

NORTH DAKOTA LEGISLATIVE COUNCIL

Minutes of the

LEGISLATIVE MANAGEMENT COMMITTEE

Tuesday, June 25, 2002
Harvest Room, State Capitol
Bismarck, North Dakota

Senator Bob Stenehjem, Chairman, called the meeting to order at 9:00 a.m.

Members present: Senators Bob Stenehjem, Bill Bowman, Randel Christmann, Joel C. Heitkamp, Aaron Krauter; Representatives Wesley R. Belter, LeRoy G. Bernstein, Merle Boucher, Pam Gulleon, Mike Timm

Member absent: Representative David Monson

Others present: Alvin A. Jaeger, Secretary of State, Bismarck

Jim Poolman, Lou McPhail; Insurance Department, Bismarck

David Peske, North Dakota Medical Association, Bismarck

W. Jeremy Davis, University of North Dakota School of Law, Grand Forks

William E. Kretschmar, State Representative, Venturia

Charles Axtman, Legislative Compensation Commission, Jamestown

Rosie Black, Legislative Compensation Commission, Grand Forks

Jim Gerl, Legislative Compensation Commission, Mandan

Steve Gorman, Legislative Compensation Commission, Fargo

Todd McDonald, North Dakota Public Radio, Bismarck

Dale Wetzal, Associated Press, Bismarck

Jim Smith, John Walstad, Maryann F. Trauger, Karen Mund, Roxanne Woeste; Legislative Council, Bismarck

It was moved by Representative Belter, seconded by Senator Christmann, and carried on a voice vote to approve the minutes of the March 11, 2002, meeting of the committee.

SESSION ARRANGEMENTS Secretary of State's Certification of Members Bill Draft Proposal

Chairman Stenehjem called on Mr. Alvin A. Jaeger, Secretary of State, regarding a proposal to revise North Dakota Century Code (NDCC) Section 54-03-03 to reflect the practices followed in certifying members of the Legislative Assembly. Secretary of State Jaeger said Section 54-03-03 does not address the duty of the Secretary of State to certify members

entitled to serve in the Legislative Assembly which is the first communication placed in the journals of the Senate and House of Representatives. He proposed amendments to Section 54-03-03 to identify the organizational, reconvened, and special legislative sessions as sessions during which the Secretary of State is to certify to the Secretary of the Senate and Chief Clerk of the House the members whose certificates of election have been issued and the members whose appointments have been filed with the Secretary of State since the preceding session of the Legislative Assembly and the members who served in the preceding legislative session and whose terms have not expired. A copy of his presentation is on file in the Legislative Council office.

Representative Timm said the proposal does remove ambiguities and the Secretary of State should pursue the change during the 2003 legislative session.

Senator Stenehjem said the Secretary of State could get assistance from the Attorney General's staff for placing this proposal in bill draft form. He said the Secretary of State could introduce the bill draft as an agency bill and then shepherd this proposal through the legislative process.

Representative Bernstein said this proposal is basically a housekeeping measure, which should be introduced under the agency bill introduction privilege.

In response to a question from Secretary of State Jaeger, Chairman Stenehjem said the consensus of the committee is that the Secretary of State should pursue this issue by introducing an agency bill in the 2003 legislative session.

Duties of the Governor Bill Draft

At the request of Chairman Stenehjem, the assistant director reviewed a bill draft [30104.0100] relating to the duties of the Governor. He said the bill draft addresses whether the Governor may refuse to accept a bill presented for approval during regular business hours. He said North Dakota does not have any constitutional provision specifically requiring the Governor to receive bills enacted by the Legislative Assembly. Although NDCC Section 54-07-01.5 requires the Governor to file bills with the secretary of state, he said, there is no similar provision requiring the Governor to receive bills presented by either

house of the Legislative Assembly. He said court decisions in other states support the position that regular presentment to the Governor or Governor's staff constitutes delivery. He said the provision for coordination of delivery to times when the Governor is available recognizes current practice. He said the length of three legislative days is the time during the legislative session when the Governor must act on a bill after its delivery, as provided by Article V, Section 9, of the Constitution of North Dakota.

The director said a copy of the bill draft was delivered to the Governor's staff for comment and no comment had been received as of the meeting. He said the committee will probably meet two more times, so he assumes the committee would be open to receive communications from the Governor's office on this issue until the end of the interim.

In response to a question from Senator Krauter, the assistant director said several statutes refer to "regular business hours" but there is no statutory definition of that term. He said a judicial interpretation would probably rely on accepted practices and the hours executive offices are open for business.

In response to a question from Senator Heitkamp, the assistant director said a statutory definition of regular business hours will become obsolete if regular office hours differ from the statutory definition, e.g., 8:00 a.m. to 5:00 p.m. may be regular business hours now but as the result of flexible work schedules or during legislative sessions, regular business hours could become 7:30 a.m. to 6:00 p.m.

It was moved by Senator Heitkamp, seconded by Representative Boucher, and carried on a roll call vote that the bill draft relating to the duties of the Governor be approved and recommended to the Legislative Council. Senators Stenehjem, Bowman, Christmann, Heitkamp, and Krauter and Representatives Belter, Bernstein, Boucher, Gulleon, and Timm voted "aye." No negative votes were cast.

Health Insurance Mandates Rules Amendment and Bill Draft

At the request of Chairman Stenehjem, the assistant director reviewed a memorandum entitled *Legislative Procedural Requirements for Analyzing Mandated Health Insurance Coverage*. He said the Budget Committee on Health Care reviewed this memorandum and recommended that the Legislative Management Committee consider proposed amendments to Senate and House Rules 402, designating the fifth legislative day as the deadline for introducing a bill mandating health insurance coverage of services or payment for specified providers of services. He reviewed *Proposed Amendments to Senate and House Rules 402*. He said the proposed amendments provide that a bill mandating health insurance coverage of services or payment for specified providers of services may not be introduced after the fifth legislative day. He said the concept of

implementing an earlier deadline for introducing such a bill is intended to provide sufficient time to request and receive a cost-benefit analysis as required by NDCC Section 54-03-28. He said the effectiveness of this earlier deadline depends on its enforcement, the time taken to determine whether a cost-benefit analysis is required, and the ability of the actuary to provide a cost-benefit analysis before consideration of the bill by the standing committee.

