



## League of Women Voters of Minnesota Records

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SUGGESTIONS FOR STATEMENT TO SENATE COMMITTEE ON LEGISLATIVE RESEARCH COUNCIL

First of all, I wish on the part of the League of Women Voters to thank Senator Feidt and the members of the committee for the courteous manner in which you have permitted members of our group to attend your meetings and for the opportunity for me to speak before you today as an authorized representative of our statewide organization made up of 45 local leagues throughout the State. Had the bill calling for the establishment of a legislative research council been acted on favorably at your last session, we would have considered the brief statement made by Mrs. Anderson, our State Legislative Chairman at your last meeting to have been sufficient, but since some obstacles have been encountered, we would like to re-emphasize our position on this legislation.

As I'm sure most of you know, the LWV is a non-partisan organization which has for its purpose the creating of a sense of citizen responsibility in government - for knowing issues and doing something about them. We feel strongly that this is essential in making our democratic form of government work. We have no particular axe to grind, and before taking a stand on any specific issue, we study it very carefully, try to get the viewpoints and arguments that present all sides of the picture, and we seek the advice of recognized men in the particular fields involved. Because all of the work of our organization, with the exception of 4 or 5 paid secretaries in the whole state organization, is on a voluntary basis we limit our program of work each year to the 4 or 5 issues that members consider the most vital to the welfare of our people and the state at that particular time. For \_\_\_\_\_ years now the enactment of legislation providing for a Leg. Res. Council has been on our program, and we have supported passage of such legislation \_\_\_\_\_ times in the State Legislature.

The fact that our membership throughout the entire state has chosen - from all the multitude issues which we know are important and on which we should like to work - the Legislative Council as one on which it would take action year after year shows the importance we attach to the passage of this legislation. The reason for this is that we feel it is very fundamental in nature and that the enactment of a law providing for such a council will help to solve many of the other problems confronting the State.

Mr. Short - you need not take time to read this section.

17 have only  
Library Service as in  
Minnesota  
R.M.A. 1945-46 Ed.  
see pp. 116-117  
in State office

Minnesota is one of the ~~very~~ <sup>few</sup> states (find out how many from Belva, from BOOK OF STATES) that ~~do not~~ <sup>do not</sup> provide ~~its~~ <sup>them</sup> legislators with at least a Legislative Reference Bureau or research service of some kind. This is the sort of bureau provided for in the minority bills which have been introduced into the House. It is perhaps like carrying coals to Newcastle to point out the needs to you gentlemen of some organization to assist the legislative branch in the tremendous task it is expected to do. The fact that Speaker Hall has proposed the idea of an interim "think session" and that other representatives have introduced the idea of doing away with the 90-day limit and having the Legislature meet annually instead of biennially is a recognition of this need. So, also, is the constantly growing number of legislators in both houses who have expressed the desirability of ~~some~~ kind of a research body to assist them. Likewise, public opinion is strongly behind this legislation, as evidenced by the support it has received from our papers, and from a large number of civic-minded individuals and organizations (not only LNW).

There has been a growing trend during the past few years for administrative branches of government, both on the national and state level (also local) to set up research organizations to assist them as the process of government has become more complex. Industry has recognized the need for competent research assistance, and since we know that it operates always on a basis of value received, the ever-increasing development of this phase of industry is particularly significant. And yet to our legislative branch here in Minnesota, which each successive year ~~is~~ <sup>is</sup> faced with a bigger job, we have given ~~no~~ <sup>no</sup> more tools with which to accomplish its task than was given it back in territorial days, when instead of the now 1400 - 1500 bills it is expected to know something about and act intelligently on each session there were ~~was~~ perhaps 100 - 200 - and all still in 90 days, every two years. (Better check on accuracy of this)

As stated before, Minnesota has been ~~extremely~~ negligent in this. There are ~~very few states~~ (how many?) but what have at least furnished a Legislative Reference Bureau which to varying degrees provides and reference and research service for use of the legislators. In addition ~~15~~ <sup>to Legislative Reference Bureaus</sup> states (I was told 1 had been added to the 14 in the Good Govt Booklet - is this so?) now have made provision for Legislative Research Councils.

will  
from  
R.M.A.

Reports  
noted above

don't know  
exact number R.M.A.

on in place of



possibly instead -  
(authorities in the field)

- 3 -

While we feel that Legislative References Bureaus are certainly better than nothing at all (Mrs. McQ. - can we say this? Prof. Short gave this as his opinion, but I'm wondering if we can make this statement for the League), the establishment of a Leg. Res. Council is much more desirable. According to Prof. Lloyd Short, Head of the Public Administration Dept. at the U. of M. and one of the outstanding men in his field in the country, in the states which have <sup>a</sup> ~~the~~ research staff without a council of legislators to direct and coordinate its activities and to act as a ~~Yeds~~ liaison group between the legislative bodies and the research staff, the services of the latter are seldom used to their greatest capacity. Prof. Short has also said that in those states where such legislation has been enacted, these councils have proven their worth to both the legislators and the public. The fact that all of the 15 councils have continued in being proves that they are meeting a definite need. The League wishes the Minnesota Legislature, also, to have the advantages of such an organization. With a turnover of about 1/3 of the House at each election and with the tremendous amount of proposed legislation <sup>both houses</sup> they must pass on at each session, we realize that it is humanly impossible for all legislators to become familiar with all the facts necessary for intelligent consideration of the proposals which come before them and that therefore they often must accept as fact information made available by pressure groups representing special interests. This can too often result in long, unnecessary and costly delay and not truly representative law making. We feel that a research staff directed by the members of the legislators which would dig out the facts concerning legislative problems anticipated by the Council, study <sup>possible</sup> the effects or results of various laws, provide information as to how laws <sup>are</sup> ~~was~~ working out in other states, assemble statistical data on all problems pertaining to the public welfare, be they economic, social, or political, would go far in remedying the situation. We feel it would lighten the burden placed upon the legislators and also that it would result in better laws for our State.

could be improved upon

We don't believe it is within our province to tell you how this council should be chosen, and it is obvious from our listening to your deliberations and those of the House committee considering this bill, that herein lies some of the difficulty. But we do feel that this is a very important problem. We hope that some method can be



worked out that will give fair representation to the different interests in the State (as provided in Senate File No. 14) and to the members of differing political opinion and yet at the same time assuring the choice of the best men possible for membership on this Council. For it is they who will choose the Research Director, and a wise choice of this individual is imperative to a successful operation of such a Council, along with wise direction on the part of the Council itself.

Whether or not you wish to supplement the idea of a Legislative Research Council with an unlimited session, an annual instead of a biennial session or a "think session" is possibly something to be considered. But making such changes cannot take the place of the Council. You will still need at your disposal a fact finding body that will automatically provide the legislators before each session with information and material to be used during the session and one that can be called on at any time by any legislator to provide needed information. (Gov. Youngdahl's example of how such a council could have been useful in gathering material on the <sup>difficult</sup> tax situation rather than having to send two representatives & pay them out of contingent fund to make a hurried study of tax programs in other states might be cited here or some other place.)

We urge you to pass favorably on this legislation. We want to see Minnesota take her proper place among the more progressive states that provide its legislators with the best possible tools for doing a good job - rather than to have her rank where she does now - among the very few that offer no tools at all.

Minnesota League of Women Voters  
832 Lumber Exchange  
MINNEAPOLIS 1, MINNESOTA

CH F COPY

Proposal for  
**LEGISLATIVE  
RESEARCH  
COMMITTEE**

A Proven Aid To  
Better Legislation

**GOOD  
GOVERNMENT  
GROUP**

# **The Legislative Research Committee**

## **1. Introduction**

The purpose of this pamphlet is to set forth the nature and organization of a Legislative Research Committee together with a statement as to its need. In general a Legislative Research Committee may be defined as a body which meets between legislative sessions to act in a fact-gathering capacity.

## **2. Need for Legislative Research Committee**

The need for an impartial research agency to serve the State Legislature arises from the fact that the problems of state government are continuous even though the legislature meets only intermittently. The Legislature of the State of Minnesota meets for 90 days every two years. At each session approximately one-third of the representatives are new members who have not served before; and all of the legislators have some primary occupation of their own to which they ordinarily devote their full attention. When they arrive for a session of the Legislature, these representatives find that over 1,400 separate bills are filed for their consideration. The bills cover a gamut of state problems which have accumulated since the last session.

It is not humanly possible for each legislator to gather, for each of over 1,400 bills, all the facts which would be necessary for intelligent consideration of the proposal. Too often a legislator must act without facts or accept as fact information made available by pressure groups who have a special interest in the legislation. The result is uninformed and non-representative law-making.

*The Legislative Research Committee is a means of remedying this situation. The essence of this plan is to provide a paid, full-time research staff which, under the guidance of a council made up of state legislators, will act between sessions as a fact-gathering agency in providing information as to the need and consequences of various courses of legislation. As such, the research staff is not a policy determining body, nor is the legislative committee—though it may make recommendations to the Legislature. Their job is, rather, to study the effect of alternative possibilities in legislation and report their findings to the Legislature at its next session.*

*A research staff under the direction of a legislative committee would do much to ease the burden upon the legislator and yet enable him to act more intelligently. The result to the public would be the enactment of laws better designed to promote the general welfare.*



### 3. Existing Legislative Research Committees (or Councils)

Fourteen states have already improved their law-making process by adopting the Legislative Research Committee. The state, year, and statute are cited below:

1. ILLINOIS, Legislative Council created 1937, Revised Statutes (Bar Assn. Ed. 1934) C. 63 33-42.
2. CONNECTICUT, Legislative Council created 1937, Gen. Stat. (Supp.—1943) No. 10-14.
3. KANSAS, Legislative Council created 1933, Gen. Stat. 1935, 46-301.
4. KENTUCKY, Legislative Council created 1936, Rev. 1942, Sec. 7.010.
5. MAINE, Legislative Council created 1940, Laws 1940, C. 315.
6. MARYLAND, Legislative Council created 1939, Code (Flack) 1939.
7. NEBRASKA, Legislative Council created 1937, Stat. 1941, Supp. 50-501.
8. OKLAHOMA, Legislative Council created 1939, Stat. 1941, Title 74, 51-462.
9. PENNSYLVANIA, Legislative Council created 1937, Stat. 1937, C. 459, 380.
10. RHODE ISLAND, Legislative Council created 1939, Stat. 1939, 220-221.
11. VIRGINIA, Legislative Council created 1936, Code 1942.
12. MISSOURI, Legislative Council created 1943, Laws 1943, 632.
13. INDIANA, Legislative Council created 1945, Acts, Vol. I, p. 187, Chap. 88.
14. ALABAMA, Legislative Council created 1945, Gen'l Acts, p. 193.

### 4. Summary of Legislative Committee Laws

The exact nature and organization of Legislative Research Committees can be best conveyed by summarizing provisions of existing state laws. The following account is intended to be illustrative of the general pattern rather than comprehensive in all the details. For that reason the Legislative Council Act of the State of Illinois is outlined as to its major provisions, and significant variations or additions of other states are shown. Complete details as to the several state laws may be obtained from the Good Government Group.

### MEMBERSHIP OF THE LEGISLATIVE COMMITTEES:

ILLINOIS: President of Senate and Speaker of House are ex-officio members. Ten Senators appointed by the President of the Senate and ten Representatives appointed by Speaker of the House. Party representation shall be in proportion to relative number of members of political parties in each House of General Assembly, but in no event shall the majority party in either House be represented by more than 2/3 of members of said Council from either House.

Term: Terminates with each member's term of office.

Vacancies: Not mentioned. Quorum: 12 members.

OTHER STATES: The size of the committees vary in other states from 7 members to 25 members. All provide for bi-partisan representation. The method of appointment varies somewhat but is generally by the President of the Senate and the Speaker of the House.

### NATURE OF THE RESEARCH STAFF:

ILLINOIS: Elect Research Director—employ assistants—engage services of research agencies. May utilize services of state planning board, legislative reference library and state library.

OTHER STATES: Substantially the same.

### FUNCTIONS:

ILLINOIS: Collect information concerning the government and the general welfare of the state—examine effect of Constitutional provisions and previously enacted laws and recommend amendments thereto. Consider issues of policy and questions of statewide interest. Prepare legislative program in form of bills or otherwise.

OTHER STATES: Connecticut authorizes the Legislative Council to investigate and study the possibilities of consolidation and elimination of duplicating, unnecessary activities. It also has the power to visit, inspect, and investigate all state agencies.

Kansas authorizes its Legislative Council, in addition, to study the possibilities of reforming the system of local government. To carry out its functions, it is also empowered to administer oaths, serve subpoenas and compel the attendance of witnesses.

Kentucky provides that its council shall encourage and arrange conferences with officials of other states and other units of government.

Maryland provides that its legislative council may examine rules of procedure of the Legislature and recommend changes to expedite legislation.

Nebraska stipulates that the research council shall maintain a bill-drafting service.

Pennsylvania authorizes the council and staff to gather budget information, to suggest ways and means of financing government on a more equitable basis, and to make studies for the improving of administrative organization in state and local government.

In Alabama the research staff also acts as a legislative reference service to answer inquiries from all sources. The staff may also make studies on its own initiative.

## REPORTS:

**ILLINOIS:** Must be made public 30 days prior to any session of General Assembly. Mailed to each member of Assembly, elective state official and State Library. Must keep members of the Legislature informed of matters before Council, action taken thereon and progress made in relation thereto.

**OTHER STATES:** Substantially the same.

## MEETINGS AND COMPENSATION OF THE LEGISLATIVE COMMITTEE:

**ILLINOIS:** At least once each quarter. Paid necessary expenses in performance of official duties.

**OTHER STATES:** All states authorize the council to meet quarterly, except Nebraska which provides for meetings twice each year and Kentucky which provides for meetings as often as necessary but not to exceed 40 days between sessions. Compensation ranges up to \$10.00 per day in addition to expenses.

## RELATIONSHIPS:

**ILLINOIS:** *Legislature:* Members may appear at meetings and present views on matters being considered. *Administration:* Governor may submit messages relating to recommendations and explaining policy of administration. *Administrative agencies* must make requested studies. *Public:* Not mentioned. *Local Governmental Units:* Not mentioned.

