

# NORTH DAKOTA LEGISLATIVE COUNCIL

## Minutes of the

### INFORMATION TECHNOLOGY COMMITTEE

Wednesday, November 3, 2004  
Roughrider Room, State Capitol  
Bismarck, North Dakota

Senator Larry Robinson, Chairman, called the meeting to order at 1:00 p.m.

**Members present:** Senators Larry Robinson, Randel Christmann, Randy A. Schobinger, Tom Seymour, Rich Wardner; Representatives Eliot Glassheim, Bob Skarphol, Ken Svedjan; Chief Information Officer Curtis L. Wolfe

**Members absent:** Representatives Keith Kempenich, Robin Weisz, Lonny Winrich

**Others present:** See attached appendix

**It was moved by Representative Skarphol, seconded by Representative Svedjan, and carried on a voice vote that the minutes of the September 16, 2004, meeting be approved as distributed.**

#### REPORT FROM THE CHIEF INFORMATION OFFICER

Mr. Curtis L. Wolfe, Chief Information Officer, Information Technology Department, distributed a copy of the department's organizational chart. A copy of the chart is on file in the Legislative Council office. He said the department has established a new director of customer services position that is responsible for operation of the department's help desk.

Mr. Wolfe said the Federal Communications Commission suspended the e-rate payment process in August 2004. He said due to a change in the accounting structure of the Universal Service Administrative Company, which administers the program, the Federal Communications Commission is unable to issue funding commitment decision letters to e-rate applicants and therefore the state has not received any e-rate funds since July 1, 2004. He said Dakota Carrier Network and Sprint, who provide wide area network services to kindergarten through grade 12, may need assistance from the state to cover expenses until the e-rate funds are provided to the state.

In response to a question from Senator Robinson regarding e-rate funding, Mr. Wolfe said the Information Technology Department and North Dakota schools receive approximately \$2.3 million and \$2.2 million, respectively, of e-rate funds each year.

In response to a question from Representative Glassheim, Mr. Wolfe said the Information Technology Department is paying Dakota Carrier Network

the general fund portion of the kindergarten through grade 12 wide area network services, which amounts to approximately 38 percent of the total cost of the services.

In response to a question from Senator Schobinger, Mr. Wolfe said federal legislation may be introduced that would allow the Federal Communications Commission to return to a flexible cash management system.

Mr. Wolfe said the European Union has approved Oracle's proposed takeover of PeopleSoft and Oracle has enriched its offer to PeopleSoft, including a commitment to continue to enhance PeopleSoft software products in the future. He said the Information Technology Department is considering a PeopleSoft proposal relating to software maintenance costs under which the state could save approximately \$1.8 million in maintenance costs over a period of 10 years.

#### INFORMATION TECHNOLOGY MANAGEMENT AND ORGANIZATIONAL STUDIES

Mr. Pat Forster, Information Technology Department, provided information regarding the Architecture Review Board analysis of the recommendations included in the Pacific Technologies, Inc., final report for the information technology organizational and management studies. A copy of the information is on file in the Legislative Council office. He said a subcommittee of the Architecture Review Board defined four classes of workstations--office automation desktops, power user desktops, mainstream laptops, and power user laptops. The subcommittee estimated state agencies, excluding higher education, have approximately 7,700 workstations, of which 5,000 are office automation desktops, 1,300 are power user desktops, 1,000 are mainstream laptops, and 400 are power user laptops. He said in July 2004 the department released a request for proposal for acquisition of a single brand of workstations for all state agencies. The department received responses from six vendors--Dell, Gateway, Howard, Hewlett Packard, IBM, and MPC Computers, LLC. After review of the proposals by the Architecture Review Board and the State Information Technology Advisory Committee, the department awarded a contract for

desktop and laptop acquisition to Hewlett Packard. He said the Architecture Review Board has recommended the contract be a mandatory contract for state agencies. He said the contract will also be available to higher education, school districts, and political subdivisions.