The assistant director reviewed a bill draft [30103.0100] relating to review requirements for measures affecting health insurance coverages. He said NDCC Section 54-03-28 requires a majority of the members of the standing committee to which such a bill is referred, acting through the chairman, to determine whether a bill mandates coverage. He said the section does not require, but it is implied, that the chairman then requests the Legislative Council to obtain a cost-benefit analysis from the private entity under contract to provide cost-benefit analysis. He said the bill draft replaces the requirement that the committee make the determination with a requirement that the Insurance Commissioner review introduced bills and make the determination of which bills should be accompanied by cost-benefit analyses prepared by a private entity under contract with the commissioner. He said this proposed procedure is similar to that provided by Section 54-03-25, which requires the Workers Compensation Bureau to review measures affecting workers' compensation benefits or premium rates and to provide for an actuarial impact if the measure will have an actuarial impact on the workers' compensation fund. He said the Insurance Department receives a copy of every introduced bill and the department, with its expertise, should be able to readily determine whether a bill concerns health insurance.

In response to a question from Representative Timm, Mr. Jim Poolman, Insurance Commissioner, said the estimated time to prepare a cost-benefit analysis is two weeks, depending on the complexity of the mandated coverage or service.

In response to a question from Senator Krauter, Commissioner Poolman said the Insurance Department recommended the Legislative Council contract with Milliman USA for cost-benefit analyses. He said the proposed contract provides for the department to pay Milliman USA on a per bill or per mandate basis. He said Milliman USA is the entity under contract with the department for a study of current health insurance mandates.

Representative Boucher said the bill draft places responsibility with the Insurance Department to determine whether a bill imposes a mandate, rather than with members of the Legislative Assembly or the Legislative Council. He said this is a separation of powers issue, and he favors the Legislative Assembly retaining this responsibility.

In response to a question from Representative Timm, the director said the bill draft is presented by the staff as a means of providing the committee an alternative to the proposed rule changes. He said any procedure incorporated in bill form will not be available for the 2003 legislative session, so if the rule changes proposed by the Budget Committee on Health Care are adopted, those procedures will serve as an experiment during the 2003 session. However, he said, there are practical problems regarding the enforcement of the procedures contemplated in the rules recommendations. He said the presiding officers cannot be expected to review bills to see if there are health insurance mandates in them and the desk forces lack the expertise and also cannot be expected to review bills for substance. He said the Legislative Council staff does not draft all bills and has no control over the time of introduction of the bills it does draft. He said chances are good that bills mandating health insurance benefits could be missed until too late in the session to get actuarial reports. He said that is why a procedure similar to that followed for workers' compensation bills was drafted for consideration by the committee and the Insurance Department has the expertise that the legislative branch does not have in this field. He said Representative Boucher has raised a good point regarding separation of powers and every effort will be made to make whatever procedure is adopted work.

In response to a question from Senator Heitkamp, Commissioner Poolman said he does not support the bill draft. He said he does not want to be inserted in the legislative process. He said any official who determines that a bill affects a health insurance mandate is placed in a difficult situation with respect to the bill's sponsor or other legislators.

Senator Heitkamp said continued involvement with the Legislative Council in providing the cost-benefit analysis would allow legislators to contact the Legislative Council if there are concerns with the figures provided by the analysis. The assistant director said although NDCC Section 54-03-28 states the cost-benefit analysis is "provided" by the Legislative Council, the analysis would be prepared by the private entity under contract with the Legislative Council, as recommended and paid for by the Insurance Commissioner. He said the Legislative Council staff would not be involved in preparing the analysis, the staff would not have any of the information upon which the analysis is based, and the staff does not have the expertise to question the accuracy of the analysis.

In response to a question from Senator Bowman, the assistant director said NDCC Section 54-03-28 does not require a cost-benefit analysis to be delivered to the Insurance Department, which is responsible for reviewing insurance companies, insurance policies, and insurance premiums. Commissioner Poolman said the function of an insurance department in a prior-approval state such as North Dakota is to be

aware of factors affecting insurance premiums. He said the department would know of the mandate and the cost-benefit analysis and would scrutinize premium rate filings to ensure they reflect savings from reduced or eliminated mandates.

Senator Krauter said the earlier deadline for introducing bills is not necessary. He said the Legislative Council drafts all bills and could give advance notice to the Legislative Assembly. The director said the Legislative Council does draft approximately 80 percent of the bills introduced but does not draft agency bills nor bills prepared by special interest groups. The assistant director said bill drafts that receive a "form and style" check by the Legislative Council staff are not reviewed for substance. He said on deadline days, the staff may run 20 to 50 bills through a quick form and style check, which is made as administrative support staff are entering the bills in the information processing systems before the deadlines pass. Also, he said, under confidentiality policies, staff attorneys are not in a position to report on bills that the staff has drafted to anyone other than the sponsor before those bill drafts are introduced.

Representative Gulleon said the procedure established by NDCC Section 54-02-28 will be followed for the first time in 2003 and suggested that experience with the procedure be obtained before making any change.

Representative Belter requested this issue be deferred until a later date so that members have a chance to think how the procedure could work or possible problems with the procedure.

Doctor of the Day Program

Chairman Stenehjem called on Mr. David Peske, North Dakota Medical Association, concerning the doctor of the day program during the legislative session. Mr. Peske said the association offers to continue the doctor of the day program during the 2003 legislative session.