**OTHER STATES:** Connecticut authorizes members from the public to serve on advisory committees.

Kansas stipulates that local governments must make studies requested of them.

## APPROPRIATIONS:

**ILLINOIS:** Appropriation 1943-1945 — \$45,000.

**OTHER STATES:** Appropriations vary up to \$66,400 per biennium, which is authorized by Kansas.

## 5. What Newspapers in Other States Say About Their Legislative Research Council

### Kansas City Times

(December 3, 1940)

"As the first state to experiment with a legislative council, Kansas now is looked upon as the foremost exponent of progressive law making. . . . Part of the council's success is credited to its impartiality. It shields the research department from political pressure, so that the facts developed are never of a partisan nature. Both parties have complete confidence in its reports."

### Christian Century

(August 29, 1945, p. 986)

"The Illinois Legislative Council, research bureau established by the 1937 general assembly to correlate information for legislators and state officials and for individuals or agencies interested in the dissemination of public information, is an institution in which Illinoisans have reason to take pride. In the past eight years the council has prepared 68 comprehensive studies on questions demanding legislative attention."

### Rockford Register

(April 15, 1943)

"The Illinois Legislative Council was set up a few years ago as a fact-finding agency to serve members of the General Assembly during and between sessions. The Council costs \$20,000 a year.

"Primarily, the Council serves members of the General Assembly. We judge from the number of legislators who call upon the Council for assistance that it is earning its salt in carrying out this central purpose. . . ."

### The Illinois Taxpayer

(April, 1942, p. 3)

"The General Assembly in Illinois has seen the importance of establishing a continuing body to study legislative problems by creating the Legislative Council as an interim body to provide advance information on current legislative problems. The council is a legislative agency. All proposals for study and report must come through members of the General Assembly. It has made many valuable studies on current problems of legislation which may face future assemblies. Legislators should be encouraged to make even further use of this agency."

### Illinois Chamber of Commerce

(Legislative Bulletin No. 11—April 11, 1941)

"Unfortunately, there appears to be lurking in the minds of some, and which, it would seem, could only be due to lack of information or understanding, that the Council is set up as a super legislative body. Under the rules governing its operation, it is difficult to see how this would be possible. . . . It is not a function of the Council to propose or recommend passage of any legislation."

## 6. A Proposed Legislative Research Committee Law for Minnesota

A suggested bill to establish a Legislative Research Committee for the State of Minnesota is shown below. This bill was drafted only after exhaustive discussions with state-wide farm, labor, and business organizations and represents a reconciliation of their viewpoint. While it is recognized that the bill may require some modification after it reaches the floor of the Legislature to take cognizance of still other viewpoints, such modification should be consistent with the need in the State of Minnesota for able, objective, and comprehensive research on subjects of legislation.

### A BILL

For An Act Relating to the Creation of a Legislative Research Committee, Prescribing Its Powers and Duties, and Appropriating Money Therefor.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

SECTION I. There is hereby created a legislative committee, which is hereinafter referred to as the "Legislative Research Committee" or the "Committee." The legislative committee shall consist of eight senators and eight representatives to be chosen before the close of each regular legislative session in the same manner as members of standing committees are chosen in their respective bodies, but not more than one representative and not more than one senator shall come from any one Congressional District. Any vacancy occurring when the legislature is not in session shall be filled by the selection of another member of the legislature, said selection to be made by the remaining Senate or House members of the committee, depending upon which body has the vacancy. Each senator and representative chosen to serve on the committee, shall serve until the elections are held at the next succeeding regular session of the legislature.

SECTION II. The Committee shall have the power and right to study, consider, accumulate, compile and assemble information on any subject upon which the legislature may legislate, and upon such subjects as the legislature may by concurrent or joint resolution authorize or direct; or any subject requested by a member of the legislature; to collect information concerning the government and general welfare of the state and of its political subdivisions; to study and consider important issues of public policy and questions of general interest; to formulate proposals for, and to facilitate the enactment of uniform or reciprocal state statutes, and to cooperate with other states and organizations in that regard. The committee may as it deems advisable call to its assistance other members of the legislature and it may create committees consisting of its own members, or one or more of its own members and one or more other members of the legislature and delegate by written resolution to such committees such of its powers and rights as it may deem

advisable. Any member of the legislature shall have the right to attend any meeting of the committee, and may present his views on any subject which the committee may at any particular time be considering. Any member shall have the right to attend and participate in the discussion but shall not have a vote, and upon request, any member of the legislature shall be notified of the dates and places of meetings.

SECTION III. The committee may assign the research director and staff to the various standing committees during the regular legislative session for the purpose of explaining committee recommendations and developing additional data thereto. Each department, board, commission, agency, officer or employee in the state government shall furnish such information and render such assistance to the committee as the committee may from time to time request.

SECTION IV. The committee shall hold its first meeting within thirty days of the close of the legislative session and may sit at such time and place as it may deem advisable, but the committee shall meet at least once in each quarter year and shall meet at any time upon the call of the chairman or a call signed by three members of the committee. At any meeting of the committee eight members shall constitute a quorum and a majority of such quorum shall have authority to act in any matter falling within the jurisdiction of the committee.

SECTION V. The committee may prescribe its own rules of procedure and it shall select a chairman, vice-chairman and a secretary who need not be a member, and shall appoint a research director who shall be paid such salary as the committee may determine. The research director shall appoint such research assistants subject to approval of the committee. The committee may obtain the assistance of such research agencies as it may deem necessary. The Research Director and as much of his staff as may be necessary shall hold office until disapproved by the succeeding Legislative Research Committee. For the purpose of budgeting, expenses of the Legislative Research Committee shall be deemed to be legislative expense. Expenditures of funds made available to the committee by legislative appropriation shall be made only upon the authority of resolutions duly passed by the committee.

SECTION VI. The committee shall keep minutes of its meetings which shall be open to the public. At least thirty days before the beginning of each biennial legislative session, the committee shall make a written report of its activities, investigations, surveys, findings and recommendations to the members of the legislature, the Governor and to the public.

SECTION VII. The members of the committee and the members of any sub-committee of the committee, shall be compensated for their actual expenses necessarily incurred in attending said meetings and in the performance of their official duties; and, in addition thereto shall be compensated at the rate of \$15.00 per day in actual attendance.

SECTION VIII. The Commissioner of Administration shall assign suitable quarters in the State Capitol Building.



SECTION IX. If any provision of this act shall be held invalid, the remainder of this act shall not be affected thereby.

SECTION X. There is hereby appropriated from the general revenue fund to the Legislative Research Committee the sum of \$25,000 for the fiscal year ending June 30, 1948, and the sum of \$25,000 for the fiscal year ending June 30, 1949, for the purpose of carrying out the provisions of this act.

\* \* \* \*

## **7. What You Can Do To Improve Your State Government**

We need the help of the other ordinary citizens, like ourselves, who have a stake in impartial, representative government. You, as a citizen of the State of Minnesota, can help to improve your state government by backing the Legislative Research Committee Bill.

See or write your State Senator or Representative and ask for his commitment to support this bill.

If you do this now, you will have a better state government in the future. It will be a government capable of representing you, whatever your interest may be.

1150 Rand Tower  
Minneapolis 2, Minn.

# SUMMARY TABLE ON THE ORGANIZATION OF LEGISLATIVE COUNCILS

	<u>Kansas</u>	<u>Virginia</u>	<u>Kentucky</u>	<u>Connecticut</u>	<u>Illinois</u>	<u>Nebraska</u>	<u>Maryland</u>
<u>Date Established</u>	1933	1935	1936	1937	1937	1937	1939
<u>Composition</u>							
Number of Members	27	7	21	5	22	15	14
Legislators:							
Senators	11	3	8	2	11		7
Representatives	16	4	8	2	11		7
How chosen	presiding officer	by governor	presiding officer	ex officio	presiding officer	by election	ex officio pres.officer
Administrative Members			5 heads of chief depts.	governor			
How chosen			by governor	ex officio			
<u>Powers and Procedures</u>							
Has research staff	Yes	yes	yes	yes	yes	yes	yes
Full time	8	3		2	2	3	
Part time	6		4	1		2	2
May utilize other state agencies	yes	no	yes	yes	yes	yes	yes
May subpoena witnesses	yes	no	yes	yes	no	yes	no
Regular meetings held	quarterly	on call	on call	on call	quarterly	semi-annual	on call
Governor may send messages	yes	yes	yes	yes	yes	yes	yes
<u>Expenses</u>							
Annual appropriations							
For council expenses	\$5,000	\$15,000	\$5,000*	\$25,000	\$5,000*	\$7,500	\$10,000
For research	\$20,000	(*Plus other state funds, Illinois' budget now \$25,000)					
Payment of members							
per diem	\$3.00	\$10.00	\$10.00	No	no	no	?per diem
Expenses	yes	yes	yes	yes	yes	yes	yes

The Rhode Island Legislative Council was established in 1939. It is composed of five members, 2 senators and 3 representatives, chosen by presiding officer. No information as to staff or appropriation. It may use other state agencies but may not subpoena witnesses. It holds weekly meetings.



## WHAT LEGISLATORS IN OTHER STATES THINK ABOUT A LEGISLATIVE RESEARCH COUNCIL

### States Having a Council

Speaker W. M. Beck of Alabama: "With only 1 year of full operation to judge, I conceive that, through proper direction and implementation by the Legislature, the Council ~~and~~ Service can make very substantial savings in government. Equally important, the agencies can make great contributions to better government at a less, the same, or a greater cost."

Senator Luke H. Stapleton of Connecticut: "The work of the Connecticut Legislative <sup>Council</sup> ~~ive~~ has been quite intensive and has resulted in many constructive suggestions, many of which have been enacted into laws and some of which have been rejected by the General Assembly."

Speaker Hugh Green of Illinois: "The budget is modest and the service rendered considerable."

Speaker Frank B. Miller of Kansas: "Legislators now rely heavily on facts presented by the Council on important measures."

Speaker Murray E. Thompson of Missouri: "Without the Legislative Research Council, we would have been unable to rewrite 15,000 sections of our Statutes to comply with the new Constitution which was adopted in Missouri in 1945."

Speaker Walter R. Raecke of Nebraska: "We feel that this (the Council) has worked very satisfactorily, and there is a fund of data and information available when the Legislature meets. ....It is working excellently here."

LT. Governor Robt. B. Crosby of Nebraska: "From our experience here in Nebraska, it is my personal hope that Minnesota establishes a Legislative Research Council."

Research Director Paul L. Agneberg <sup>7th</sup> (At request of House Speaker): "The work it (Legislative Research Council) has already accomplished (since Apr. 1946) in the short period of time in operation has prolonged its existence, as this Assembly has gone on record favoring its continuance."

### States Not Having a Council

Speaker Roy L. Riales of Arkansas: (Bill has been introduced.) "There is no question but what a properly organized and operated Council is urgently needed in this and practically every other state during these days of complex legislative problems."

Speaker E. L. Jameson of Arizona: (No bill introduced) "I personally feel that a Research Council would be of great benefit in Arizona."  
of Colorado

Atty. Hubert D. Henry, member of Interim Committee & past legislator (at request of Speaker), (Several proposals for some kind of a Council now before General Assembly): "I think it is clear that those who feel that our legislative processes are inadequate feel very strongly that something should be done about these things. Those who are most interested in good legislation would very much like to see a Legislative Council and an adequate staff established."

Speaker Fred Hand of Georgia: "Your letter has brought the matter (of a Legislative Research Council) to my attention, and I will discuss it with some of the members of the Legislature and it may result in some form of action being taken along the lines stated in your letter."

Speaker C. Wm. O'Neill of Ohio: "Many of the leaders of our Legislature recognized the need for a Legislative Research Council. I have been informed that at least two bills are being prepared creating such a body and will be introduced."

Speaker W. Buford Lewallen of Tennessee: (Bill pending): "It is felt by the constructive and progressive members of this Legislature that such a Research Council is an absolute must for a progressive state."

### A LEGISLATIVE COUNCIL

The Minnesota League of Women Voters, including our local organization, is doing an outstanding piece of work in giving information to the public in general on what a legislative council would mean to the State of Minnesota, if one were created here.

The Editor of the Tribune served in the Minnesota Legislature back in 1927, and we can see the need of having a legislative council. We remember how the first two, three weeks that the legislature would meet, have roll call and then adjourn because there were no bills to be considered. The legislature was simply marking time. A few bills came in the first days of the session, but they had to go to committees. In many cases, these members of the committees were new lawmakers and the bills that came in were also new bills on subjects that had never been brought up in the legislature. Before the committees could act on these bills, it was necessary that they, on their own initiative, do some research work. This research work was generally done by sub-committees and it sometimes took weeks to get the information they needed. The general result of it all was that over half the legislative session would be past before any important bills would come before the house. They would then come in such a flood that by the time there was a week or two left of the legislature, only half had been considered and those that were passed were often jammed through without much consideration. That is one of the reasons so many "crazy" bills become laws.

To overcome this state of affairs, a legislative council has been proposed, composed of a small number of members of the law-making bodies that meets at different intervals between sessions. These men would set up research bureaus and make a general study of bills that would be apt to come up in the next session of the legislature. These findings would be made public so that the people themselves could have a chance to discuss the various angles, pro and con, and the lawmakers would then know pretty much how the home folks stood on the bill when it would come up in the early part of the session.

While a legislative council would perhaps have its drawbacks, we believe that it has so many more advantages that it would be worth while to try it in Minnesota.

## The St. Cloud Daily Times

This is an independent newspaper, printing the news impartially, supporting what it believes to be right and opposing what it believes to be wrong.