Mr. Forster said the subcommittee estimated the state spends approximately \$4.6 million over two bienniums (\$2.3 million per biennium) to replace 4,288, or approximately 85 percent, of its total office automation desktops. He said implementing the aggregated procurement contract with a four-year replacement cycle would ensure all office automation workstations are replaced every four years at an estimated cost of \$3,325,000, resulting in estimated savings of \$1,275,000 over two bienniums. He said the Office of Management and Budget is working with state agencies to review budget requests for the 2005-07 biennium based on the request for proposal prices.

In response to a question from Representative Glasheim, Mr. Forster said if an agency needs a workstation beyond the specifications provided for in the contract, the agency may purchase a workstation outside the contract.

In response to a question from Representative Svedjan, Mr. Forster said it appears that a majority of agencies will have sufficient funding in their budgets for the 2005-07 biennium to support a four-year replacement cycle for office automation desktops using the request for proposal pricing.

In response to a question from Representative Skarphol, Mr. Forster said Dell and IBM were the next closest bidders.

## **PROPOSED INFORMATION TECHNOLOGY BILL DRAFTS**

Mr. John Walstad, Code Revisor, Legislative Council, presented information regarding how other states handle information technology policies, standards, and guidelines and the administrative rule-making process. A copy of the information is on file in the Legislative Council office. He said all of the 16 states that responded to the state's request for information exempt information technology policies, standards, and guidelines from the administrative rulemaking process.

In response to a question from Senator Christmann, Mr. Walstad said the Information Technology Department was exempt from the administrative rulemaking requirements when the department was the Information Services Division under the Office of Management and Budget.

Representative Skarphol asked Mr. Walstad to inform the interim Administrative Rules Committee of the proposed bill draft that exempts certain policies, standards, and guidelines of the Information Technology Department from the administrative rule-making requirements.

The Legislative Council staff presented a bill draft [50187.0100] relating to higher education information technology, an exclusion of certain policies, standards, and guidelines of the Information Technology Department from compliance with the Administrative Agencies Practice Act, powers and duties of the Information Technology Committee and the Information Technology Department, prioritization of proposed major information technology projects, and information technology plans and reports. The bill draft:

- Creates a new section to North Dakota Century Code (NDCC) Chapter 15-10 to provide that the State Board of Higher Education shall manage and regulate information technology planning and services for institutions under its control; collaborate with the Information Technology Department to coordinate higher education information technology planning with statewide information technology planning; provide advice to the Information Technology Department regarding the development of policies, standards, and guidelines relating to access to or use of wide area network services; and present information regarding higher education information technology planning, services, and major projects to the Information Technology Committee.
- Amends NDCC Section 29-32-01(11) to provide that a policy, standard, and guideline, adopted by the Information Technology Department under Chapter 54-59, including any product and service standard and best practice standard, primarily intended to affect state agencies and with respect to access to or use of wide area network services, institutions under the control of the State Board of Higher Education, counties, cities, and school districts if the policy, standard, or guideline has been reviewed by the State Information Technology Advisory Committee, is not considered a rule under the Administrative Agencies Practice Act.
- Amends NDCC Sections 54-35-15.2 and 54-59-05 to more accurately reflect the powers and duties of the Information Technology Committee and the Information Technology Department.
- Amends NDCC Section 54-59-02.1 relating to the prioritization of major information technology projects to provide that the Information Technology Department shall submit information regarding proposed major information technology projects for executive branch state agencies, departments, and institutions, excluding institutions under control of the State Board of Higher Education and agencies of the judicial and legislative branches to the State Information Technology Advisory Committee.

The State Information Technology Advisory Committee shall review the projects and rank those projects that receive the committee's affirmative recommendation. The recommendations of the State Information Technology Advisory Committee shall be submitted to the Information Technology Committee, the Office of Management and Budget, and the Appropriations Committees of the Legislative Assembly.