It was moved by Representative Boucher, seconded by Senator Christmann, and carried on a voice vote to accept the offer of the North Dakota Medical Association to continue the doctor of the day program during the 2003 legislative session under the same arrangements as in the past.

Legislative Internship Program

Chairman Stenehjem called on the director to review the legislative internship program. The director said 12 interns were authorized for the 2001 program. He said the allocation of interns is eight from the University of North Dakota School of Law, two from the University of North Dakota graduate school, and two from the North Dakota State University graduate school. He said the critical element of an intern's duties is preparation of amendments. He

said this duty as performed by Law School students is especially important to the Legislative Council staff.

The director reviewed the stipend provided to participants in the legislative internship program. He said the interns are not "employees" but are students participating in a program for course credit. He said the program is a three and one-half month program and the stipend was \$1,500 per month (\$5,250 for the three and one-half month program) in 2001. He recommended that the stipend be increased to \$1,550 per month (\$5,425 for three and one-half months).

The director said the American Bar Association took issue with the stipend during its accreditation review of the University of North Dakota School of Law. He said the issue is whether a student should receive compensation for a program in which the student also receives credit. He said this could be the death of the program. He said he has been working with Dean W. Jeremy Davis concerning the Law School's participation in the program and whether law students could be reimbursed for expenses, to the extent of the stipend provided other graduate students.

Chairman Stenehjem called on Dean W. Jeremy Davis, University of North Dakota School of Law, for comments concerning the legislative internship program. Dean Davis said a stipend has been provided since the beginning of the program. He said the American Bar Association conducts accreditation reviews every seven years and has not raised the issue of intern compensation until now. He said this issue involves any internship program in which a student is outside the Law School in a program that receives Law School credit. He said American Bar Association accreditation is critical to the Law School.

Dean Davis said he has consistently maintained that the stipend is reimbursement of expenses and the American Bar Association accepted this position in the past, but not now. He said this issue needs to be addressed because it is expensive for a student to uproot family and move to Bismarck or to extend Law School attendance an extra semester to obtain needed credits. He said one method of addressing the stipend may be to provide a daily stipend for expenses. He said another method may be to provide a tuition waiver for participating students, through reimbursement to the university.

In response to a question from Senator Bowman, the director said the expense issue is similar to that of legislators renting homes during the legislative session. However, he said, as was discussed by the committee at its March meeting, the executive branch no longer accepts housing receipts from entities other than bona fide lodging establishments. He said this policy can be addressed before the session. He said the per diem being considered for interns could exceed that of legislators, e.g., a meal allowance might be acceptable for accreditation purposes if it is the same as federal reimbursement rates.

Representative Boucher said it is incumbent on the Legislative Assembly to continue the program due to the program's value to the Legislative Assembly and the Legislative Council.

It was moved by Representative Boucher, seconded by Senator Krauter, and carried on a roll call vote that the legislative internship program be continued for the 2003 legislative session on the same basis as it was for the 2001 session, that the stipend for an intern be increased to \$1,550 per month, and that the Legislative Council staff be authorized to make arrangements with the Law School to resolve the compensation issue for law students as necessary to ensure continued accreditation of the Law School by the American Bar Association. Senators Stenehjem, Bowman, Christmann, Heitkamp, and Krauter and Representatives Belter, Bernstein, Boucher, Guleson, and Timm voted "aye." No negative votes were cast.

LEGISLATIVE INFORMATION SERVICES

Legislative Document Subscription Program

The assistant director reviewed a memorandum entitled *Legislative Document Subscription Program*. The memorandum reviews subscription fees for legislative documents during the 2001 legislative session and the cost of printing legislative documents during that session. The memorandum also lists proposed fees for the 2003 session. The assistant director said past practice has been to base subscription fees on the cost of printing the various documents during the previous session divided by the number of documents printed. He said the proposed fee for receiving a set of engrossed bills is lower than the cost of printing those bills in 2001 because otherwise the fee increase would be 81 percent, primarily because of the higher cost per unit of printing 100 copies of engrossed bills. He said the number printed will be increased in 2003 and the cost should average out in 2005. The number of subscribers for the particular documents in 2001, the total number of subscribers, the 2001 subscription fees, and cost and number of legislative documents printed in 2001 are:

- Thirty-one (out of 68) entities paid \$110 each to pick up a set of bills and resolutions, and one paid \$220 to receive a set by mail. The cost of printing 500 copies of introduced 2001 bills and resolutions was \$60,716.04, or approximately \$121 per set.
- Forty-four (out of 76) entities paid \$200 each to pick up a set of bills and resolutions, which included engrossed bills and resolutions, and two paid \$375 each to receive a set by mail. The cost of printing 100 copies of 2001 engrossed bills and resolutions was \$24,058.69, or approximately \$241 per set.
- Thirty-five (out of 89) entities paid \$55 each to pick up a set of journals, and one paid \$165 to

receive a set by mail. The cost of printing 900 copies of the 2001 journals and providing pressboard covers was \$62,850, or approximately \$70 per set.

- Twelve (out of 41) entities paid \$25 each to receive the journal index. The cost of printing 227 copies of the 2001 journal index was \$6,708, or approximately \$30 per index.
- Eight (out of 17) entities paid \$305 each to pick up the bill status report, and two paid \$415 to receive it by mail. The cost of printing 45 bill status reports was \$14,520.93, or approximately \$323 each.
- No charge was made for picking up daily calendars (printed at a cost of \$28,075.60), and although 47 entities subscribed to pick up daily calendars, no entity paid \$55 to receive the calendars by mail.
- No charge was made for picking up committee hearing schedules (printed at a cost of \$11,033.60); 51 entities subscribed to pick up hearing schedules, and one entity paid \$30 to receive the schedules by mail.