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### Speaker Lawrence Hall Keeps Pressing Legislative Council

The Times is glad to see Speaker Lawrence Hall continue his efforts for the establishment of a legislative council. He brought the matter up at the last session of the legislature and personally took the floor to support it and while it was passed in the House it died in the Senate. Colorado, Kansas, Maryland, Michigan, Virginia and Nebraska are among the states that have legislative councils. These councils are interim bodies that work the year round drafting laws, carrying on research and doing the things that must be done to whip laws into shape which an unwieldy legislature can not do. They find out what other states are doing and how new laws work out. They get information that the average legislator has neither time nor means of getting. Such a council might well make an investigation not only of our whole tax structure, but find out what other states are doing in the way of financing highway construction and maintenance costs. They might look into an interim commission report made some six years ago on our "horse and buggy" highway laws. Horses have long ago disappeared from our highways, but we are operating under horse and buggy laws and it just doesn't work.

We Shall Be



Winona

### The Legislative Council

As was the case two years ago, the Minnesota house of representatives has passed a bill creating a state legislative council. What happens now is to be determined by the senate, which allowed a similar proposal to die at the last session.

Under the measure approved by the house, the council would be made up of ten senators and ten representatives. Senators in each congressional district would elect one member. So would representatives in each of these districts. The other two members would be selected at large.

This group would meet between the legislative sessions to gather material and conduct studies concerning state business. In this it would be assisted by a research staff.

The result would be data ready for the full legislature at each of its biennial sessions to help the lawmakers, who are required to handle and make decisions on a vast number and variety of matters. After their prior study, members of the council might make recommendations or confine their reports to fact finding. The council would be in position to survey transitory issues, and also to project long-time programs for the state. Final authority always would rest with the legislature itself, with the council lacking any enactment powers.

States with legislative councils have found them successful. If the Minnesota plan works as intended, this state would find such a group beneficial also. Senate action consequently should be favorable.

Mankato

## Interim Council Chances Good

By CHARLES B. CHENEY

THERE SEEMS to be a prospect that the legislative council bill will get through at this session. It passed the house two years ago, but failed in the senate.

Since that 1941 session, Minnesota people have been getting a better understanding of this proposal. It sets up in effect an interim committee, a joint body representing both houses. It would have no power, but would study any or all important matters to come before the next session, and make recommendations.

\* \* \*

*That is just what has been done in the past by various interim committees, created at each session. There were six such committees reporting to the present legislature. They have done much valuable work. Through a legislative council the same sort of study can be made, but with more correlation, more system.*

The pending bill would create a council of 19, 10 senators and nine house members. One objection has been that the council would acquire too much power. To any one familiar with the history and the temperament of Minnesota legislatures, this is a joke. The council would have to sell its every recommendation to the full membership of the two bodies. As for the expense, it would be little, if any, more than the cost of several interim committees.

\* \* \*

Kansas started the ball rolling with its legislative council, which did such good work that other states took up the idea. The list now includes Illinois, Michigan, Nebraska, Kentucky, Colorado, Maryland and Virginia.

"States that do not have them may be falling behind," the Mankato Free Press said the other day. "They replace the special committees which often are nothing but junketing outfits. They find out what other states are doing, and how it works. They get information which the average legislator has neither the time nor the means of getting, and greatly save his time."

\* \* \*

There has been other favorable press comment. The Springfield Advance-Press, for instance, says: "If selfish interests be discarded and this council chosen wisely from the best of men available, we think it would be an excellent appendage to the legislature."

The League of Women Voters is backing the bill, and has done some effective educational work in its behalf.

\* \* \*

THE ST. CLOUD TIMES, which has supported the legislative council plan from the first, says that such a body might work out better laws for highway taxation, "to cease taxing our farms and homes for the construction and maintenance of all our highways, and collect the necessary revenue in gasoline and automotive vehicle tax."

FILE COPY

Comments from Dr. Short given Mrs. Bartlett on MacKinnon Legislative Council bill.

Section 1. He prefers unequal representation, likes provision for geographical and factor representation, Believes Speaker of House and President Pro Tem of Senate should be ex-officio members.

With reference to Mrs. Watson's suggestion that terms should be continuous, unless not re-elected - he thinks there are some advantages in such a provision, but of course it would work against putting some new young members on who might prove most valuable.

Section 2. He thinks the provision on uniform laws is a good one, and would give more weight to recommendations on uniform laws.

He feels the most ~~and~~ questionable feature of the entire bill is the provision for ~~legislative~~ investigations of departments, etc.,

Section 4. "within the limit of their appropriations" should be added to protect departments, etc.

Section 7. He feels that it is not necessary that a secretary be appointed, but that the research director should be made the secretary of the Council. He believes the appointment of a director should be made mandatory (altho this is not necessary for other assistants). By making the director the secretary, this might be accomplished.

Section 9. Inadvisable - it might cause hard feeling.

Section 10. Thought Mrs. Watson's suggestion of a specified time for submission of proposals was constructive.



The attached table presents a summary of inspectors in Minnesota. Definitions of inspectors vary. For example, bank examiners could be defined as "inspectors of banks", or auditors of the Public Examiner's office could be termed "inspectors of public records". This table only attempts to show those state employees who are commonly considered in inspectional groupings and does not include inspectors of the various Examining Boards. This arbitrary selection may, therefore, contain classes that some individuals may feel do not rightfully belong in inspectional classifications. On the other hand, some individuals may feel that additions to the list are necessary to make it complete. Naturally many of the types of inspection work listed would lend themselves to grouping following proper training and education. However, it is not to be inferred from this tabulation that all the functions of the various listed inspectors can be performed by any one individual. It is presented to show the variety of inspections conducted by the state and the magnitude of the problem. Four examples are cited to show the possibilities inherent in considering the state inspectional function as a whole. The citation of any individual inspectional class or department is not an indictment for in the vast majority of cases it is a legislative problem. Other examples could be given.

The waste of taxpayers' funds because of Minnesota's highly specialized inspectional system is readily noted from close examination of the various types of inspectors and their functions listed in the attached table, and in the examples cited, for to carry out their prescribed duties involves, in most cases, considerable travel. This statement is based on the premise that many inspectional functions lend themselves readily to consolidation - a step which is not precluded by educational qualifications or job requirements. Illustrations of such possible consolidation are as follows:

The state employs one man working out of the St. Paul office of the Division of Institutions whose function is to check all jails and lockups throughout the state. This results from legislation dating back to 1913. The state inspection is "from the standpoint of safety and health of the inmates, and to cooperate with the various officials and sheriffs to offer constructive recommendations and suggestions for improvements where it is observed they are necessary". (1) The law also provides that the local health officer shall (2) inspect all jails and lockups once a year for sanitary conditions, for which he is paid a fee of \$2.00. Since this law was enacted, the Legislature has created the Bureau of Criminal Apprehension which has men, located at strategic points in the state, trained in all phases of criminal work. The Legislature could consider transferring the administration of this law to the Bureau of Criminal Apprehension. Such a step would not place an undue additional burden of work on these men and it would eliminate the travel and other expenses connected with the present system of inspection. As the law requires that jails and lockups be inspected only once a year, operatives of the Bureau of Criminal Apprehension could make the required checks in the course of their work within their territory, resulting in savings to the taxpayer.

Two men are employed by the state to check all places where feed and fertilizer are sold.

(1) Report of the Division of Institutions to the Interim Committee.

(2) Minnesota Statutes 642.09

Their main function is to pick up representative samples of feed and fertilizer offered for sale, which are then sent to the laboratory for analysis to ascertain if they conform to the standards of the brand registered under the law. The technical work performed takes place in the laboratory. The expense connected with an inspectional system which necessitates two men traveling to all parts of the state for samples is relatively large as compared with a system where inspectors stationed in a limited territory and trained to perform a variety of inspectional tasks would obtain the samples for laboratory analysis. Furthermore, better coverage of the state would be possible under a unified system.

Another man with headquarters in the Twin Cities checks the 419 frozen food lockers scattered throughout the state. In the rural areas, many frozen food lockers are operated by the local creameries. It would appear only logical that Dairy and Food inspectors, whose work is analogous and who are stationed in prescribed territories throughout the state, should make the inspection of locker plants. This would make possible more frequent checks which would better accord the public the protection contemplated by the law. The taxpayer would not be burdened with financing the necessary expense incident to covering the entire state from the Twin City area. Given proper training, Dairy and Food Inspectors could perform the duties of the present Locker Plant inspector. An additional man could then be added to the present Dairy and Food inspectional force without added expense to the taxpayer. Smaller territories could then be assigned these men, which would result in more frequent inspections for public protection. A greater proportion of time would be spent in carrying out prescribed duties, rather than in traveling from point to point.

To insure producers of dairy products protection from unscrupulous dealers, regulations authorized by the law provide that buyers of cream must preserve, for 24 hours, samples of each lot purchased. These samples are subject to checking by Dairy and food inspectors to determine if they have been graded correctly. This is only one method unscrupulous purchasers of dairy products would have of defrauding the producer. Another method would be short weight resulting from faulty scales. At the present time, scales on the average are checked for tolerances but once every four years. An inspector operating in a limited territory and trained to perform a variety of inspectional duties, including the inspection of small scales and balances, could provide more frequent checks at no greater expense. Naturally, it would not be feasible for him to check heavy duty scales for which costly special heavy equipment is needed. It would, however, be relatively simple to train men to inspect the ordinary scale used in creameries, grocery stores, etc., as scales are checked for tolerances only. (It is not a practice for weights and measures inspectors to adjust scales.) Precedence for this is found in other states where weights and measures inspection is carried on in conjunction with other inspectional work.



# STATE INSPECTIONAL SERVICES

## Explanation:

TYPE: Indicates nature of inspection work. Does not necessarily conform to Civil Service class title.

EDUCATIONAL REQUIREMENTS: From Civil Service class specifications.

NO. OF INSPECTORS: As of September 1, 1943.

MAIN FUNCTIONS: Condensed from Civil Service job descriptions and analysis of work performed by inspectors from reports submitted to the committee by the various state agencies.

<u>DEPARTMENT</u>	<u>TYPE</u>	<u>NO. OF EMPLOYEES</u>	<u>EDUCATIONAL REQUIREMENTS</u>	<u>MAIN FUNCTIONS</u>
AGRICULTURE	Apiary	19*	College	Checks apiaries for disease and methods of bee culture.
	Beverage	1	8th grade	Checks for sanitation. Sends samples to laboratory for analysis or tests.
	Cold Storage	1	High school	Checks for sanitation.
	Commercial Fish	3	8th grade	Inspects commercial fish for grade, quality and condition at shipping point.
	Dairy and food	18	8th grade	Checks for sanitation. Checks labeled products for compliance with given standards. Sends samples to laboratory for analysis or tests.
	Egg and Poultry	3	8th grade	Inspects eggs and poultry for grade, quality and condition.
	Feed and Fertilizer	2	High school	Sends samples to laboratory for analysis and tests.
	Insect Control	3	College	Entomology work.
	Kosher Meat	1	High school	Checks for sanitation. Checks labeled products for compliance with given standards. Sends samples to laboratory for analysis and tests.
	Livestock	1	8th grade	Inspects cattle to determine fitness for slaughter, at terminal points.
	Nursery Stock	4*	College	Plant Pathology, Entomology and Horticultural work.
	Produce	29	High school	Inspects fruits and vegetables for grade, quality and condition at shipping and terminal points.
	Seed Potato	9*	High school	Plant pathology and Entomology work.
	Weed and Seed	45*	High school	Checks labeled products for compliance with given standards. Sends samples to laboratory for analysis. Supervises weed control program.
	Wholesale Dealers	8	High school	Examination and auditing of records. Determination of bond necessary for protection of producers of produce.

<u>DEPARTMENT</u>	<u>TYPE</u>	<u>NO. OF EMPLOYEES</u>	<u>EDUCATIONAL REQUIREMENTS</u>	<u>MAIN FUNCTIONS</u>
CONSERVATION	Wild Rice Harvest	1	8th grade	Supervises harvesting of wild rice in the field.
HEALTH	Hotel	9	High School	Checks for sanitation and hazards.
	Mortician	1	University and embalming school	Checks funeral parlors for license, equipment and practices.
	Plumbing	2	High school or trade school (B)	Checks certain designated equipment or installations for defects or meeting of minimum standards.
	Venereal Disease	6	University	Control of venereal disease.
INSTITUTIONS	Jail and Lockup	1	High School	Checks jails and lockups for compliance with certain standards.
INSURANCE	Fire and Arson	9	University	Checks public buildings or new construction for fire hazards.
LABOR AND INDUSTRY	Boiler	55***	8th Grade (A)	Checks certain designated equipment or installations for defects and safety factors.
	Labor Investigator	6	High School	Examination of employment records for compliance with state and federal wage and hour laws. Examination of working conditions and sanitation.
	Safety	12	High School	Checks public buildings or new construction for designated hazards. Checks equipment and installation for defects and safety factors.
	Steamfitter	None at this time.**	High School (C)	Checks certain designated equipment or installation for defects and safety factors.
	Liquor	16	High School	Enforces rules and regulations governing the sale of liquor. Checks for compliance with tax requirements.
LIVESTOCK SANITARY BOARD	Livestock Sanitation	1	High School	Checks imported cattle offered for resale for disease, at terminal points.
RAILROAD AND WAREHOUSE	Grain	44	8th Grade	Inspects grain for grade and quality, at terminal points.
	Grain Warehouse	5	High School	Examination and auditing of records and checking grain for compliance with certain laws or standards.
	Hay	1	8th Grade	Inspects hay for grade and quality, at terminal points.
	Livestock Purchasing	None at this time.**	High School	Checks records for compliance with certain laws.



<u>DEPARTMENT</u>	<u>TYPE</u>	<u>NO. OF EMPLOYEES</u>	<u>EDUCATIONAL REQUIREMENTS</u>	<u>MAIN FUNCTIONS</u>
RAILROAD AND WAREHOUSE (Cont'd.)	Meter	1	High School	Inspects and tests electric meters.
	Motor Transportation	6	High School	Checks motor equipment and use therefor, for compliance with laws and regulations pertaining to common carrier transports. Checks records for tariffs, rebates and damage claims.
	Storage Warehouse	1	High School	In charge of licensing warehouses, and complaints and investigations relative thereto.
	Track and Hopper Scales	7	High School	Checks track and hopper scales for compliance with given standards.
	Weights and Measures	16	High School	Checks mechanical equipment for compliance with given standards.
SECRETARY OF STATE	Motor Vehicle License	3	High School	Checks cars and trucks for correct licenses.
TAXATION	Oil	28	High School	Checks petroleum products for compliance with minimum standards. Sends samples to laboratory for analysis.

