplishments to date, and its plans for completion of the project during 1970.

The Committee's organizational meeting was held on August 11, 1969, with Representative Nathan F. Sorg serving as temporary Chairman. The Committee adopted rules and elected Senator Ralph W. Potter as permanent Chairman, Representative William H. Huff III as Vice Chairman, and Thane Johnson, Research Analyst, Legislative Service Bureau, as Secretary. JoAnn Brown, Legal Counsel, Legislative Service Bureau, serves as staff assistant to the Committee.

In order to adequately consider the extensive volume of municipal statutes, consisting of seventy-two chapters of the Iowa Code in Title XV, plus many other miscellaneous chapters and sections, Chairman Potter appointed four Subcommittees as follows:

- Municipal Organization Senator Potter,
Chairman
- Municipal Facilities Senator Walsh,
Chairman
- Municipal Streets and Transportation . . Representative Huff,
Chairman
- Municipal Utilities and Housing Representative Sorg,
Chairman

The Committee members agreed to postpone any study of municipal budgeting procedures in Iowa, until it receives the results of another study currently being made on that subject.

At its second meeting, on motion by Representative Skinner, the Committee adopted a definition of home rule, in order to establish direction for the revision project. The Committee defines home rule to mean that cities and towns may exercise any powers that are not limited by the General Assembly through the enactment or retention of law setting guidelines for, or limiting the powers of cities or towns.

Subsequent meetings of the full Committee have included a meeting with the Executive Board of the League of Iowa Municipalities on September 10, general meetings on October 9 and November 6, and a two-day meeting November 20 and 21, at which time the Committee met with a number of Iowa city managers. Other guests were Professor Robert J. Martineau, College of Law, University of Iowa, and Mr. Eugene Elkins, Senior Analyst, Advisory Commission on Intergovernmental Relations.

In addition to the regular Committee meetings, each Subcommittee has held from two to four meetings. A complete compilation of Iowa Code sections relating to cities and towns was prepared by the Legislative Service Bureau, and each member received two or more copies of the Code sections relating to his Subcommittee assignment. In general, each Subcommittee studied its portion of the Code section by section, determining where deletions, revisions, and consolidations of existing law are needed.

The Municipal Streets and Transportation Subcommittee also undertook an extensive study of all present Code sections authorizing some form of bonding by cities and towns. This Subcommittee

met twice with bonding attorneys and finance consultants from Des Moines and Chicago. Several other Committee members also attended these meetings. The Subcommittee has received recommendations from some of these experts for changes in the present municipal bonding statutes, and hopes to obtain further assistance in order to draft a revised and considerably shortened general bonding statute for cities and towns.

The other Subcommittees also are working toward the consolidation of many of their chapters and sections into one or more concise chapters or divisions. In addition, the Municipal Organization Subcommittee is considering the possibility of authorizing Iowa's cities and towns to adopt their own charters, instead of being limited to the optional forms of government now prescribed by the Code. Future plans of the Municipal Organization Subcommittee include a meeting in Davenport, Iowa, with representatives of Iowa's four special charter cities.

The Committee has examined the law of Maryland relating to cities and towns, which consists primarily of one short chapter and another chapter providing a model city charter. The Maryland Code is considered a model of brevity in state municipal Codes. The Committee and staff plan to study the laws of other states as well.

It appears to be the consensus of the Committee members at this time that the basic framework of Iowa's municipal law should be entirely rewritten into a group of chapters or divisions which would include all necessary state regulation relating to the basic elements of municipal law, such as organization, elections, powers, bonding, and finance. The members have frequently expressed a desire to have a municipal Code which can be easily understood by citizens and municipal officials.

The members agree that cities and towns should be free to govern themselves under home rule concepts, subject only to state restrictions in areas where statewide control and uniformity is considered essential, such as, for example, areas related to public health. To accomplish this, the Committee hopes to delete from the Code many restrictions now placed upon cities and towns, and perhaps delete or revise many of the permissive statements in the present Code describing powers of cities and towns, since it has been pointed out that under home rule, even a permissive statement may operate as a restriction upon the self-governing powers of cities and towns. In particular, the members agree that most classifications of city powers according to population should be deleted.

Copies of bills presently in legislative committees or on the Senate Calendar for consideration by the 1970 session of the Sixty-third General Assembly have been distributed to members for study and for possible Committee recommendations.

As soon as possible, the Legislative Service Bureau will begin to prepare an outline and tentative drafts of a revised municipal Code. These drafts will be submitted to Subcommittee members

for study and revision, and upon receiving Subcommittee approval will be submitted to the full Committee. As portions of the proposed revised Code are approved by the full Committee, they will be made available to city and town officials, and other interested persons throughout the state, in order to obtain further suggestions. The Committee expects to integrate and complete its work in the fall of 1970, in order to have a proposed revised municipal Code ready for submission to the General Assembly in January of 1971.

Persons who have offered continued assistance to the Committee include Mr. Robert E. Hays and Mr. Edwin H. Allen of the League of Iowa Municipalities, Mr. Lawrence A. Touchae of the Iowa Association of Municipal Utilities, and Mr. Kenneth Henke of the Office for Planning and Programming. Professor Robert J. Martineau presented a written statement of his suggestions for implementation of the home rule amendment, and offered continuing assistance to the Committee. His statement is attached to the minutes of the October 30 meeting of the Municipal Organization Subcommittee.

The Legislative Service Bureau has prepared and distributed to Committee members the following materials:

1. Brief Analysis of the Home Rule Amendment of Iowa.
2. Summary of Municipal Law contained in the Iowa Code.
3. Compilation of Iowa Statutes relating to Bonding Powers of Cities and Towns.
4. Compilation of Iowa Statutes relating to Cities and Towns, divided into four Subcommittee subject areas.
5. Copies of Article 23A, Annotated Code of Maryland.
6. Copies of bills relating to cities and towns presently in legislative committees or on the Senate Calendar for consideration by the 1970 session of the Sixty-third General Assembly.

These materials, as well as the minutes of all Committee and Subcommittee meetings, are available in the Legislative Service Bureau office, and are by this reference made a part of this progress report.

The Committee intends to initiate a concentrated effort immediately following the Second Session of the Sixty-third General Assembly in order to complete its assignment while at the same time making available to interested citizens reports of its efforts. A great amount of work will have to be accomplished in a relatively short time. The staff of the Legislative Service Bureau will have to concentrate its efforts in aiding the Committee. The need for hearings will be desirable as the Committee formulates its recommendations. Such hearings will most likely have to be held in the various geographical areas of the state in order that as many citizens as possible will be given the opportunity to judge and comment upon the work of the Committee.

STATE LIBRARY OF IOWA



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