The assistant director described the legislative document library distribution program. The program consists of sending on a weekly basis, through United Parcel Service, copies of introduced bills and resolutions, daily journals, and bill status reports to participating libraries. He said the program was first approved for the 1983 Legislative Assembly for 30 libraries when no other document subscription service was available. He said the Legislative Assembly absorbs the cost of the program except for the cost of printing the bill status reports delivered to the libraries. He said the number of participating libraries peaked at 51 in 1989. He said three libraries participated in the program during the 2001 legislative session at a subscription price of \$305 per library. During the 2001 session, he said, the cost of providing bill status reports to the libraries was \$968.06 and United Parcel Service charges were \$794.23, for a total cost of \$1,762.29, not including the cost of the bills, resolutions, and journals. He recommended the committee consider elimination of this program because all the information provided to the libraries is available through the Internet without charge and on an individual subscription basis.

It was moved by Representative Bernstein, seconded by Senator Christmann, and carried on a roll call vote that for the 58th Legislative Assembly:

- **A complete set of bills and resolutions as introduced and printed or reprinted be available from the bill and journal room only after payment of a subscription fee of \$120, with a set to be mailed upon payment of an additional fee of \$110.**
- **A complete set of bills and resolutions as introduced and printed or reprinted,**

including a set of all engrossed and reengrossed bills and resolutions, be available from the bill and journal room only after a payment of a subscription fee of \$280, with a set to be mailed upon payment of an additional fee of \$175.

- **A complete set of daily journals of the Senate and House be available from the bill and journal room only after payment of a subscription fee of \$70, with a set to be mailed upon payment of an additional fee of \$100.**
- **The index to the House and Senate journals be available only after payment of a subscription fee of \$30.**
- **A printed bill status report be available from the bill and journal room only after payment of a subscription fee of \$325, with a report to be mailed upon payment of an additional fee of \$110.**
- **House and Senate daily calendars and weekly committee hearing schedules be available at no charge if picked up from the bill and journal room, but a set of House and Senate daily calendars be mailed by the bill and journal room upon payment of a fee of \$55 and a set of weekly committee schedules be mailed by the bill and journal room upon payment of a fee of \$30.**
- **State agencies and institutions and representatives of the media as determined under Joint Rule 802 be able to obtain copies of bills and resolutions as introduced and printed or reprinted, daily journals, daily calendars, and committee hearing schedules without payment of subscription fees.**
- **Two copies of the bill status report be provided to the press room in the State Capitol without payment of subscription fees.**
- **No more than five copies of a limited number of bills and resolutions be obtained without charge as provided under Joint Rule 603.**
- **The library document distribution program be discontinued.**

Senators Stenehjem, Bowman, Christmann, and Krauter and Representatives Belter, Bernstein, Boucher, Gulleson, and Timm voted "aye." No negative votes were cast.

CONTRACTS FOR SERVICES

Legislative Assembly Photography Services

The assistant director reviewed a proposed *Invitation to Bid - Legislative Assembly Photography Services*. He said this invitation is based on the 2000 invitation to bid. He said the invitation refers to the

receipt of the bid by October 1, 2002, and acceptance of the bid in early October, but that could be revised depending on when the Legislative Management Committee is scheduled to meet to accept the bid. He said the only change in the specifications from the 2000 bid is the reduction in the number of pictures due to the reduction in the size of the Legislative Assembly (141 legislators rather than 147 legislators).

The assistant director said the State Historical Society retains the pictures, and the frames for the large composite pictures are reused to save storage space in the center's archives.

In response to a question from Senator Christmann, Senator Stenehjem said the photographer owns the negatives and retains the right to control reprints. He said if a provision is inserted in the contract regarding the ownership of the negatives being with the legislators, this may result in no photographer submitting a bid.

It was moved by Representative Belter, seconded by Senator Christmann, and carried on a roll call vote that the invitation to bid for Legislative Assembly photography services be approved, as presented. Senators Stenehjem, Bowman, Christmann, and Krauter and Representatives Belter, Bernstein, Boucher, Gulleson, and Timm voted "aye." No negative votes were cast.

Bills, Resolutions, and Journals

The assistant director reviewed an *Invitation for Bid* prepared by the Central Services Division, Office of Management and Budget, for solicitation of bids for printing bills, resolutions, and journals. A copy of the invitation is on file in the Legislative Council office. He said the bid is prepared and advertised by the Central Services Division, but the contract is awarded as directed by the Legislative Council under NDCC Section 44-06-02. He said the invitation is based on the 2000 invitation to bid, with these revisions:

1. Figures for the estimated volume of the contract are updated to reflect 2001 costs.
2. The number of introduced bills printed is reduced from 500 to 350 as suggested by personnel in the bill and journal room during the 2001 legislative session.
3. The number of engrossed bills printed is increased from 100 to 200 as suggested by personnel in the bill and journal room during the 2001 legislative session.
4. The provisions relating to operation of the bill and journal room are removed from the printing contract as requested by the Legislative Management Committee at the June 2001 meeting.
5. The provision requiring a \$75,000 performance bond or a \$15,000 escrow account for nonperformance was removed at the suggestion of Central Services Division personnel.

The assistant director said the performance bond or escrow account provision was removed based on a recommendation of the Attorney General's office to eliminate the escrow account provision due to lack of collection procedures and information from the Central Services Division to the effect that the only public printing contracts requiring performance bonds are the bills, resolutions, and journals contract and a Game and Fish Department contract, that no performance bond has been forfeited in over 30 years, and that payment is after the fact so any nonperformance would not result in a loss of money.

The assistant director said an *Invitation for Bid*, also prepared by the Central Services Division, for the Session Laws was distributed to committee members for informational purposes. A copy of the invitation is on file in the Legislative Council office.

It was moved by Senator Christmann, seconded by Representative Boucher, and carried on a roll call vote to approve the contents of the invitation to bid for printing bills, resolutions, and journals, as presented. Senators Stenehjem, Bowman, Christmann, Heitkamp, and Krauter and Representatives Belter, Bernstein, Boucher, Gulleson, and Timm voted "aye." No negative votes were cast.