\* Includes seasonal employees.

\*\* None employed as of September 1, 1943.

\*\*\* Part time work on fee basis.

(A) Must be licensed as a first-class operating engineer.

(B) Must be registered as a journeyman plumber.

(C) Must be registered as a journeyman steamfitter.

Prepared by:  
HOUSE OF REPRESENTATIVES  
INTERIM COMMITTEE ON STATE ADMINISTRATION.

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BUREAU OF PUBLIC ADMINISTRATION

University of California  
Berkeley

1939 Legislative Problems, No. 12

LEGISLATIVE COUNCILS AND COMMISSIONS

Prepared

by

GRACE M. KNEEDLER  
Research Assistant

May 31, 1939

BUREAU OF PUBLIC ADMINISTRATION

University of California  
Berkeley

Samuel C. May  
Director

1939 Legislative Problems, No. 12

LEGISLATIVE COUNCILS AND COMMISSIONS

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This concise review is one of a series prepared at the request of California legislators. It is based upon extensive materials which could form the basis of a more detailed report if specifically requested. In order to maintain its value as an impartial fact-finding agency, the Bureau avoids definite recommendations on controversial subjects.

May 31, 1939



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## LEGISLATIVE COUNCILS AND COMMISSIONS

This bulletin deals with Legislative Councils. In order to avoid confusion, attention is called to the difference between the Legislative Council which is the subject of this study, and the Legislative Counsel of the State of California. The Legislative Council is a general interim committee of the Legislature, concerned with fact-finding. The Office of Legislative Counsel is an official state office to assist legislative and administrative officials in drafting and amending measures, resolutions, and constitutional amendments.

### INTRODUCTION: THE PROBLEM

If we are to preserve democracy, we must strengthen the tools of democracy. The basic tool of democracy in the United States is the representative legislature. At the same time it is the governmental implement that has changed the least in response to modern conditions. Executive leadership, administrative reorganization, and judicial reform are governmental concepts which have been translated into action by both state and federal governments. But legislative reorganization plans designed to fulfill basic needs (with a few exceptions, such as the adoption of the single-house legislature in Nebraska) have met with little success.

Much of this unwillingness to change had been due, no doubt, to the feeling that any change would be, however much it was needed, in the nature of surrender to the forces fighting to undermine our representative institutions. The legislative council plan, while remedying the major defects in legislative structure and organization, does not do so by changing existing institutions or by curtailing the powers of the legislature, but rather implements and makes workable those institutions and powers by providing a basis in fact for legislation, a legislative program, and a working relation with the chief executive of the state.

A consideration of the conditions under which the state legislatures function indicates the need for a council or similar aid. Since the fundamental structure of the legislature was established, our economic structure has changed from an individualistic agricultural to a corporate urban organization requiring regulation of a detailed, technical nature. Further, our concept of government has changed from that of regulation to service; we demand a greater amount of governmental activity in many new fields. The legislatures are virtually "staggering under the load thrust upon them." The sessions are short, there are always a number of new members inexperienced in the methods of legislation, the members lack information on the complex and multitudinous questions of politics, economics, law, business organization, and finance involved, there is no opportunity for investigation and fact-finding, and the whole process is characterized by inevitable confusion. Such a situation favors the biased, one-sided information put forth by partisans, for the average legislature has neither the time nor the facilities for securing impartial information. Printed pamphlets and reports on the experience of the 48 states are so voluminous and complex that only great libraries with special collections (such as the General Library and the Bureau of Public Administration of the University of California) can have the materials available for research by the agencies of government. Legislatures should have every facility for securing accurate information to assist them in arriving at conclusions on legislative problems. The advice of interested partisans is not adequate.<sup>1</sup>

---

1. Various devices are used in greater or less measure by all state legislatures to meet certain phases of the problem. Some of these methods are: Reliance on information furnished by administrative officials, use of private agencies such as American Legislators' Association and the Council of State Governments, university research bureaus, legislative bill-drafting agencies, legislative reference libraries, interim committees, and legislative councils. The proposals for trifurcated sessions, annual sessions, the use of the unicameral legislature, all have the same aim -- elimination of the confusion attendant on the usual session and provision for better and more considered legislation.

There is a wide interest in the solution of the problem in California; this is shown by the large number of bills dealing with legislative reorganization and procedure before the 1939 legislature. One of these, the proposal for a legislative council, has attracted widespread attention. The council is considered by many to be the most significant development in the process of law-making in recent years. This bulletin is a description of the legislative council as it has developed in other states, and a discussion of its function as an aid to legislation.

#### SUMMARY

##### What Is a Legislative Council?

The legislative council is a general interim committee of the legislature, equipped with a permanent research staff.

(1) It investigates and studies important issues of public policy and questions of state-wide importance.

(2) Upon facts discovered, it formulates in advance of the legislative session a legislative program and has bills drafted for putting that program into effect.

(3) It provides the legislature with a staff agency prepared to furnish it with the necessary technical and expert advice in a usable form.

(4) It may develop its own library facilities for this purpose or utilize existing facilities that are available.

In short, a legislative council is merely one type of agency appointed by and responsible to the legislature, to act as a staff agency for it in securing and arranging information needed in solving legislative problems.

##### How Many States Have a Council?

Seven states have established a "true" legislative council; three others have agencies which perform similar functions. It is therefore not an untried experiment.



### Is It Successful?

Where the council has been provided with the necessary powers, staff, and funds, it has improved the quality of legislation enacted, put an end to a large amount of the confusion attendant on the ordinary legislative session, and speeded up the legislative process, in some instances, by at least two years. In addition there has been a marked increase in the interest shown by the general public on issues presented by the council.

### How Much Does It Cost?

The most efficient councils have appropriations of \$25,000 a year. When considered as a cost per law enacted, this approximates sixty dollars per law. Part of this represents an investment for the future; well-considered legislation should cost less in the long run than haphazard legislation.

### What Are the Arguments in Favor of a Council?

1. There is at present in California no agency directly under control of the legislature which provides the legislature with the substantive facts regarding political, economic, and social conditions, upon a knowledge of which legislation must be based.<sup>1</sup> The legislative council, with a research staff and in cooperation with the existing agencies for research in the state, provides the legislature with a staff agency which can gather, digest, and compile such facts in a form adaptable to the needs of the legislature.

2. The problems of government created by a complex, changing society cannot be solved in three months and then forgotten for another two years. They require constant study and attention. Legislatures are intermittent temporary bodies. With the legislative council, they are able to give continuous consideration to problems.

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1. Existing agencies such as the Bureau of Public Administration which are called upon to fill this need are discussed below, p. 21-26. It will be noted that the Office of the Legislative Counsel is essentially a bill-drafting agency.

3. The preparation of a program and a plan of action in advance of the session has beneficial effects on the quality of legislation. It permits the legislature to make more effective utilization of the time. Organization can be accomplished with greater dispatch. The major issues on a given question have been determined before the legislature convenes and the possible answers to the problems presented in the form of well drawn bills. This preliminary process also permits the elimination of measures not based on knowledge of the facts. The legislature can then proceed to discuss the problems on their merits and decide which of the possible solutions conforms to the general policy favored by the legislature. Not only is there more time for deliberation, but the legislature from the very beginning will have something about which to deliberate.

4. The presentation of the program along with supporting facts helps overcome the difficulties which arise, as they often may, when a large number of the legislature are inexperienced.

5. The governor's program can be studied in advance and digested before the session by the legislative council, conserving time during the session.

6. The legislative council will tend to reduce the burden on the legislature by eliminating in the preliminary session a number of bills not based on a full knowledge of the facts. While each legislator is still free to introduce any measure which he sees fit, it is not likely that legislators will introduce measures demonstrated to be impracticable.

7. The legislative jam at the end of the session should be reduced by the more effective utilization of time. Even if it were not necessary to pass a large number of measures at the last moment, the careful preliminary consideration given to them would facilitate the task.

8. The council, if selected carefully and if truly representative of the legislature, will supply legislative leadership which is responsible to that body only.

9. The legislative council improves relations between the two houses by permitting the important problems to be worked out together. Cooperation on the council carries over into legislation.

10. The council will tend to emphasize the basis in fact for the legislation and thus minimize party differences, leading to impartial debate on the merits of issues.

11. The council will provide a link between the governor and the legislator. Meeting together and discussing common problems, each becomes more conscious of the difficulties which the other faces. This tends to break the deadlock which often arises in the relations between the governor and the legislature and tends to promote the development of a program of legislation for the state based on the needs of the case rather than political expediency.

#### What Are the Arguments Against a Council?

The arguments used against a legislative council may be grouped into: those which oppose it as a principle, using arguments which indicate potential rather than actual weaknesses in existing councils; those which approve of the council in principle but point to weaknesses in structure; and finally, those which feel that while the council may be a real aid to legislation, it does not go far enough. The arguments are:

1. The legislative council would tend to centralize legislative powers in the hands of a small group of legislators, becoming a little legislature.<sup>1</sup>

---

1. It may be pointed out that: (1) The council does not act as a steering committee but passes out of existence as soon as the legislature assembles. Its influence arises from its greater knowledge of important issues; (2) Individual legislators can recommend measures to the council for study, introduce their own bills, and, as individuals, utilize the research facilities of the council.



2. It provides a potentially dangerous instrument for interference in administrative affairs.

3. The inclusion of the executive on the legislative council would disturb the traditional separation of legislative and executive powers.

4. The average legislator wishes to form his own conclusions and resents being obliged to rubber-stamp the findings of a council.

5. The interim committee method of securing factual information upon which to base legislation has definite advantages over the legislative council in that the whole legislature advises the committees.

6. There is a structural weakness in legislative councils because of the possibility that the whole or a large part of the legislative council will be defeated at the polls. Consequently the investigations and recommendations may be sponsored by a "lame duck" council. The larger council is less susceptible to this weakness. It is further minimized by bi-partisan representation and by the fact that Senators are selected for a period longer than the life of the council. If the council refrains from making recommendations, the report is less likely to be disregarded in the event of such political overturns.

7. It is contended that the legislative council does not go far enough. It is purely a stop-gap device. What the legislature needs, it is said, is a complete overhauling in the form of unicameral legislatures elected by proportional representation. In Nebraska, the unicameral legislature has adopted a legislative council.

#### DEVELOPMENT OF THE LEGISLATIVE COUNCIL IDEA

The legislative council idea had its conception in the Model State Constitution proposed by the Committee on State Government of the National Municipal Leagues in 1921. In all, ten states have translated the program into fact, and created councils resembling that proposed by the League. This original

plan was for a council of eight members including the governor and seven others selected from the model unicameral legislature. It was assumed that the council should be a continuous body, gathering material, preparing the legislative program, and drafting measures for introduction in the legislature at the next session.

It was further assumed that the council would be furnished with a staff agency to conduct research for the council under its direction. The governor was included in order to establish a better working relation between the two branches of government and at the same time to make the executive more responsible by the opportunity for closer and more intelligent survey of its work. It was believed further that members of the council would provide the necessary legislative leadership.

The first state to put this proposal into practice was Wisconsin, which established its executive council in 1931. Kansas and Michigan adopted their councils in 1933. In the same year the Colorado legislature incorporated some of the features of the council idea in the Committee on Interim Legislative Committees. In 1936, the Virginia Advisory Legislative Council, created as an unofficial body the preceding year, was recognized by statute; New Mexico established a Committee on Interim Committees similar to Colorado's; Kentucky set up a council which was also empowered to act as a committee of interstate cooperation. 1937 saw three new councils, Nebraska, Illinois, and Connecticut; these councils reported for the first time to the 1939 legislatures.

The number continues to increase. In at least nine other states and in Hawaii it has been recommended by governors, legislators, or private agencies.<sup>1</sup>

1. California Commonwealth Club (1934); Missouri (Governor Stark, 1937 and 1939); Pennsylvania; Ohio (Cleveland Citizens League), New York (Constitutional Convention Committee, 1938); Iowa (Brookings) (1933); and Oklahoma (Brookings) (1935); Washington (Constitutional Revision Committee 1935) and Maryland (State Planning Board, Governor O'Connor, 1939); Hawaii (House Holdover Committee 1939.)

### Types of Organization

1. Committee on Interim Legislative Committees.--Colorado (1933) and New Mexico (1936) established these committees to remedy the defects in the use of interim committees as fact-finding agencies of the legislature. It has been found that interim committees lack adequate funds, they duplicate and overlap, and they are not equipped with adequate means of research.

These Committees have functioned primarily to prevent duplication of activity between and coordinate work of interim committees. They have not been provided with a research staff. While their reports constitute in a sense a legislative program, their proposals have not received more careful consideration than the reports of interim committees.<sup>1</sup>

2. Wisconsin Executive Council.--The primary function of the Wisconsin Executive Council, established in 1931 at the recommendation of Governor La Follette, is to assist the governor and not the legislature. The council is made up of three members of the upper, three of the lower house, and six heads of major departments.<sup>2</sup> Its duties are: (1) to investigate the functioning of the government in Wisconsin for the purpose of determining possible consolidations and economies; (2) to operate as an advisory economic council; and (3) to advise the governor on any matter he may refer to it. While the executive council is more closely related to the Governor's Council (Cabinet) than to a legislative council, the presence of members of the legislature on the council has meant that they are better qualified to legislate for the administrative

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1. The Colorado committee functioned only for the one legislative session.

2. The original provision was for lay members; the change was made as it was deemed more advisable to bring the heads of the major state departments into the council to replace the lay members who could be more useful as members of advisory committees attached to the various departments.



branch, and it has established a more intimate and sympathetic acquaintance between the legislature and the governor.

3. Legislative Councils.--There are seven "true" legislative councils: those of Kansas, Michigan, Virginia, Kentucky, Connecticut, Nebraska, and Illinois.<sup>1</sup> The Kansas council has functioned with the greatest success for the longest period of time, and hence has formed the pattern followed by other states that have adopted the idea. This pattern can be and is altered to fit the needs of the individual state.