- Amends NDCC Section 54-59-07 relating to the State Information Technology Advisory Committee to provide that the committee shall review policies, standards, and guidelines developed by the Information Technology Department and the Chief Information Officer shall submit recommendations of the State Information Technology Advisory Committee regarding information technology issues to the Information Technology Committee for its consideration.
- Amends NDCC Section 54-59-09 relating to information technology standards to eliminate the role of the Office of Management and Budget in the development of statewide information technology policies, standards, and guidelines and to provide that the Information Technology Department shall develop policies, standards, and guidelines using a process involving advice from state agencies and institutions. The bill draft also excludes institutions under the control of the State Board of Higher Education from having to comply with the policies, standards, and guidelines developed by the Information Technology Department.
- Amends NDCC Section 54-59-11 relating to information technology plans to provide that institutions under the control of the State Board of Higher Education are not required to prepare information technology plans, information technology plans are subject to acceptance by the Information Technology Department, and information technology plans must include an asset management plan relating to the inventory of information technology assets owned, leased, or employed by the entity. The bill draft also provides that the statewide information technology plan must be developed with emphasis on long-term strategic goals, objectives, and accomplishments and the statewide information technology plan must contain specific information regarding information technology projects, plans, and benefits.
- Amends NDCC Section 54-59-19 relating to the Information Technology Department annual report to revise the required contents of the report.

- Amends NDCC Section 54-59-22 relating to required use of information technology services to eliminate the role of the Office of Management and Budget in the granting of exemptions to entities and in the development of a delivery system and policies and guidelines relating to required use of information technology services.

Representative Skarphol suggested NDCC Sections 54-35-15.2 and 54-59-05 be further amended to provide that the Information Technology Department and the Information Technology Committee receive and review information relating to major information technology projects of the legislative branch in addition to major information technology projects of the executive and judicial branches.

In response to a question from Senator Christmann, the Legislative Council staff said Section 1 of the bill draft is in response to suggestions made by the North Dakota University System at the committee's meeting on September 16, 2004.

In response to a question from Senator Schobinger regarding information technology plans, Mr. Wolfe said the Information Technology Department reviews information technology plans to ensure the plans are in compliance with the department's policies, standards, and guidelines but the department does not approve or disapprove of the plans.

Mr. Grant Crawford, Chief Information Officer, North Dakota University System, commented on the proposed bill draft. He said the North Dakota University System is supportive of the proposed bill draft; however, the University System suggests Section 3 of the bill draft be further amended to remove administrative projects from the definition of higher education major information technology projects.

Mr. Ted Gladden, State Court Administrator, Supreme Court, commented on the proposed bill draft. A copy of his comments is on file in the Legislative Council office. He said if the legislative branch continues to be excluded from the Information Technology Department and Information Technology Committee review of major information technology projects then the judicial branch should also be excluded.

**It was moved by Senator Wardner, seconded by Senator Seymour, and carried on a roll call vote that the bill draft be amended to provide that the Information Technology Department and the Information Technology Committee receive and review information relating to major information technology projects of the legislative branch in addition to major information technology projects of the executive and judicial branches and to provide that administrative information technology projects be removed from the definition of higher education major information technology projects to be reported to the Information Technology Committee.** Senators Robinson, Christmann,

Schobinger, Seymour, and Wardner and Representatives Glassheim, Skarphol, and Svedjan voted "aye." No negative votes were cast.

**It was moved by Representative Skarphol, seconded by Senator Wardner, and carried on a roll call vote that the bill draft, as amended, be approved and recommended to the Legislative Council.** Senators Robinson, Christmann, Schobinger, Seymour, and Wardner and Representatives Glassheim, Skarphol, and Svedjan voted "aye." No negative votes were cast.

The Legislative Council staff presented a bill draft [50130.0200] relating to the establishment of a statewide information technology improvements revolving fund. The bill draft creates a new section to NDCC Chapter 54-59 establishing a statewide information technology improvements revolving fund for information technology projects providing improvements in the efficiency of state government services or information technology projects involving multiple state agencies or institutions. The Chief Information Officer may not provide funds for any project that the Legislative Assembly has indicated an intent to reject in the project's proposed or substantially similar format. A state agency or institution interested in obtaining money from the fund is to submit a written request detailing information on the purpose, scope, cost benefit, and projected return on investment of the project to the Chief Information Officer. The Chief Information Officer presents each request to the State Information Technology Advisory Committee for its consideration. If the committee approves the request, the Chief Information Officer shall recommend the proposed project to the Budget Section for approval. The Chief Information Officer may not provide funds for the project without approval of the Budget Section. Agencies and institutions shall repay funds provided from the statewide information technology improvements revolving fund and any related interest during subsequent bienniums as money becomes available through savings, increases in revenue, legislative appropriation, or other sources. The Chief Information Officer shall report to the Budget Section and the Information Technology Committee on the status, projected return on investment, and actual return to the fund for each project approved by the Budget Section. The bill draft also provides a \$1 million general fund appropriation to the Information Technology Department for the purpose of establishing a statewide information technology improvements revolving fund.