Legislative Assembly Secretarial and Telephone Message Service

The assistant director reviewed a proposed *Invitation to Bid - Legislative Assembly Secretarial and Telephone Message Services*. He said the invitation is based on the 2000 invitation to bid secretarial services and the 2000 invitation to bid telephone message services, with these revisions:

1. The description of the numbers and types of documents is updated with 2001 information.
2. The date to submit the bid is updated to the day after the 2002 general election.
3. The operating system for the word processor is updated from Windows 98 to Windows 2000.
4. The telephone message services background includes a description of processing e-mail from legislators for the LAWS system which was done in 2001.
5. Statements that the 2001 contractor billed less than the contract price due to flexible scheduling and workflow management are added to the secretarial services background and the telephone message services background.
6. In accordance with a committee recommendation at the June 2001 meeting, the invitations to bid the secretarial services and telephone message services have been combined into one invitation to bid; the contractor is required to designate an account manager to coordinate communication between the Legislative Council, the

secretarial area, the telephone area, and the contractor; the bidder is required to list the pay ranges for employees included within the bid price; and the bid price is based on 75 rather than 70 legislative days.

The assistant director said this would be an alternative to a bid for providing combined secretarial, telephone message, and bill and journal room services.

Legislative Assembly Bill and Journal Room Services

The assistant director reviewed a proposed *Invitation to Bid - Legislative Assembly Bill and Journal Room Services*. He said the invitation is based on the 2000 invitation to bid for bill and journal room services which was included in the 2000 invitation to bid for printing bills, resolutions, and journals. He said the provision of bill and journal room services was separated from the invitation to bid for printing bills, resolutions, and journals as requested by the committee at its June 2001 meeting. He said the revisions with respect to the specifics of the bid are:

1. Figures on subscription services handled by the bill and journal room are updated to reflect 2001 information.
2. The period the bill and journal room is to open is revised to reflect the 2002-03 calendar (December 9, 2002, to January 6, 2003) and a specific bid item was listed for one employee to be in the bill and journal room during that time.
3. A provision was added that the bill and journal room contractor must provide an account manager, similar to that in the invitation to bid for secretarial and telephone message services.
4. The bidder must include the pay ranges for employees included in the bid proposal, similar to the provision in the invitation to bid for secretarial and telephone message services.

The assistant director said this would be an alternative to a bid for providing combined secretarial, telephone message, and bill and journal room services.

Legislative Assembly Secretarial, Telephone Message, and Bill and Journal Room Services

The director reviewed a proposed *Invitation to Bid - Legislative Assembly Secretarial, Telephone Message, and Bill and Journal Room Services*. He said the invitation is a consolidation of the individual invitations to bid for secretarial and telephone message services and for bill and journal room services. He said the only difference in the consolidated bid is that journal room service employees would have to sign a nondisclosure form just as secretarial and telephone message employees because of the

possibility employees would be assigned to different work areas.

The assistant director said this would be an alternative to a bid for providing secretarial and telephone message services and a bid for providing bill and journal room services. He said with these proposals, there are various options for bidding to provide services to the Legislative Assembly. An individual contract could be awarded for providing secretarial and telephone message services and an individual contract could be awarded for providing bill and journal room services, or a consolidated contract could be awarded for providing secretarial, telephone message, and bill and journal room services. He said the printer of bills, resolutions, and journals could submit a bid for any of the other services, e.g., operating the bill and journal room.

It was moved by Senator Krauter, seconded by Senator Bowman, and carried on a roll call vote to approve the contents of the invitations to bid for providing Legislative Assembly secretarial and telephone message services, for providing bill and journal room services, and for providing secretarial, telephone message, and bill and journal room services, as presented. Senators Stenehjem, Bowman, Christmann, Heitkamp, and Krauter and Representatives Belter, Bernstein, Boucher, Guleson, and Timm voted "aye." No negative votes were cast.

LEGISLATIVE RULES

Joint Constitutional Revision Committee

The assistant director reviewed *Proposed Amendments to Senate and House Rules 502 and 504 and Creation of Joint Rule 303*. The assistant director said this proposal is in response to a request made at the March 2002 meeting of the committee. He said the Joint Constitutional Revision Committee was created in 1977 as a recommendation of the Legislative Council's interim Legislative Procedure and Arrangements Committee in order to ensure that constitutional revision measures recommended by the Legislative Assembly were coordinated and did not conflict with one another. He said the Legislative Management Committee recommended repeal of the committee in 1996. Since that time, he said, there were 14 proposed constitutional amendments considered during the 1997 legislative session, 18 during the 1999 session, and 7 during the 2001 session.

Chairman Stenehjem recognized Representative Kretschmar. Representative Kretschmar distributed a list of cochairs of the Joint Constitutional Committee, a copy of which is on file in the Legislative Council office.

Representative Kretschmar said the Joint Constitutional Revision Committee consisted of five members of each house, with three from the majority and two from the minority. He said the committee is important to the Legislative Assembly because it

emphasizes and gives notice of constitutional amendments. He said the committee had a good batting average on the amendments it recommended for passage. He urged the committee to approve the proposed rules reestablishing the Joint Constitutional Revision Committee.

In response to a question from Representative Timm, Representative Kretschmar said constitutional amendment proposals were referred to the Agriculture, Finance and Taxation, Government and Veterans Affairs, Judiciary, and Political Subdivisions Committees during the 2001 legislative session.

Senator Krauter agreed with Representative Kretschmar that referring all constitutional amendment proposals to a special committee would give added emphasis to the proposals. He said a recent example was measure No. 1 on the June primary election ballot. He said that measure did not receive the attention it deserved during the 2001 legislative session.