In the main, these councils were designed to give the legislature a program based on the requisite information which would enable the legislature to determine policy after deliberation on the merits of the issue. The desire to remedy the lack of legislative experience also accelerated the movement. In Virginia, the experience with the advantages of research conducted by the governor's advisory legislative council with a grant from a private fund demonstrated the wisdom of research as the basis of legislation.

#### Composition of Councils

Number of Members.--As can be seen from Table 1, there is a great variation in size of the legislative councils. While it is contended that the smaller council is more desirable in that it is less expensive, is more easily convened, is less formal and is less likely to be split by differences of opinion, the weight of opinion seems to be in favor of the larger council. Kansas

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1. Kansas 1933; Corrick's General Stats. of Kansas, 1935, ch. 46, p. 301-2.  
Michigan 1933; Compiled Laws of Michigan, Supplement, 1935, Act 206, sec. 18.2-18.3.  
Virginia 1936; Acts of Virginia, 1936, ch. 170.  
Kentucky 1936; Acts of General Assembly, Extraordinary Session, Ch. XXI, Amended April 9, 1938.  
Connecticut 1937; 1937 Supplement of General Stats., ch. 1, sec. 301.  
Nebraska 1937; 1937 Cumulative Supplement to Compiled Stats. of Nebraska, ch. 50, 501-13, pp. 384-5.  
Illinois 1937; 27 Jones Illinois Stats. Annotated, secs. 126.440-126.450.

TABLE 1  
LEGISLATIVE COUNCILS: SIZE AND COMPOSITION<sup>1</sup>

Council	: Total : Membership	: Size of : Legislature	: Legis. Members		: Governor	: Others
			: Upper House	: Lower House		
Kansas	: 27	: 165	: 16 <sup>2</sup>	: 11 <sup>2</sup>	:	:
Michigan	: 9	: 132	: 4	: 5	:	:
Virginia	: 7	: 140	:	:	: 1 <sup>3</sup>	: 2
Kentucky	: 23	: 138	: 9 <sup>2</sup>	: 9 <sup>2</sup>	: 1 <sup>3</sup>	: 5
Connecticut	: 5	: 302	: 2	: 2	:	:
Nebraska	: 15	: 43	:	:	:	:
Illinois	: 22	: 204	: 11 <sup>2</sup>	: 11 <sup>2</sup>	:	:

1. Maryland State Planning Board, Legislative Councils, 1939, p. 16-23.
2. Includes Speaker of House and President of Senate as ex-officio members.
3. Non-voting membership in one case honorary, in the other ex-officio.

has found that the larger council is more representative of the diverse interests in the legislature and hence is in a better position to have weight attached to its opinions; with a larger council there is a greater chance that a larger percentage of its members will be reelected, giving the program greater weight in the legislature,<sup>1</sup> and finally, the larger council can arouse more interest throughout the state in its program. The purpose of the council is not action but deliberation, which is better accomplished by a large body.

1. The Michigan legislative council has failed of its purpose because in 1934 only three of its members were returned. The governor refused to cooperate with a "lame duck" council. None of the Connecticut council was returned to the legislature this session, and it is expected that the size of the council will be increased. Kentucky found it necessary to enlarge its council from 15 to 21 members. The Maryland State Planning Commission in its recommendation for a legislative council suggested a large council consisting of from 20 to 25 legislators.

Membership Qualifications.--In the main, legislative councils are composed exclusively of legislators. Although the model constitution recommended membership for the governor on the council, only Kentucky and Connecticut provide a membership, non-voting, for the governor. The chief executive has in recent years developed a major function, the formulation and sponsorship of a legislative program. This has been looked upon with favor by the American people and students of American political institutions. Membership of the governor on the legislative council is advocated in order to maintain this desirable relationship and prevent a situation from arising in which the legislative council would vie with the executive in drawing up a legislative program.

From the standpoint of the governor,

whether or not he is a member would not seem to be a matter of great importance, since in either event there should be no difficulty in the governor bringing to the attention of the council matters with respect to which he thinks legislative action is desirable and in appearing before the council for the purpose of advocating such action.<sup>1</sup>

In practice, it has been considered preferable not to have the governor a member of the council. It is felt that the reports of the council as a purely legislative body will be received with more confidence by the legislature and that the responsibility of the legislature for developing its own program will be increased thereby. In Kansas the governor is not a member but is allowed and encouraged to send messages to the council. It has been found that if the legislative council refrains from drawing up a definite program to be placed in opposition to the governor's program and confines itself to giving the legislature the factual basis for judging the measures, the effectiveness of both the executive as a planning agency and the legislature as a policy-determining

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1. Willoughby, W. F. Principles of Legislative Organization and Administration, p. 593.



agency is increased. The legislature is not obliged to follow blindly the leadership of the executive and, equipped with a full knowledge of the situation, should be less likely to oppose the governor on purely political grounds. If there is central clearance of fact finding within the executive branch, it would be likely to furnish a basis for cooperation between the legislative council and the executive. Provisions for joint use of the legislative council research staff have a similar effect. A great deal will depend on the previous working arrangement between the governor and the legislature and the willingness of both to cooperate in the interest of the state as a whole.

The Kentucky and Virginia statutes make provision for lay membership. It is generally believed that advantage of lay members can be obtained from their membership on advisory committees to the legislature and that lay representation on the council destroys the legislative character of the council.

It is customary for the president of the Senate and the presiding officer of the House to be either regular or ex-officio members of the council. Usually the majority and minority floor leaders are also members. The membership of the legislative council is such, then, that the necessary legislative leadership is assured. The other members of the council are chosen by the presiding officers, by the members of the legislature, or by the governor (Virginia).

In order that the legislative council be truly representative of the legislature, provision is usually made that one party cannot have more than two thirds or five eighths of the seats.<sup>1</sup> In Nebraska not more than three can be chosen from the same congressional district.

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1. Minority representation means that in the event of a political overturn the minority party's report on issues which divide on partisan lines will be the major report. This also remedies the structural weakness of a lame duck council. This assures consideration of the work of the council under all circumstances.

Research Facilities.--If the legislative council is to perform its function as a fact-gathering agency for the legislature, it must be provided with expert assistance. It has been found that the existence of a special research staff working directly under the council's instruction provides the best method whereby technical advice can be furnished to the legislature. This type of research agency does not arouse the antagonism which an outside expert is apt to engender. While it is necessary that the council be able to call on the existing research facilities such as legislative reference libraries or university libraries for materials which they have collected, the legislative council needs a research agency of its own to give a practical interpretation to the scientific research, and to act as a liaison agency between the expert and the practical politician.

Five of the legislative councils have their own research staffs, and all can call on other state research agencies to make required studies. It is a common practice to make either the revisor of statutes or a university-trained research worker the director of the research staff.

It is customary to give the council power to subpoena witnesses. In practice the council has not found it necessary to use this power, but it is generally agreed that the council should be given every possible weapon which it may need to make of itself an effective aid to the legislature.

Some councils are empowered to appoint interim committees to study specific phases of problems. Lay investigating committees have been found to be quite effective in other instances.

#### Cost

It is generally agreed that the effectiveness of the council depends on the provision of ample funds for adequate research. The appropriations for existing councils range from \$5,000 to \$25,000 a year, as can be seen in

Table 2. The trend appears to be to increase appropriations whenever possible, the general feeling being that such money is well spent in that it guards against unnecessary expense in the future to remedy the defects and fill in the gaps left by poorly drawn and hastily considered legislation.

While it is a common practice to pay legislative council members for expenses incurred, only two states give them an additional per diem for the few days they are in session.<sup>1</sup> The major expenses are incurred by the director of research, his assistants, and the clerical staff.

TABLE 2  
LEGISLATIVE COUNCILS: APPROPRIATION FOR EXPENSES<sup>1</sup>

	Appropriation for Council a Year	Additional Research Appropriation a Year	Payment of Members Per Diem	Expenses
Kansas	\$ 5,000	\$20,000	\$ 3	Yes
Michigan	5,000		No	Yes
Virginia	15,000		\$10	Yes
Kentucky	10,000	10,000	10	Yes
Connecticut	25,000		No	Yes
Nebraska	7,500		No	Yes
Illinois	5,000		No	Yes

1. Maryland State Planning Board, Legislative Councils, p. 23-26.

1. The secretary and research director of the Connecticut Legislative Council writes: "Membership on the council should be deemed an honor and considered an opportunity to render distinct public service, and members should be willing to serve without compensation, receiving only reimbursement for actual expenses." Maryland State Planning Board, Legislative Council, 1939, p. 25.



## DUTIES OF THE LEGISLATIVE COUNCIL

1. A Fact-Finding Agency for the Legislature.

The legislative council accumulates, compiles, analyzes, and furnishes such information as it may consider useful to, or as may be requested by, the general assembly or governor bearing upon any matters relating to existing or proposed legislation or issues determined by it to have an important effect on the general welfare.<sup>1</sup> Legislative commissions of inquiry either work under the council or in close cooperation therewith. In some cases the council is authorized to appoint legislative or lay commissions as they may be necessary to perform its function as a fact-finding agency. They use existing research facilities where they are adequate.

2. Preparation of Legislative Program.

The second fundamental function of the council is the preparation of a legislative program in the form of bills or otherwise to be presented at the next regular session of the legislature. The nature of that program can be gathered from a description by Dr. Guild, Director of Research for the Kansas Legislative Council, of the work of that council.<sup>2</sup>

"The program has not been a positive recommendation of specified solutions, but rather explanation of alternatives, finding as to facts; and as such it has been adapted to legislative behavior more readily than any conclusions of a few council members could have been. Except in a few instances, even the bills recommended were tentative. The council expected them to be subject to amendment and compromise, and the accompanying factual material was as

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1. In Virginia it examines only those questions which are submitted to it by the legislature or the governor.

2. Guild, F. H. The Development of the Legislative Council Idea. Annals 195:46, March 1938.

important as the bill itself. In other words, what the council usually has done has been to present a comprehensive analysis of each situation."

*Italics added.*

The legislator is given something to work with: it is no longer necessary to waste most of the session trying to discover what the problems facing the state are, what the basis in fact of these problems is, and what are the possible solutions. The major alternatives are presented to them in the council program and the greater part of the session can be spent in debating their merits.

### 3. Investigation and Study of Administration.

Usually the council is specifically empowered to investigate and study the administrative organization to discover possibilities for consolidation of departments, commissions, boards, and institutions, and elimination of unnecessary duplication in the interests of economy and efficiency. In some states this is extended to include local government reorganization.

The grant of this power is, in essence, merely providing for more effective legislation for the administrative branch. Whatever control over the administrative branch results therefrom is not directed toward acting with or controlling the executive and administrative services in the performance of their duties but is directed toward establishing executive and administrative responsibility.

### 4. Other Functions.

a. Two states utilize legislative councils as commissions on interstate cooperation.

b. In Kentucky the reports of the auditor of public accounts are received and considered by the legislative council and report to the respective houses thereon, for the purpose of perfecting the contact of the general assembly with the administration through the auditor of public accounts and in order to assure that the auditor's reports will receive the attention they merit.

## HOW THE COUNCIL WORKS

Mechanism for Action

The Kansas Council's method of operation has developed further than that of other states and will therefore be used to explain its workings.<sup>1</sup> The council meets four times a year to consider major state problems, concentrating on fundamentals rather than the detailed language. The legislative members have an opportunity to talk over all subjects at home between sessions, and there is ample time for full consideration during the two years between sessions. The research staff does the detailed work, supplements its findings where necessary, and draws up the reports for the legislature.

In determining what measures shall be a part of the legislative program, the legislators are guided by political expediency as much as conscious planning; that is, they act as legislators, not as technicians. This means that their program will fit the needs of the legislature. Proposals come from the governor, other legislators, and citizens as well as members of the council. Ordinarily they are referred to committees, standing or special, for preliminary consideration and elimination or analysis before deliberation by the council. All those of merit are referred to the research staff for preliminary analysis. Progress reports are drawn by the research staff for the next quarterly meeting, and if necessary, supplementary reports are made later. Reports are available to all legislators and interested citizens. Committees meet between council meetings or keep in touch by correspondence. When a committee decides to recommend a proposal to the council for further consideration, a bill covering the

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1. See Guild, F. H. The Development of the Legislative Council Idea, Annals 195:144-50, January 1938, and Kansas Legislative Council Research Department, Kansas' Experiment with a Legislative Council (Publication No. 42) August, 1936, 10p.



subject must also be presented; usually this occurs two meetings before the end of the interim. Two readings are necessary before final action is taken on the bill. A bill must receive a majority vote of the council before submission to the legislature. In some cases, on matters of great importance, it has been found necessary to submit the bills along with the research material without recommendation of the council.

#### Reports of Work

The final report on a problem, embodying all findings of the legislative council, is made public well in advance of the legislative session, so that there is ample time for the members of the legislature, the executive, and department heads, and the general public, to study the proposals, weigh the facts presented, and formulate a reasoned stand on major public issues. The usual period is 30 days prior to the session. "However," as the director of the Kansas Council has said, "it is not the formal report which is particularly significant, but rather the numerous reports throughout the two years of quarterly meetings. On some matters, the legislature and all the citizens of the state receive very full information more than a year in advance of the session."<sup>1</sup>

#### Public Hearings

Hearings open to the public are utilized by some councils; they not only give interested citizens an opportunity to express their views, but they are assurance against charges that the legislative council is a method for a small group to control the legislature.

#### Effects of a Legislative Council

The legislative council idea was advanced in the belief that its use would reduce the quantity and improve the quality of legislation. While it has

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1. The Kansas Legislative Council has published some 90 research reports. Additional material is available on request from their files. For a list of research reports of councils see Appendix, p. 32.

not been in existence in most states long enough to cause fundamental changes in work habits of the legislatures, the general belief is that the total number of bills introduced has not been reduced. The preliminary gathering of facts and sifting of possibilities on the major issues facing the state, however, eliminate the necessity for introducing a great many bills covering all the possible solutions. The bills are well drawn and ample time is had to consider all phases of the legislation and possible difficulties that might arise thereunder.