Mr. Wolfe said the statewide information technology improvements revolving fund would provide a funding mechanism for information technology projects not identified during the budget process. He said a long-term goal would be to increase the balance available in the fund.

Representative Svedjan said he is concerned that agencies may use the fund to circumvent the

appropriation process to receive funding for an information technology project. He said the repayment of the funds should be required from savings or increased revenue resulting from the project.

Representative Skarphol agreed that the repayment of the funds should be required from savings or increased revenue resulting from the project.

In response to a question from Senator Schobinger, Mr. Wolfe said if the Legislative Assembly would not like an agency to be able to apply for funding from the statewide information technology improvements revolving fund for a particular project, the Legislative Assembly could add language in an agency's appropriations bill providing that the agency shall not receive funding from the fund for the project.

**It was moved by Senator Wardner, seconded by Representative Glassheim, and carried on a roll call vote that the bill draft be amended to provide that agencies and institutions shall repay funds provided from the fund and any related interest during subsequent bienniums as money becomes available through savings, documented reductions in staff, and increases in revenue attributable to the technology improvements.** Senators Robinson, Christmann, Schobinger, Seymour, and Wardner and Representatives Glassheim, Skarphol, and Svedjan voted "aye." No negative votes were cast.

Representative Skarphol suggested that the Legislative Assembly may consider providing that if the balance in the permanent oil tax trust fund exceeds a certain level that \$1 million is transferred into the statewide information technology improvements revolving fund instead of providing a general fund appropriation for the fund.

**It was moved by Representative Skarphol, seconded by Senator Wardner, and carried on a roll call vote that the bill draft, as amended, be approved and recommended to the Legislative Council.** Senators Robinson, Schobinger, Seymour, and Wardner and Representatives Glassheim, Skarphol, and Svedjan voted "aye." Senator Christmann voted "nay."

## OTHER ITEMS

Mr. John Bjornson, Counsel, Legislative Council, presented a memorandum entitled *Information Technology Security Assessments*. The memorandum is in response to a request for information regarding whether statutory changes are necessary to authorize the State Auditor to conduct or contract for information technology security assessments of state computer systems. He said although NDCC Section 54-10-28(1) directs the State Auditor to conduct information technology compliance reviews, as determined necessary by the Information Technology Committee, the section does not specifically authorize the State Auditor to conduct information technology security assessments. To accomplish that end,

legislation could be proposed that would specifically authorize the State Auditor to conduct or contract for unannounced assessments of state government computer systems and computer security plans established to safeguard the computer systems. The legislation could be drafted to provide that any assessment be of computer system and network internal and external vulnerability, including existence of potential security breaches and susceptibility to computer hacking or other cyber fraud or attack. In addition, issues relating to the confidentiality of the findings of an assessment and the confidentiality of electronic information maintained in the computer systems should be addressed.

Mr. Ed Nagel, Director, State Auditor's office, commented on information technology security assessments. He said the State Auditor plans to request authority from the 2005 Legislative Assembly to conduct or contract for information technology security assessments and has included a funding request of \$100,000 for the 2005-07 biennium for such an assessment. He said issues relating to the confidentiality of the findings of an assessment and the confidentiality of electronic information maintained in the computer systems would be addressed.