It was moved by Senator Krauter and seconded by Senator Heitkamp that the committee approve the proposed amendments of Senate and House Rules 502 and 504 and creation of Joint Rule 303, relating to creation of the Joint Constitutional Revision Committee. Senator Bowman said he is opposed to any increased cost resulting from reestablishing the committee. Senator Stenehjem said there should not be any increased cost because legislators are present during the session. Representative Kretschmar said staffing services are provided by the pool of committee clerks and no special clerk is employed just for the Joint Constitutional Revision Committee. Senator Christmann inquired whether standing committees with expertise in particular areas would be better able to consider constitutional amendments addressing specialized issues. Representative Kretschmar said this is an argument, but he thinks it is better for one committee to coordinate which election measures should be placed on the ballot and the order of placement on the ballot. He said the committee does consist of members from other standing committees. After this discussion, **the motion carried on a voice vote.**

Joint Rule 603(1) and (2) - Number of Printed Bills

The assistant director reviewed *Proposed Amendments to Joint Rule 603(1) and (2)*. He said the proposal reduces the number of printed bills and resolutions from 500 to 350 and increases the number of printed bills and resolutions engrossed from 100 to 200. He said this implements the recommendations of bill and journal room personnel during the 2001 legislative session and contained in the proposal for printing bills and resolutions as approved by the committee.

It was moved by Senator Christmann, seconded by Senator Bowman, and carried on a

voice vote that the committee approve the proposed amendments to Joint Rule 603(1) and (2) relating to the number of copies of bills and resolutions printed upon introduction and after engrossment.

Senate and House Rules 402(2) - Agency Bill Deadline

The assistant director reviewed *Proposed Amendments to Senate and House Rules 402(2)*. He said the proposal revises the deadline for the introduction of agency bills as contained in Senate and House Rules 402 to track the deadline as contained in Joint Rule 208. In 2000, he said, the deadline as contained in Joint Rule 208 was changed from December 10 to the close of business on the day after the adjournment of the organizational session. He said the purpose of the change before the last session was to avoid situations in which December 10 fell on a Saturday or Sunday and to provide that the deadline for introducing agency bills would be the day after the adjournment of the organizational session. He said the committee has recommended to the Legislative Council that the organizational session convene on Monday, December 2, 2002. He said this would result in the deadline of Thursday, December 5, 2002, for agency bills. He said agencies usually are notified in July or August of the agency bill introduction deadline, so none should be surprised in December.

It was moved by Representative Timm, seconded by Representative Gulleason, and carried on a voice vote that the committee approve the proposed amendments to Senate and House Rules 402(2) relating to the deadline for introducing agency and Supreme Court bills.

LEGISLATIVE COMPENSATION COMMISSION DISCUSSION

Chairman Stenehjem recognized Mr. Charles Axtman, Chairman, Legislative Compensation Commission, for a review of the discussions by the members of the commission. Other commission members present were Ms. Rosie Black, Mr. Jim Gerl, and Mr. Steve Gorman. Mr. Axtman said the commission had met earlier in the day and reviewed legislative compensation rates and changes in legislative compensation since 1981. He distributed copies of a memorandum entitled *Legislative Compensation Increases Compared to Inflation and State Employee Salary Increases - 1981 Through 2002*. The memorandum compares the actual interim daily compensation of \$100, session daily compensation and expense reimbursement of \$125, and the monthly compensation during term of office of \$250 to rates as adjusted for inflation (since 1981) of \$123.53, \$177.88, and \$355.80, respectively; and to rates as adjusted for salary increases provided state employees (since 1981) of \$114.27, \$164.50, and \$329.05, respectively.

Mr. Axtman asked for any comments by committee members. In response to a question, he said the commission probably would not be recommending any change in compensation during the 2003 legislative session.

LEGISLATIVE SESSION ARRANGEMENTS

State of the State Address - State of the Judiciary Address

The assistant director said the committee traditionally has authorized the Legislative Council staff to contact the Governor with respect to arrangements for the state of the state address to a joint session of the Legislative Assembly on the first legislative day. He said the committee has traditionally authorized the Legislative Council staff to contact the Chief Justice with respect to a presentation of the state of the judiciary address to a joint session on the second legislative day.

It was moved by Senator Christmann, seconded by Representative Timm, and carried on a voice vote that the Legislative Council staff be requested to contact the Governor with respect to the time for a joint session to hear the state of the state address by the Governor on the first legislative day and to contact the Chief Justice to make plans for the state of the judiciary address on the second legislative day.

Tribal-State Relationship Message

The assistant director described the past process whereby a representative of the Indian tribes has been invited to address each house of the Legislative Assembly on the third legislative day of each session since 1987. He inquired whether the committee desired to extend an invitation to the tribes for a tribal-state relationship message during the 2003 legislative session.

It was moved by Senator Heitkamp, seconded by Representative Belter, and carried on a voice vote that the Legislative Council staff be requested to invite a representative of the Indian tribes to address each house of the Legislative Assembly on the third legislative day.

Legislative Compensation Commission Report

The assistant director described the committee's traditional responsibility of indicating a preference for a report by the chairman of the Legislative Compensation Commission on the third legislative day to each house of the Legislative Assembly. He said the report has been given in written form to the presiding officer since 1993. He inquired whether the committee desired an oral report to each house or a written report to the presiding officer of each house.

It was moved by Representative Timm, seconded by Senator Krauter, and carried on a voice vote that the Legislative Council staff be requested to notify the chairman of the Legislative Compensation Commission that a written report of that commission should be submitted to the presiding officer of each house in lieu of an oral report to each house.

Legislative Tour Guide Program

The assistant director said for the past 13 legislative sessions there has been a tour guide program to coordinate tours by high school groups during the legislative session. He inquired whether this program should be continued during the 2003 legislative session.

It was moved by Representative Timm, seconded by Representative Bernstein, and carried on a roll call vote that the Legislative Council staff be authorized to hire a tour guide and an assistant tour guide during the 2003 legislative session to be paid from Legislative Assembly funds. Senators Stenehjem, Bowman, Christmann, Heitkamp, and Krauter and Representatives Belter, Bernstein, Boucher, Gulleason, and Timm voted "aye." No negative votes were cast.