As a whole, bills prepared by the council have met with marked success in the legislature. For example, Kentucky's first council prepared 11 bills, all of which passed the legislature. As pointed out by Dr. Guild, director of the Kansas council, the number of bills passed is not indicative of the success of the council. "Some of the best work the council has done has been on bills which failed to pass in the first legislature to which they were submitted. They did pass in modified form in the next legislature. This is considered a gain of two full years, since major matters of this kind rarely are worked out in less than three legislative sessions."

The Maryland State Planning Commission found that only in Michigan, where the "lame duck" council existed, does the legislature look upon the council with disfavor.<sup>1</sup> In Kansas, the pioneer state, the recommendations of the council carry weight with both parties. The council helps to maintain a continuous interest in legislation, aids in securing a better informed legislature and electorate, and helps to crystallize opinion on important problems, although this opinion may not coincide with that of the council.

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1. Maryland State Planning Commission. Legislative Councils Baltimore, 1939, p. 53.

Implicit in all the discussion is the willingness of the legislative council to consider itself the servant, not the master, of the legislature, guided by its needs, and the existence of a spirit of cooperation between the legislature, the council, and the executive.

#### THE LEGISLATIVE COUNCIL IN CALIFORNIA

The California legislature has had an outstanding record in legislative organization. It has shown itself ready to experiment with new and improved methods of conducting the legislative business. A consideration of the existing aids, however, shows that there is a vital need for substantive facts, a need for a legislative program based on these facts, and machinery for legislative executive cooperation. Therefore, a legislative council would be designed to meet these needs and characteristics of California government.

#### Existing Aids to the Legislature

##### Legislative Agencies

1. Standing Committees.--The standing committees of the Senate and the Assembly devote their time to pending legislation. They obtain only such information as is voluntarily given, and as final committee records are not kept and published, the information collected is only available to the other members through newspapers and speeches on the floor.

2. Special Committees and Commissions.--Special committees of the Senate and the Assembly are used frequently to study legislative organization and legislation, to investigate governmental agencies and general research.<sup>1</sup> These committees have contributed a great deal to the conduct of the legislative

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1. See Larsen, C. L. The use of special committees and commissions by the California legislature. 216 numb. 1. Ph.D. thesis. University of California, Berkeley, 1937. Summarized in University of California Bureau of Public Administration 1937 Legislative Problems No. 7, 15p



business in the supplying of needed information. They have been excellent for purposes of determining public opinion on questions. The use of such committees has not tended to develop a legislative program, so that a great amount of time is lost in organization of the committee. They have experienced difficulty in securing the services of technicians and experts on short notice and for the short period in which they will be used by the commission; and the work suffers from the lack of continuity of equipment, records, techniques, contacts. The committees further suffer from insufficient funds.<sup>1</sup>

The legislative council would remedy the defects of the interim committee and at the same time provision could be made for the retention of the advantages which such committees offer. The council would correlate the work of the committees, supplying the necessary continuity and technical assistance. The committee is a means, on the other hand, whereby the council can determine public opinion on questions of public importance.

3. Legislative Reference Bureau.--Since 1904 the California state library has maintained a reference service for the legislators. It collects available information, chiefly on legal phases of legislation, on topics which are to be considered by the legislature. Since it has moved from the Capitol it has lost many of its direct contacts with the legislature. Its most valuable service is legal research for the members of the Office of the Legislative Counsel, who transmit it to the legislators in the form of bills or opinions or proposed bills. It is not equipped to digest the facts gathered on specific issues and present them in a condensed, summary form on which action could be

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1. A recent court decision ruled that the appropriations for interim commissions established by resolution would cease on the day the legislature adjourned. This means, unless the court decision is reversed, that interim committees must be established by law.

based. The legislative council would not be duplicating the service of the legislative reference service, but would rather be making that service of greater value to the legislators.

4. Office of the Legislative Counsel (not Council) was established in 1913 to give technical assistance to the legislators in bill drafting. Under the guidance of men who realized the potentialities of such an agency the counsel has developed into an invaluable aid to the legislature. They not only put bills into the necessary legal form but they give advice on the legality of certain measures, and in cooperation with the legislative reference bureau furnish factual information of a legal nature. Further, they advise the legislature from time to time as to needed revision of laws, and present to each session of the legislature a statement calling attention to the laws repealed by implication, or which have been declared unconstitutional by the courts but not expressly repealed.<sup>1</sup> Not only would the office of the legislative counsel relieve a legislative council of the necessity of bill drafting, but inasmuch as the law in the situation depends on the facts and the working program depends on the legality of the measure proposed the legislative counsel and the research staff of the legislative council should by working together in close cooperation make the legislative product a well rounded whole.

5. California Code Commission.--No new legislation can be satisfactory that does not take into account existing law. For this reason statutory revision is made a function of the research staff of legislative councils. In California, the Code Commission, a non-salaried group of nine experts in the field of law, is charged with making a complete revision and codification of all the statutory law of the state. As a matter of policy it makes no substantive change in the law, although its work facilitates the making of such changes as are shown to be necessary. Working with the council should prove to be

1. This law revision work is done by the counsel as staff agency for the Code Commission.

mutually advantageous. In answering council requests for advice on proposed legislation, the Commission could make recommendations for substantive changes without fear of losing its non-partisan status.

#### Executive Agencies--Used as Legislative Aids

In order that the legislative council may function so as to give the maximum returns to the legislature, it should be able to utilize the facilities for research which exist within the administrative branch, and in this way have the advantage of the facts already gathered by the administration. At present the legislature obtains this information piecemeal, through utilization of administrative officials on special committees or from administrative reports to committee hearings. For example, the legislature calls on the Department of Finance for information on the budget, and the director of relief for information on methods of meeting relief problems. When legislative councils are established, they are commonly given the power to call upon administrative agencies for all necessary information. They are also, as indicated above, entrusted with the duty of studying the administrative branch in order to discover methods of improving administration and effecting economies.<sup>1</sup>

An executive agency which often is confused with the legislative council but has different functions is the state planning board. The functions

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1. Administrative reorganization would not only make the administrative branch more efficient and amenable to control, but would make it easier for the legislature to obtain required information. For example, if the research council within the administrative branch were coordinated in one staff agency, the legislature would be able to go to that agency and that agency alone to secure the facts which they would otherwise have to collect from many different agencies. Other changes in administrative organization which would be of assistance to the legislature are: (1) more complete integration of departments along functional lines with the lines of responsibility definitely established; (2) establishment of post audit by the legislative branch; (3) establishment of administrative clearance of legislation by the departments.



of a planning board are well stated in the following definition of state planning:<sup>1</sup>

State planning has come to mean the laying out of interrelated long-range programs for the utilization and development of the resources of the State. In practice emphasis has been on the development of long-period programs for land use, for water use, for highways, for public works, and for other types of governmental activity involving capital outlays. The objectives of planning are to prevent the waste of and assure the most beneficial use of the resources of the State.

In drawing up a legislative program, the legislative council could utilize the facilities of the planning board for information as to the basic resources of the state. As the representative political body the legislative council gives careful consideration to the details of plans drawn up, determines what plans are feasible to adopt from the point of view of the political and financial condition of the state, draws up necessary bills, and submits them to the legislature, not as a theoretical plan for the future but as a plan of action for the present.

#### University Agencies

The highly trained experts in various departments of the universities, both state and private, render assistance on legislative problems. The staff of the Bureau of Public Administration of the University of California offers a special service, with the cooperation of other faculty members in particular fields. For each session of the legislature it prepares a series of bulletins,<sup>2</sup> short summaries of the information available on problems shown by legislative interest to be of great importance. In addition, it answers requests from individual legislators and administrators for information on problems of less

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1. U. S. National Resources Committee, The Future of State Planning, 1938, p. 11.

2. A list of the 1939 Legislative Problems series will be found in the Appendix, p. 34.

general interest. Its library and other facilities could be utilized by the research staff of a legislative council with great benefit to the state..

Proposals For a Legislative Council or Similar Bodies in California

Permanent Agencies:

1. Legislative Executive Advisory Committee (Commonwealth Club Proposal)

This proposal is in essence the same as the Wisconsin Executive Council discussed above (p. 9 ). It was first advanced by the Commonwealth Club of California in 1934. The advisory committee is to be composed of three Senators, three Assemblymen, and three members of the Governor's Council. The work of the committee would be that of the formulation of a legislative program in advance of the legislative session, reviewing of proposed legislation, studying economic and social conditions in the state, and the causing of legislation to be drafted. The committee would have authority to visit state agencies, inspect books, demand reports, issue subpoenas, and to administer oaths. A secretariat would be established under the direction of a secretary appointed by the committee in order to carry on research. The secretary must be a trained economist or researcher, and he would be empowered to employ such assistants as might be needed. The proposal was introduced in the 1935 and 1937 legislatures by Mr. Patterson, and has again been introduced in the 1939 session by Mr. Rosenthal.<sup>1</sup>

2. Joint Interim Legislative Committee

The proposal for a joint interim legislative committee follows closely the pattern for the Kansas Legislative Council. The committee is to collect information concerning the government and general welfare of the state, deal with important issues of public policy and questions of state-wide interest and, in advance of the legislative session, prepare and submit its report embodying

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1. A. B. 682, 1935; A.B. 981, 1937; A.B. 695, 1939.

its findings and containing such recommendations for changes in the law which in its opinion the welfare of the state may demand. It is specifically directed to investigate and study the possibilities for consolidations in the government, coordination of departmental activities, avoidance of duplication in personnel and equipment, elimination of unnecessary activities; and all feasible methods of increasing efficiency and effecting economies, and to investigate and study the possibilities of improving the form of local government with a view of simplifying the organization and functioning of government. No provision is made for membership by the executive but the committee is directed to advise the governor upon his request.<sup>1</sup>

### 3. Pre-Session Conferences on Government

In order that legislators might have some knowledge of the issues before them in advance of the session and in order that inexperienced legislators might become acquainted with the legislative process, it is proposed that conferences in government may be held at Sacramento, Los Angeles, and San Francisco before December 31 of the even-numbered years. The Office of Legislative Counsel is to be directed to give necessary advice and assistance.<sup>2</sup>

### 4. Interim Legislative Committee on Governmental Efficiency

Prompted by the desire to effectuate economies in government, this plan suggests the adoption of a part of the legislative council idea. The committee, with the assistance of a staff and if necessary private research agencies, is to survey the state departments and agencies and formulate plans for the rendition of equal or better service with reduced personnel. The committee is to

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1. S.B. 1137, Phillips, Quinn, Rose, Gordon, Jespersen, Biggar, and Breed, January 25, 1939.

2. A.B. 2673, Daley, 1939.



be composed of one Assemblyman appointed by the Speaker, one Senator appointed by the Senate Committee on Committees, and the Legislative Counsel, the State Controller, and the State Director of Finance.<sup>1</sup>

#### 5. Legislative Budget Bureau

This Bureau is designed to provide the legislatures with a basis on which to judge the budget and with an agency to render a post audit. The Bureau is to be composed of the Rules Committee of the Senate and the Assembly acting jointly; it is empowered to appoint a legislative state auditor and assistants at least three months in advance of the session. In addition to auditing the expenditures and revenue of state offices, the auditor is to attend budget hearings and report to the legislature on the propriety and necessity of budget requests.<sup>2</sup>

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It is evident, then, to California legislators that something must be done to improve legislative organization. Whether or not a legislative council is established, some provision must be made for those functions which the legislative council has exercised so well in other states. In particular, this means that the legislature should be provided with:

1. its own staff agency equipped to furnish it with necessary substantive facts;
2. an agency to draw up a legislative program in advance of the session.

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1. A.B. 2801, Robertson, 1939.

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## APPENDIX

### A. TYPICAL RESEARCH STUDIES MADE BY LEGISLATIVE COUNCILS

#### KANSAS (1934-1938)

Concentration of State Tax Administration

Cost of Government in Kansas

Expediting Legislative Procedure: Analysis of Kansas Legislative Rules and Procedures with a View to Expediting Legislative Procedure

Field Bindweed in Kansas

Gas Tax Exemptions in Kansas

Industries at the Kansas State Penitentiaries

The Loan Shark Problem in Kansas

A Possible Department of Business Regulation for Kansas

The Sales Tax: Exemption of Food and Collection from the Consumer

Social Welfare Costs in 1938

State Administrative Reorganization

Water Resources of Kansas

The Kansas Legislative Council has submitted research studies covering some ninety subjects, including those listed above.

#### VIRGINIA (1934-1938)

Alcoholic Beverage Control

Automobile Accidents in Virginia

Banks and Banking in Virginia

Compensation and Retirement of Judges

Compulsory Motor Vehicle Liability Insurance

Criminal Procedure in Virginia

Expedition of Work of Supreme Court of Appeals

Motor Vehicle Registration and License Fees

VIRGINIA, continued

Old Age Assistance to State Employees  
Probation and Parole  
Social Security Program for Virginia  
Soil Erosion and Conservation of Soil Resources  
Tax on Motor Vehicle Fuels  
Unemployment Compensation

CONNECTICUT (1938)

Reclassification of Classified Employees  
Resources and Trends (Includes an inventory of the physical and economic resources of the state and a study of economic conditions in eastern Connecticut.)  
Study of Public and Private Recreational Facilities of the State  
Study of the Office of Commissioner of Welfare and the Public Welfare Council

NEBRASKA (1938)

Homestead Tax Exemption  
Local Government Reorganization  
A Merit System for the State Civil Service  
Obsolete and Conflicting Statutes  
Old Age Assistance and Relief

ILLINOIS (1938)

Circuit Court Redistricting  
Fish and Game Legislation  
General Property Tax Study  
Reapportionment in Illinois  
State Labor Preference Law for Public Works



B. 1939 LEGISLATIVE PROBLEMS SERIES, BUREAU OF PUBLIC ADMINISTRATION,  
UNIVERSITY OF CALIFORNIA

1. Small Loan Legislation.
2. State Labor Relations Act.
3. Health Insurance and Medical Care.
4. Transients and Migrants.
5. Relief and Welfare Organization in California.
6. State Fiscal Organization.
7. Administrative Reorganization of State Government.
8. State Tax Administration.
9. Self-Help Cooperatives.
10. Governmental Mediation and Arbitration in Industrial Disputes.
11. Severance Taxation.
12. Legislative Councils and Commissions.
13. Public Health Organization.
14. Tax Delinquency in California.