Ms. Maggie Anderson, Assistant Director, Medical Services, Department of Human Services, provided information regarding the department's Medicaid management information system (MMIS) replacement project. A copy of the information is on file in the Legislative Council office. She said the department's 2003-05 budget includes funding to complete the planning phase of the MMIS replacement. She said the department has selected Fox Systems, Inc., as the vendor for completing the planning for the project, including documenting all current and future business needs, producing a cost-benefit analysis of all replacement options, and preparing the request for proposal for the replacement. She said within the next two weeks the department will be submitting an implementation advanced planning document to the Centers for Medicare and Medicaid regional office. Approval of the document will guarantee that the department receives the 90 percent federal match for the design, development, and implementation activities of the replacement project. She said the department has considered seven options for replacement of the MMIS and Fox Systems, Inc., will deliver the final cost-benefit analysis of the replacement options within the next month. She said the department will submit information on each of the viable alternatives to the 2005 Legislative Assembly. She said it is the department's intention to release the request for proposals for the replacement in March 2005 after receiving input from the 2005 Legislative Assembly.

In response to a question from Representative Svedjan, Ms. Anderson said the seven options for replacement of the MMIS are:

1. Build a new custom system.

2. Procure one of the currently functioning systems as selected by the department, customize the system to reflect the department's needs, manage claims processing through the department, and manage the operations and maintenance of the system through the Information Technology Department.
3. Outsource the entire system to a third party, including claims processing and the operations and maintenance of the system.
4. Maintain the claims processing through the department and outsource the operations and maintenance of the system to a third party.
5. Procure a system as proposed by a vendor, customize the system to reflect the department's needs, manage the claims processing through the department, and manage the operations and maintenance of the system through the Information Technology Department.
6. Partner with another state who has a system similar to the state's needs, modify the system to reflect the department's needs, manage the claims processing through the department, and manage the operations and maintenance of the system through the other state.
7. Partner with Workforce Safety and Insurance to use a portion or all of its claims system.

In response to a question from Representative Skarphol, Ms. Anderson said the estimated cost of the seven options for replacing the MMIS ranges from \$28 million to \$45 million.

Ms. Jo Zschomler, Director, Risk Management Division, Office of Management and Budget, provided information regarding the division's Emergency Commission request to purchase a new risk management information system. A copy of the information is on file in the Legislative Council office. She said the Risk Management Division of the Office of Management and Budget was established for the purposes of identifying, measuring, and developing systems to address the casualty liability risks faced by state agencies and to effectively administer all casualty claims and lawsuits that are filed against the state or employees of the state. Since the inception of the state's risk management program, the division has used a risk management information system to track incidents, claims, lawsuits, and reserves and to provide loss data to an actuary. In December 2002 the company that owned the risk management information system currently used by the division discontinued support for the system. She said without timely updates and without support, the system is no longer compatible with the division's computers. She said the division is using its oldest computer to transmit data to an actuary and that computer is showing signs of failing. She said the division has worked with the

Central Purchasing Division of the Office of Management and Budget and the Information Technology Department to develop a request for proposals for a replacement system and the division received approval from the Emergency Commission and the Budget Section to use up to \$300,000 of funds from the risk management fund to replace the system.

Ms. Bonnie Neas, Assistant Vice President for Federal Government Relations and Director of Internet Research, North Dakota State University, provided information regarding the Northern Tier Networking Consortium. A copy of the information is on file in the Legislative Council office. She said the Northern Tier Networking Consortium, which consists of representatives of Wisconsin, Minnesota, Iowa, North Dakota, South Dakota, Montana, Idaho, and Washington, is attempting to provide a robust network connection for educational institutions in the upper northwestern states by creating a national backbone route across the northern portion of the United States.

In response to a question from Representative Svedjan, Ms. Neas said the estimated cost of North Dakota's share of the network is approximately \$15 million to \$25 million.

In response to a question from Senator Schobinger, Ms. Neas said the network would be dedicated for educational institutions.

## **COMMITTEE DISCUSSION AND STAFF DIRECTIVES**

**It was moved by Representative Skarphol, seconded by Representative Svedjan, and carried that the chairman and the staff of the Legislative Council be requested to prepare a report and bill drafts recommended by the committee and to present the report and recommended bill drafts to the Legislative Council.**

The meeting was adjourned subject to the call of the chair at 4:30 p.m.

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Roxanne Woeste  
Senior Fiscal Analyst

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Jim W. Smith  
Legislative Budget Analyst and Auditor

ATTACH:1