Legislative Intern Program Director

The assistant director noted the committee had approved continuation of the legislative internship program for the 2003 legislative session. He said the committee traditionally has authorized employment of a director of interns to be paid from Legislative Assembly funds. He said the Legislative Council staff has absorbed the responsibilities of a director of interns during recent legislative sessions, and this authority would be used only if circumstances warranted and a person can be found with adequate experience with respect to the legislative process.

It was moved by Senator Christmann, seconded by Senator Bowman, and carried on a roll call vote that the director of the Legislative Council be authorized to employ a director of interns to be paid from Legislative Assembly funds. Senators Stenehjem, Bowman, Christmann, Heitkamp, and Krauter and Representatives Belter, Bernstein, Boucher, Gulleason, and Timm voted "aye." No negative votes were cast.

Chaplaincy Program

The assistant director described the chaplaincy program in effect during the 2001 legislative session. He said Bismarck and Mandan Ministerial Associations traditionally have been asked to schedule chaplains for opening prayers for both houses each day of the session. Since 1984, he said, a letter has been distributed to all legislators giving them until December 31 to schedule clergy from their home districts, after which the schedule prepared by the

local ministerial association would be followed. He said this letter is included in the packet of informational materials distributed to legislators during the organizational session.

It was moved by Representative Bernstein, seconded by Senator Krauter, and carried on a roll call vote that the Bismarck and Mandan Ministerial Associations be invited to schedule chaplains for opening prayers for both houses each day of the 2003 legislative session and that the Legislative Council staff be requested to distribute a letter to all legislators notifying them they have until December 31 to schedule out-of-town clergy to give the opening prayer any day of the session for their house, after which the schedule would be followed and preemption would not take place. Senators Stenehjem, Bowman, Christmann, Heitkamp, and Krauter and Representatives Belter, Bernstein, Boucher, Gulleison, and Timm voted "aye." No negative votes were cast.

Agricultural Commodity Promotion Groups Report

The assistant director said NDCC Section 4-24-10 requires 13 agricultural commodity promotion groups to file a uniform report at a public hearing before the standing Agriculture Committee of each house. He said the report must be filed between the 1st and 10th legislative days. In 2000, he said, the Legislative Management Committee designated the second legislative day the Agriculture Committees meet as a day for a joint hearing by the Senate and House Agriculture Committees to receive this report. He said this would equate to Friday, January 10, 2003.

It was moved by Senator Christmann, seconded by Senator Bowman, and carried on a voice vote that the second legislative day the Agriculture Committees meet be designated as the day for a joint hearing by the Senate and House Agriculture Committees to receive the report of the agricultural commodity promotion groups under NDCC Section 4-24-10.

USE OF LEGISLATIVE CHAMBERS

The assistant director reviewed the *Guidelines for Use of Legislative Chambers and Displays of Memorial Hall, North Dakota State Capitol*. He said the Supreme Court has requested use of the Senate chamber on Friday, October 4, 2002, for the admission to the bar ceremony. He said this use has been approved by the committee in the past. He said the court has used either chamber, depending on the number of participants.

It was moved by Senator Krauter, seconded by Representative Gulleison, and carried on a voice vote that the committee approve the request of the Supreme Court for use of the Senate chamber on October 4, 2002.

ORGANIZATIONAL SESSION AGENDA

Statutory Requirements Bill Draft

The assistant director reviewed a proposed bill draft [30106.0100] relating to the agenda of the organizational session. He said the bill draft amends NDCC Section 54-03.1-03 to eliminate obsolete language and add language reflecting agendas of recent organizational sessions. He said reference is made to interim commissions rather than interim boards, recognition is made of the practice that leaders are selected before the organizational session convenes rather than during the organizational session, reference is made to appointment of all procedural committees rather than just the Employment Committees, and recognition is made that committee preferences are provided to the leaders before the organizational session convenes rather than during the organizational session.

It was moved by Senator Christmann, seconded by Senator Bowman, and carried on a roll call vote that the bill draft relating to the organizational session agenda be approved and recommended to the Legislative Council. Senators Stenehjem, Bowman, Christmann, Heitkamp, and Krauter and Representatives Belter, Bernstein, Boucher, Gulleison, and Timm voted "aye." No negative votes were cast.

CENTURY CODE PUBLICATION

Chairman Stenehjem called on Mr. John Walstad, Code Revisor, Legislative Council, concerning a proposal relating to state subscriptions to the North Dakota Century Code. The code revisor said LexisNexis, the publisher of the North Dakota Century Code, has proposed a 25 percent discount for state subscriptions to the North Dakota Century Code. He said the state subscribes to 700 sets of the code and the estimated cost of the 2003-04 subscription service is \$280,000. He said the Legislative Council staff obtains the cost estimates from the publisher and forwards those estimates to the Secretary of State for inclusion in the Secretary of State's public printing budget. He said this initially appears to be an easy decision, but it is unknown how such a discount would impact other subscribers.

In response to a question from Senator Krauter, the director said the Legislative Council staff is involved with printing the North Dakota Century Code and the North Dakota Session Laws. He said at the request of the Legislative Management Committee during the last interim, the staff has been looking at the process for bidding the publication of the code. He said a variety of entities have contacted the staff expressing interest, ranging from established publishers to companies newly started by former employees of those publishers. He said the contract for publishing the code dates back to 1960 and was for an original term of 20 years. He said the contract was continued with The Michie Company when it

acquired The Allen Smith Company and has been continued as an open contract with each successor to Michie, which is now LexisNexis. He said this arrangement provides total flexibility because there is no definite term during which no change may be made. He said any new contract with a definite term could cause a problem due to a lack of flexibility, especially with the changes in publishing which are resulting from technology and the Internet. He said it appears the discount is being offered by the publisher to extend the contract for two years.