The Bureau of Public Administration prepared and distributed 18 studies in its 1934 Legislative Problems series and 11 studies in the 1937 series. In addition to the mimeographed bulletins, it has made a large number of unpublished reports, at the request of State officials, legislative committees, and individual legislators.

## THE LEGISLATIVE COUNCIL AND OTHER TECHNICAL AIDS TO LEGISLATORS

When a state legislature convenes, the character of the major problems which it is called upon to solve is of far-reaching consequence to the social welfare and business life of the people of the state. Due to the expansion of government activities which has taken place during recent years, the legislator of today is confronted with problems of a technical nature undreamed of in the past. In order to solve them adequately, he must have the best possible technical assistance.

Every major problem brings up three questions: what are the facts pertinent in the situation requiring legislative action; what are the best practices used elsewhere to meet similar problems; how much will it cost and how can it be financed? After these questions are answered, if a new law on the subject is essential, a bill must be drawn embodying the solutions which have been decided upon. It must be clearly worded, to avoid the necessity of interpretation by the Attorney General and the courts. These tasks - gathering of facts and drafting of bills - are technical and demand more specialized training and opportunity for research than most legislators possess. When this preliminary work is done, a bill is subjected to long and complicated legislative procedure.

No matter what devices are adopted for speeding up and simplifying legislative procedure, factual research has been recognized as essential to wise law-making. Even Nebraska, which has the only unicameral legislature in the country, and which already had a bill drafting bureau and a permanent revisor of statutes, recognized this lack. At the close of its first unicameral session, a legislative council was established. Nebraska realized that the most stream-lined legislative engine cannot operate successfully without the high test fuel of dependable information.

Not until 1910 were any steps taken toward meeting these needs, and no tremendous advance has been made to date.

### What are the major technical services commonly used?

1. Statutory revision - to keep codifications of state laws current, to do away with duplications and to suggest re-wording. Although advocated first, this service has been the last to make any headway. About 15 states have a revisor of statutes. Minnesota created this office at the 1939 legislative session.
- ② Bill drafting Bill-drafting bureau are run either in conjunction with a legislative reference bureau or independently. They usually have several expert draftsmen who draft, at request, the proposals of the reference bureau, of the chief executive, of legislative committees, or those of individual legislators. A person availing himself of this service often knows only vaguely an objective he would like to achieve. The bill drafter, by drawing him out on details, clarifies the idea for him, then puts it into the proper form for a bill. He can usually advise as to whether the proposal is constitutional.

The criticism of bill drafting agencies has been that they too often limit their help to purely technical details - wording, phraseology. Edwin Witte (Annals, Jan. 1938) says that legislators themselves must decide the policy contained in bills, but the bill drafter should be more than a legal draftsman. He should be an expert in the structure and operation of government, able to ex-

plain to the legislator the relationship of his proposed bill to existing law, and the effect it would have on the operation of state government. Legislators have been saved much embarrassment by such thoughtful analyses.

If a permanent bill drafting bureau exists, its staff usually devotes the time between legislative sessions to making codifications of state laws, and to re-drafting existing laws, in order to make them clearer, and do away with duplications. Its personnel is also available for drafting bills before the session opens, which facilitates prompt consideration. In most states, bill drafting is a temporary state service which goes on during the legislative session only, its personnel appointed for the duration of the session. Where no special personnel is appointed for this work, the assistants to the Attorney General are usually available.

3. Legislative Reference Work This has various titles, such as legislative reference library and legislative reference bureau. The newer phase of legislative councils with expert research staff is an outgrowth. They are all actuated by the general purpose of aiding the legislator in the task of law-making.

Legislative reference work got its start as an adjunct to state libraries. The early success of the Wisconsin State Reference Library (which did not function as a library at all but as an expert research bureau) caused other states in establishing research work to name them "libraries". Accordingly they took on the characteristics of libraries.

Material these "libraries" collect is not that ordinarily found in libraries: newspaper clippings, magazine articles, speeches, papers read before economic, political or scientific organizations, university seminar material, theses, etc. Files are continually being added to, and material can usually be assembled at a moment's notice. But too often the service ends here. No digests of the subjects are prepared for use of legislators. They need ~~concise~~ readable reports of unquestioned accuracy, and this the purely library type of service has failed to give them.

Minnesota has a library at the State Capitol, whose librarians are helpful in finding material for legislators who ask for it. No research person is employed and no legislative reference bureau exists which prepares summaries for the use of legislators. When legislative committees consider proposals of a highly technical and controversial nature, there arises a volume of conflicting opinions voiced by their constituents or advanced by pressure groups lobbying for and against each measure. There is not always readily available and authoritative information.

Reference bureaus which function as research agencies can and do prepare such information. The legislature and the governor may propose to the bureau subjects which may need legislative action. Universities work in close cooperation with these bureaus. In Wisconsin, Nebraska and Rhode Island, graduate students are assigned to do research. However, these bureaus usually make only such studies as they are specifically charged with, and if in the interim between legislative sessions, grave new problems arise, the legislature has no way of giving the bureau instructions to make additional studies.

The value of the work the bureau does is directly commensurate with the ability and training of its director and staff. They should be persons of well-grounded knowledge in the structure and functioning of government, they should conscientiously and diligently seek out all possible information and condense it into simple usable form. On the legislature falls the responsibility of deciding how the problem shall be solved. Policy-making is distinctly a function of the legislature and has no place in reference work. Two of the most successful



bureaus in the country, Wisconsin and Indiana, became overzealous in advocating particular methods of solving problems, and in one case aroused such antagonism that the legislature attempted to abolish the bureau. Political differences may also arise, depending on how the bureau is controlled - by the governor or by the legislature. If they are at odds, the work of the bureau may be ignored by the branch of government not controlling it.

Conclusions on reference work would indicate that reference bureaus have done too little rather than too much. However, the instance is rare when the bureau is so dynamic that it tries to influence legislators. Its services in too many states have been largely "library" and not enough "research." When the bureau's work is well done, legislators and governors alike have made use of it. There is unanimity of opinion by all authorities on the subject that technical services of bill drafting and research are necessary and valuable to all states.

In addition to legislative reference and bill-drafting, various techniques have been developed to secure expert data. State planning boards have been appointed whose principal duty is to investigate the development and use of the state's natural resources. Minnesota has such a board, now known as the State Resources Commission, which submits reports from time to time, for example its report on land use.

Lay commissions of inquiry have had some success, particularly in the eastern states. They seek their own experts, although funds are sometimes limited. They are appointed by the governor and submit their findings to him. Minnesota has not experimented much with this type of investigation.

Direct participation by legislators themselves in investigations takes place through legislative interim committees and commissions, outgrowths of which have been the establishment of the Committee on Interim Committees, and the Legislative Council.

4. Interim Committees and Commissions To gain knowledge of a subject too contro-  
versial and complicated for immediate consideration, the legislature assigns  
this task to a committee of legislators to investigate and report to the next  
regular session. This has been the customary practice in Minnesota and in about  
three fourths of the states. Frequently several such interim committees and  
commissions are appointed, each assigned to a different subject. Committees  
are usually of one house.

Unless the state has a legislative reference bureau, the interim committee has to seek its own research experts. It is often hampered by lack of adequate funds, and sometimes its work partially duplicates that of another interim committee making investigations. University faculties, state planning boards, other existing state agencies, private research bureaus, such as Brookings Institution and governmental research agencies, have all been used extensively. Privately financed agencies, no matter how well they serve, are likely to be considered biased by some members of the legislature.

Such interim committees investigate only one subject. Their findings, although usually printed, are not easily available to the public, and sometimes are not given to legislators before the opening of the session. This is too late for either the legislators or the voters to make a considered study of the report and to voice their opinions. Interim committees sometimes fail to report, and often not a great deal of attention is paid to their findings. If a different political party gets control of the legislature and a number of the interim committee members are defeated at the general election, their report is apt to be ignored entirely.

The 1939 Minnesota Legislature established a Legislative Emergency Committee to direct expenditures for public relief in the legislative interim. This is an administrative rather than a research committee.

5. Committee on Interim Committees To avoid duplication of effort and to coordinate the work of interim committees, Colorado and New Mexico have adopted the device of appointing a "parent" committee which in turn appoints all interim committees. In Colorado the legislative reference bureau staff works for all the interim committees. When their reports are finished, they submit them to the "parent" committee (the Committee on Interim Committees) which in turn makes these reports available to the legislature. The drawbacks are that even such reports do not command immediate consideration by the legislature, and, sometimes there is no provision for the preparation of a comprehensive legislative program.

The most successful efforts in securing authoritative information and applying it to the legislative process has been obtained through the Legislative Council.

What is a Legislative Council?

Bryant Putney in his "Legislative Councils" describes it as follows: "Usually composed of a small number of experienced legislators, and aided by expert advisers, these councils meet between sessions to prepare comprehensive legislative programs for submission to the legislatures. The councils are designed primarily to provide responsible and informed legislative leadership, to promote continuity in the legislative process, and to afford greater opportunity for the expert drafting of legislation."

The idea was first proposed by the National Municipal League in 1921 in its Model State Constitution. At the present time, councils exist in the following states: Wisconsin, Kansas, Michigan, Virginia, Kentucky, Connecticut, Nebraska and Illinois. They vary in size, make-up of membership, and in the powers they exercise, but, with one exception, they exist primarily to serve the legislature as its own creature. In Wisconsin, the exception, the council exists as a committee to advise the governor, and has no authority to submit a program to the legislature. The Wisconsin council has become increasingly less active and less influential.

An exhaustive comparison of the other seven councils is contained in a pamphlet, "Legislative Councils", prepared for and published by the Maryland State Planning Commission. From this analysis it is possible to draw a few conclusions. And because the Kansas legislative council is an outstanding success and serves as a model for others, it will be described in considerable detail.

What are the reasons for establishing such Councils?

Short legislative sessions and consequent inadequate consideration of measures introduced; need of basic authoritative information; need of a legislative program which has had advance planning; desire to dispense with so many investigating commissions.

What are the duties of such a Council?

To collect useful information regarding the government and general welfare of the state; to examine broad issues of public policy and questions of state-wide interest; to examine the effects of laws already enacted and recommend amendments; to study consolidations in state government for purposes of efficiency and economy; to prepare and submit to the legislature a legislative program, either as bills or as comprehensive reports, not always with recommendation for specific action.

In all cases, both the legislature and the governor may instruct the council to make specific studies. In some councils the subjects that may be investigated are restricted to these; in others, Kansas for example, proposals for investiga-



tion may also be made by any individual legislator whether or not he is a member of the council, or by any citizen. In subject matter investigated, the scope they cover varies, most of them having a wide range, some even being authorized to go into the field of consolidations of local government.

Who are the members and how is continuity achieved?

1) Appointment of members This is usually done by the presiding officers of the respective houses of the legislature) subject to existing rules regarding the appointment of standing committees - in only one case does the governor appoint members. Bi-partisan representation is almost universally provided for in proportion to party strength as it exists in each house, but in every case there is provision that the minority group shall have at least a third of the council seats.

In Kansas the new council is appointed at the close of the legislative session. The President of the Senate appoints ten senators; the Speaker of the House fifteen representatives, and these must be approved by a majority vote of their respective houses. In making their selections, the presiding officers must see that each congressional district and each important committee of the legislature is represented, and that party representation is proportional. In no event shall the majority party have more than two thirds of the members of either house group. The President of the Senate and the Speaker of the House are ex-officio members and serve respectively as chairman and vice-chairman.

In most councils, the members of the Council are all members of the legislature. In Virginia two lay members may be appointed, and in Kentucky five administrative officials also serve. Governors are not ordinarily members - in only two instances do they serve, one in ex-officio, the other in honorary capacity.

2) Size of Council Membership varies from five in Connecticut to 25 (27 counting ex-officio members) in Kansas. Illinois and Nebraska, states geographically near Kansas, have copied her in providing for a large council. Virginia's small council seems to have worked satisfactorily. Michigan's has not, although other factors than size are also involved. In Michigan only three out of nine council members survived the last general state election, and in Connecticut none.

Although it is contended that large councils are unwieldy, (for two reasons the larger council seems to be advantageous:

- a) A larger group, representing all areas of the state, can more widely spread the information gained through periodic meetings of the council, sound out public opinion and arouse public interest.) Consequently, when the work of the council is completed, more members know how their constituents want these problems solved, (and a wider public has an idea of the problems that the next legislature will face.)
- b) An appreciable number will be more likely to be re-elected and will provide informed leadership at the next session when these major problems are under discussion.

What is the research staff?

All councils, except Virginia and Michigan, have their own research staffs, and every council may require studies and cooperation of state officials, departments, boards and commissions. Virginia is not without special research facilities, for it is authorized to secure such when needed. Michigan, the only council considered a failure, has no such authority.



The Kansas research staff is headed by Professor Frederic H. Guild, on leave from the political science department of Kansas University. He believes that "because the program is primarily factual, it is imperative that the legislators have an impartial staff under their own control, upon which they can rely. It took Kansas fourteen months to realize it needed its own staff and several months more to establish confidence in it." There is excellent teamwork between Council and research staff and a spirit of mutual liking and respect prevails. Most observers attribute much of the success of the Kansas Legislative Council to its wise choice of a research director.

The entire staff in Kansas, in addition to the director, consists of a chief assistant (also a teacher of political science and research director of the Kansas State Chamber of Commerce), three other research assistants, stenographers, calculating machine operators, accountants, clerks - a total of less than twelve except at peak loads. Qualified personnel is essential for the success of any research staff.

How does a legislative council function?

The members of a legislative council convene several times during the usual two-year interim between sessions, ordinarily quarterly and probably seven or eight times, altogether. Their first meeting is held shortly after the legislature adjourns.

In Kansas the members gather around a table in the Senate Chamber - conference fashion. Legislative formality, though originally employed, has been discarded. Fifteen members constitute a quorum, a majority of whom have the power to act.

The items for study and research come about as the natural result of the preceding session. The unsolved problems of that session are fresh in the minds of the members, and they are "particularly fitted to gauge the needs of the next session", according to Mr. Guild (Annals, Jan. 1938). Topics for study are suggested by members themselves; by the Governor who sends a message to the opening of each new council, explaining the policy of the administration and recommending particular studies to their attention; by legislators who are not members of the council; or by any citizen who wishes to appear before the council to introduce and discuss a proposal; through letters and petitions requesting particular studies.

A proposal may first receive brief consideration by the entire council, although it is more often referred directly to a special sub-committee. Thirteen special committees have been created for consideration of subjects. The creation of sub-committees is also the usual procedure in councils in other states - sometimes legislators not members of the council are asked to serve on them, sometimes even lay persons. When an entirely new proposal is brought in, a new committee may be created to handle it, providing it will not fit into the scope of any existing committee. The special sub-committee may report that the subject is not worth following up, or that the idea has merit, whereupon it passes the idea over to the research staff, with instructions to gather and analyze the facts. At the quarterly meetings, the council weeds out impractical proposals, after which the research staff experts go to work on a list of promising subjects.

The staff now proceeds to cull all experience that might apply to the problem. They comb reports and printed material; they may correspond with experts or call them in for information; then they "boil down" their findings into preliminary reports for easy reading. Thus expert testimony is filtered through to the council.

When the next meeting is held, approximately three months later, the research staff reports on its findings to date, and may be instructed to undertake other new investigations if requests are made for such. Council members have had three months' discussion at home with their constituents. Discussion is concentrated

on the fundamentals of major state problems instead of detailed language of bills; there is no need for immediate decision, and rush and pressure are absent. There will be two years in which to formulate conclusions.

(As soon as possible, the research staff prints its preliminary findings on all subjects under investigation and mails them to every state legislator (not only council members), to every elected state officials, libraries, and more recently to over one thousand citizens who have asked for them. As more information is obtained, it is included in another "progress" report. Several such are issued in the two year interim. Thus legislators, elected officials and the public keep in touch with information as it is assembled. This is quite in contrast to the method of ordinary interim committees.

Kansas considers these "progress" reports far more important than the final summary published before the opening of the next session, and so successful has this practice been that several other councils are also doing it. By making information immediately available, with no working in secret, several desirable objectives are achieved: all legislators can discuss these proposals with their constituents and gauge popular sentiment; legislators not on the council are more apt to be sympathetic; newspapers use the information for editorials; citizens throughout the state acquire knowledge of impending bills; public opinion is developed and has time to express itself; the governor is made aware of what subjects the legislators consider of paramount importance. The governor keeps in touch with the council through messages, conferences with committee chairmen or individual members, and through the research staff which works on his program.

(Bills are never formulated until the last two meetings of the council. Earlier meetings are devoted to subject matter rather than phraseology - the purpose to be accomplished rather than the wording of a bill in order to accomplish it. Special committees may have been designated to work closely with the research staff and to submit bills to the council. Members may go to the staff several times for conferences, but most of the work is done by correspondence. Occasionally special committee meetings are held, but usually only during the days the council is in session. When it is decided to present bills to the legislature and the provisions have been agreed upon, the technical work of drafting the measures is performed by the bill-drafting division. These are presented, discussed and modified during the last two meetings of the council.

In all legislative councils final summaries are prepared and made public, commonly thirty days prior to the opening of the next session. The usual practice is to send them to every member-elect of the legislature, every elected state official, and to the state libraries.

How is the legislative program presented to the legislature? This may be done in two ways: bills and factual reports. In Kansas the council can, by a two thirds vote, "recommend" a bill to the legislature; by a majority vote it submits a bill to the legislature without recommendation. The latter method is becoming more and more the customary procedure.

On many important subjects investigated, the council may submit no bill, but simply authorize a complete report, leaving it to the appropriate legislative committees to make their decisions from the factual material supplied them. This has been the trend of late. In effect, the council simply says to the legislature: "Here are the facts about questions almost sure to be considered. You may now act as seems wise."

These factual reports offer several alternative courses of action from which both legislators and the governor may make their choices. Perhaps this is the most



important reason for the success of the Kansas council - that it offers more than one way to do a thing, and does not attempt to dictate which way shall be chosen.

How much does a legislative council cost to operate?

Appropriations vary. For the Council itself, \$5,000 to \$10,000 annually seems adequate to cover expenses. Members of four of the existing councils are only reimbursed for expenses on the theory that membership is a privilege and an opportunity to render state service. Ten dollars per actual day of council meetings and expenses is the highest fee paid.

For the research staff, about \$20,000 annually is considered adequate. The Spellman Fund financed Kansas' research staff for three years, giving it \$15,000 each of the first two years and increasing it to \$20,000 the third year. The state itself now supports the staff and appropriates \$20,000. Kentucky spends \$22,000 annually on research, of which the legislature appropriates \$10,000 and the Spellman Fund contributes \$12,000. Connecticut spends \$50,000 for the biennium and since its five council members are only reimbursed for expenses, one might conclude that at least \$20,000 annually went for research. Illinois will probably need that much before she is through, and Nebraska's appropriation of \$15,000 for the biennium is considered inadequate and to have limited greatly the field of research.

What difficulties arise and how can they be met?

Probably the chief difficulty is that of giving continuity to the council, which may be broken by political turnover and whose findings might not be given consideration by a new legislature. A larger council assures that a larger number of the members will be returned.

Any feeling of being "left out" on the part of legislators not members of the council has been minimized in Kansas by prompt publicity on all council proceedings.

Councils should not conflict with other state agencies making investigations and it is practically unanimous opinion that they do not. All councils are able to call on existing state agencies to make studies where they are particularly fitted to do so. In Kansas, there is no attempt to duplicate the work of existing agencies. The council merely makes certain that their reports are made available to legislators, and sometimes raises certain questions or points to be considered.

Several political science writers have raised the question of what would happen if the council were controlled by the party opposed to the governor - what would happen if the council's legislative program interfered with or ran counter to the governor's. Opinion is divided as to whether the council interferes with the governor, but the newer councils lack experience on which to base a conclusion. Kansas, the most successful, has apparently not encountered that difficulty. Professor Guild says that probably no council could last if its program were to oppose the governor's, but that because the Kansas council is content to supply facts and offer alternative courses of action without attempting to influence decisions, it does not, and has had no reason to, incur the governor's opposition. When an unexpected political turnover occurred in 1936, the council nevertheless had "anticipated most of the major items on the new governor's program."

What effect has the work of councils had on subsequent session?

In general:  
1) Fewer major bills are introduced, and apparently the quality of this legislation has improved. 2) The total number of bills introduced has not been reduced - unimportant and local bills continue to clutter the calendar. 3) A high percentage of Council bills are passed.



In Kansas, the above is true. Also -

- 1) Legislative committees could go to work within 24 hours because the complete reports covered 42 outstanding subjects on which all fact-finding had been done. Members had received these at home and there was no need for long hearings.
- 2) Debate in committee and on the floor was kept to facts based on information of the research reports. Incorrect statements were challenged not only by council members but by other legislators who had familiarized themselves with the reports. Legislators who were unprepared on the facts were reluctant to debate.
- 3) Members of the council acted as individuals, not as a "steering committee", to clarify issues and keep discussions on a correct factual basis both in committee and on the floor. Two years of thought and discussion of these subjects in council meetings had bred genuine interest in the problems.
- 4) Lobbyists were at a disadvantage as facts on both sides of questions were known. This may be the most important effect of the whole scheme.

What is the consensus on  
legislative councils?

The opinions of legislators, public and press seem to follow a normal course. Where it is new, no one seems to know much about it, and such opinion as does exist is not opposed - merely indifferent. Where it started with too high hopes that it would be a cure-all, as in Michigan, and failed to fulfill them, disappointment and disfavor followed. In Kansas where legislators and press were originally opposed, it has had a steady growth in usefulness and has earned approbation by both political parties, by the press and the public. Its trustworthy high grade research continues to grow in prestige

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STATE OF KANSAS



THE LEGISLATIVE COUNCIL

LIEUT. GOV. C. E. FRIEND, CHAIRMAN  
SPEAKER OF THE HOUSE, E. A. BRILES, VICE CHAIRMAN  
REVISOR OF STATUTES, FRANKLIN CORRICK, SECRETARY  
TOPEKA

October 3, 1940

Miss Ruby E. Britts, Chairman  
Department of Government  
Minnesota League of Women Voters  
914 Marquette Avenue  
Minneapolis, Minnesota

Dear Miss Britts:

In connection with the bill for a legislative council which you sent me for comment, I do have a few brief comments.

In general, the bill would work very satisfactorily just as it stands. We feel here that the precise language has been of very little real significance in connection with the work of the Kansas council. As long as the council is given a general function, such as that contained in Section 2 of the bill, the details specified in Section 3 are merely directory and can be phrased a number of ways without influencing the actual work of the council particularly.

In Section 1, we would be inclined to feel here that the council might operate a little better if the house of representatives had more than five members on the council. Of course your senate is a fairly large body, but we feel that equal representation of the two houses may not be the best plan.

This is entirely a moot point and some of the senators in Kansas have implied at times that our council would be better if the senate had equal representation with the house. Our point is merely that it is difficult to secure proper representation of the house itself, and particularly to secure some experienced men and some men who are climbing into positions of responsibility for the ensuing session.

Within the council itself it doesn't make the slightest bit of difference how many senators or how many representatives there are. No lines are drawn and no difficulties are encountered at all growing out of the proportionate number of members from either house.

Section 4 corresponds to the same section of the Kansas law. Experienced members of the council believe it is wise to have such a provision in the council law, but the Kansas council has never been forced to make any use of it and does not expect to, barring an emergency. The only time it was particularly significant was in the case of the bond scandal in 1933. The fact that the council had this power did enable a council committee to secure considerable information with-

DONALD C. ALLEN, SENATOR  
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out using its powers, merely because the individuals concerned knew that if the information was not supplied voluntarily the council could proceed to take legal action. This gives the council the backing of considerable power which it could use if necessary, but it is the possession of that power rather than the use of it which is the real value in Kansas.

Section 9 will work out all right, I presume. However, providing that "any citizen shall have the right to attend \* \* \* and may present his views on any subject which the council may at any particular time be considering" might involve the council in some difficulties, at least as far as economy of time is concerned. Normally there is no difficulty at all in arranging to have any private citizen heard who desires that privilege. However, the Kansas council frequently prefers to have him appear before a subcommittee rather than to take up the time of the entire council, or rather prefers to have a subcommittee recommend what time shall be given to discussion of these topics by the general citizenship. On such matters as social welfare or "old-age pensions," <sup>"taxation"</sup> the council might be completely overwhelmed if any citizen had the right to appear and talk before the council. What happens in Kansas is that any citizen interested usually writes a letter or discusses the matter with members of the committee. Of course the council can adopt a rule limiting any such discussions to five minutes, and protect itself in that way.

To return to Section 1, many of us in Kansas would feel that the membership proposed in the bill is a little small in proportion to the size of your legislative body. However, there is no reason why Minnesota should not try out a ten-member council. If original appointments can be kept free from jealousy, with ~~the~~ substantial agreement on the part of the legislature that the men selected are about the right men for the job, the smaller council of course is much more economical, and can sit as a single body at practically all of its meetings, whereas in Kansas we break up into several committees. The ~~smaller~~ <sup>smaller</sup> system has an advantage of covering more ground in the same period of time, but the Nebraska council of 15 members sits usually as a single body. The very small council in Connecticut, with only 5 members, did not work out very well, largely because all 5 members failed to return to the next session. This is one thing which should be kept in mind in considering a relatively small council.

On the whole, I think the bill as it stands is well worth trying. After all, what makes the council successful is the membership of enough interested and active men who will get the essential job done to show results.

Very truly yours,

*F. H. Guild*

F. H. Guild, Director  
Research Department





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October 4, 1940

Miss Ruby E. Britts  
Minnesota League of Women Voters  
914 Marquette Avenue  
Minneapolis, Minnesota

Dear Miss Britts:

I am glad to give you, for whatever they may be worth, a few comments on the bill for a Legislative Council, introduced in your 1939 legislative session.

Ten members may provide too small a Council to give representation to the diverse interests of your state. It would be a good number if the Council is to emphasize its fact-finding work almost to the exclusion of formulating a legislative program. In view of the wide variety of the subjects with which the Council will deal, I should think a larger Council would be desirable. Then, too, it will be necessary for the Council members to sell the value of continuing the Council to their colleagues in the General Assembly. Ten salesmen might not be enough, considering that you have a legislature of almost 200.

The final sentence of section 1 might be changed to provide for service on the Council to terminate with the "expiration of the term of office in the General Assembly which the member was serving at

the time of his appointment to the Council." We have a provision similar to the wording of your bill, and it caused a little confusion in the case of members of members of the Council who were re-elected to the General Assembly. This, however, is not important, since the language of the bill should be clear to all reasonable people.

Section 4 is in my opinion desirable. It may, however, cause some opposition to the Council as a miniature legislature with a roving commission enforced by a power to punish for contempt.

In Section 8 I would provide that the research director should serve as secretary of the Council. This would avoid the possibility of an expensive secretarial office being set up in addition to the research office. However, there are some advantages to having a separate secretary, and, if this is to be done, the secretary should be selected from the membership of the Council. The statute should, I think, specify one or the other of these rules.

Most people would like the provision in section 10 for a report 30 days prior to the convening of the legislature. This is the requirement in Illinois. One problem, however, is that members of the Council will try to avoid formulating recommendations until after the November election, for fear of political dynamite and this will hardly leave room for the preparation and distribution of the report on schedule.

I like the provision in section 11 for a per diem. This should result in sessions lasting 2 or 3 days, which is desirable.

These comments may not be very helpful. If, however, you have specific questions to raise, I should be glad to comment further.

Very truly yours,

*E. F. Zakoff*  
Director of Research