Representative Boucher said an issue that complicates the discount is the impact on other subscribers, especially other government entities. He suggested that a provision could be included that any discount be extended to other government entities in the state.

In response to a question from Representative Timm, the code revisor said the Legislative Council does not have any control over charges to subscribers outside the state.

Senator Christmann said there is no reason to think the publisher will increase the price to other subscribers such as political subdivisions.

Senator Bowman said the state should take advantage of the discount offered by LexisNexis.

It was moved by Representative Belter, seconded by Senator Bowman, and carried on a roll call vote that the Legislative Council staff be requested to accept the offer of LexisNexis to provide a discount for state purchases of North Dakota Century Code subscriptions. Senators Stenehjem, Bowman, Christmann, Heitkamp, and Krauter and Representatives Belter, Bernstein, Boucher, Guleson, and Timm voted "aye." No negative votes were cast.

SESSION ARRANGEMENTS

Session Employment

Senator Krauter referred to the minutes of the March 11 meeting of the committee and his request that the Employment Committees' guidelines on the days for which each session employee should be compensated for work before the session and after the session be reviewed at this meeting. He asked why those guidelines were not included on the agenda of today's meeting. The assistant director said information on pre-session and post-session employment would be provided to the committee when the committee reviews which employee positions are needed for the 2003 legislative session.

Smoking in the Legislative Wing

Senator Krauter referred to the minutes of the March 11 meeting of the committee and a request that an update on the legal status of designated smoking room requirements be provided at this meeting. He asked why this update was not included on the agenda of today's meeting. Chairman Stenehjem questioned whether this item could be held for a

future meeting. He asked the assistant director whether an update was ready for distribution. The assistant director distributed a memorandum entitled *Smoking in the Legislative Wing - Background*. The memorandum reviews the history of NDCC Section 23-12-10, which prohibits smoking outside designated smoking areas in places of public assembly and allows public officials having general supervisory responsibility for government buildings to designate smoking areas. The memorandum also reviews Senate and House rules that prohibit smoking in the chambers and in House committee rooms and Joint Rule 804, which, until 1993, designated the legislative study room on the first floor of the State Capitol as a smoking area during a legislative session for members of the Legislative Assembly, guests specifically invited by members of the Legislative Assembly, and employees of the legislative branch. In 1993 each house adopted a different version of Joint Rule 804--the Senate allowed "employees of the legislative branch" and the House allowed "state employees." Thus, no joint rule is in effect.

Senator Krauter said it is disturbing that this item was not on the agenda. Senator Heitkamp said it is no secret that he asked for this information at a previous meeting. He said the fact that this was not included on the agenda he will discuss with the director at a later time. He said the issue is whether there will be a smoking room or not. He said he is not comfortable with the fact that legislators are treated differently from other persons from North Dakota who work in the State Capitol. He said he does not like the smoking room, does not like walking by it, does not like smelling it, and does not like having to go look for someone in the room. He said anyone who needs to smoke can go outside just like everyone else. He said the leadership told him last session that this issue was best dealt with by the Legislative Management Committee. He said he is disappointed in the way this issue has been brought up and put on the back burner until a specific request was made. He said this is not the way to handle this, and he does not blame the chairman. He said this issue is in front of the committee and if the majority is in favor of the smoking room, he will drop the issue.

It was moved by Senator Heitkamp and seconded by Senator Krauter to get rid of the smoking room. Representative Timm said he has not heard much of a demand by the public to address the smoking issue. He said he does not know why Senator Heitkamp continues to bring this issue up. He said he does not see much of a problem with the Legislative Assembly designating a smoking room. He said this is a convenience to the legislators who do smoke and those legislators should not have to run outside during the busy legislative session. He said comparing this to state employees is a different matter, and it appears to be a political matter.

Senator Heitkamp said he is offended by characterizing this issue as a political matter. He said members of both parties smoke. He said the issue is whether legislative business is that much more important than other state business so that in order to have a cigarette a special room is needed to keep legislators close to the chambers.

Senator Christmann said he does not know why this issue continues to be brought before the committee. He said he is offended by statements that legislators are treating themselves better than other state employees. He said as long as smoking is legal, is taxed, and the proceeds are being used by the state, people should be allowed someplace to smoke. He said he prefers that legislators not be added to the crowds around the entrances to the State Capitol through which people must pass to enter the State Capitol.

Senator Bowman said he does not smoke, but he has a hard time accepting the statement that legislators are treating state employees differently from themselves. He said the Legislative Assembly has responsibility over the legislative areas, and executive and judicial branch officials have responsibility over their areas. He said he prefers being able to go to the smoking room to find a legislator rather than running around and checking every entrance to the State Capitol.

Senator Krauter said he does hold the chairman responsible for the agenda. He said last session threats were made concerning his position against the smoking room. He said it is not appropriate for the state to take tobacco settlement money, which was intended to be used to reduce smoking, while also designating smoking areas.

Representative Bernstein said smoking should be prohibited near entrances to public buildings.

Representative Boucher said as he reads NDCC Section 23-12-10, the State Capitol is a nonsmoking place of public assembly.

Representative Belter said if the intent is to ban smoking, the ban should extend to the entire State Capitol grounds. He said he does not see anything attractive about having people congregate around entrances to the State Capitol. He said, however, that legislators have schedules different from state employees. He said the Legislative Assembly meets for a limited period of time and must accomplish its work in that timeframe.

After this discussion, **the motion was defeated on a roll call vote.** Senators Stenehjem, Bowman, and Christmann and Representatives Belter, Bernstein, and Timm voted "nay." Senators Heitkamp and Krauter and Representative Boucher voted "aye."

No further business appearing, Chairman Stenehjem adjourned the meeting at 2:55 p.m.

Jay E. Buringrud
Assistant Director

John D. Olsrud
Director