

**2013 GOVERNMENT AND VETERANS AFFAIRS**

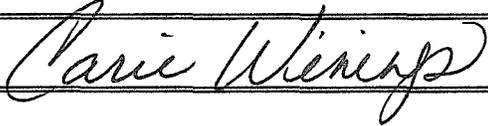
**SB 2034**

# 2013 SENATE STANDING COMMITTEE MINUTES

Senate Government and Veterans Affairs Committee  
Missouri River Room, State Capitol

SB 2034  
01/11/2013  
Job Number 17120

Conference Committee

Committee Clerk Signature	
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## Explanation or reason for introduction of bill/resolution:

A Bill for an Act to create and enact a new section to chapter 54-59 of the North Dakota Century Code, relating to information technology projects and the creation of executive steering committees for information technology projects.

## MINUTES:

**Representative Weisz, District 14:** Testifying in support and as Interim IT Committee Chairman. This bill came about because of an executive order by Governor Dalrymple. This bill keeps expanding and growing on the things we have done over the last fifteen years or so in the attempt to get better oversight and control on large technology projects. It sets up an executive steering committee that would require any large project to go through. This would deal with the contract terms, project management, etc. The goal of this legislature is to ensure that projects are done properly and that if a vendor cannot fulfill their obligations that the state has then recourse. That has not been the case in many large projects in the past. Often times we find out if a project is going south and it becomes apparent we need to find another vendor it is not nearly as simple as it should be. Many times it costs the state money or we are not able to recuperate the money we already paid. This sets up the executive committee and will include the Attorney General's office that will work under the contractual terms to make sure the state is protected. It requires a primary project manager and a procurement officer. It sets up who is on that steering committee and then the process to vote and go forward. We looked at what the Governor proposed in

his executive order and we wanted to put this in law to make it clear that all agencies would be under this and we clarified a couple of things and we think it goes a long way to insure that future projects will have better success than we have today. In general we do not worry about the million dollar projects. They have a very high success rate in ND.

(Mentions a 17 million dollar project that was forced to be stopped) It pointed out the need insure that you pick the proper vendor and that you have a contract that ensures then vendor delivers and ensure that payment doesn't occur before he delivered; also that there is enough oversight. It sets up standards for project managers and that they are qualified for these types of projects. Your interim committee thought it was great what the governor had done and thought it was something we should have done earlier. I am not saying that we won't have issues down the road with IT projects but I think this will greatly increase the odds that an IT project will be successful.

**(5:28) Vice Chairman Berry:** This bill piggy backs 2033 in that it is talking about major IT projects. Are you wanting this to go forward even if 2033 was left at \$250,000?

**Representative Weisz:** Yes I do. One of the reasons that we did raise that limit because I don't think it is necessary for a \$300,000 project to have to go through all of the steps that are in 2034. But if I could only have one or the other, I would take 2034 any day and we will work with that. I think it is that important on these multi-million dollar projects.

**Vice Chairman Berry:** You are saying a large majority do go well and until they get to that higher threshold and that is where you are seeing the issues?

**Representative Weisz:** I believe over 75% of our projects are on time and on budget. Even most of our large projects are on time and on budget. It only takes one project to make the front page of the news, and none of us would like to see 17 million wasted or whatever the dollar amount. This legislation doesn't mean we won't see that in the future

on a project, but I think it greatly increases the odds that going forward our projects will come in budget and get completed on time. With the complexity of state government and the demand by the consumer and the agencies for increasingly more ability to do things, projects get complex and it is hard to find vendors that know what they are doing or have the experience. These steps are even more critical; it is not like you can just call up Microsoft and order a copy of state government 101. Every state is unique. It is important that contracts spell out what is needed to ensure the state is protected. You are bringing in all the pieces need to ensure the job is done correctly.

**Senator Poolman:** Will this bill also insure that we can go after these companies when situations arise like the one this week?

**Representative Weisz:** Yes. I think that is the importance of the Attorney General's office being included. I am aware of projects in the past that we were had little or no recourse. I have been surprised by contracts that have been signed in the past that the vendor was totally in control.

**Senator Cook:** There is no guarantee to not see this in the paper again. I would say we should do everything we can not to because it is very embarrassing when it is. Did WSI not have legal counsel?

**Representative Weisz:** Part of the problem was that when the project was started (2005), and I assume they did have legal counsel, but the issue is that you are looking at a very specialized type of contract.

**Senator Cook:** So we have learned something?

**Representative Weisz:** We did learn something and that is one of the reasons this legislation is in front of you. Here we will be using the expertise of the Attorney General's

office that will be available to every agency. They have people that specialize in these types of contracts.

**Senator Marcellais:** I was thinking back; now we are going to create this executive steering committee, who was the watchdog of these projects before?

**Representative Weisz:** Currently there are several procedures in place. IT might be better to answer this. There is one legislative committee that have oversight and another committee that has legislators on it. There is an IT committee that takes the large projects, they are submitted to SYTAC, and look over them and look at the priorities and whether they make sense. Your IT committee is an ongoing statutory committee. It functions all the time. It is our job to receive information from the agencies and the IT department on every large project. We don't have the ability to stop a project but we do have the ability to make a recommendation that a project should be stopped or that something needs to happen. We pass legislation that requires project management. Over the past 15 years we have put a lot of steps in place. Every time a mistake is made we learn from it and we make additional legislation to make it better. We did not have enough oversight in the project contract area. This takes that a step further. Will we be back in two years on this? I don't know. North Dakota currently is some of the best run IT in the nation.

**(18:20) Senator Marcellais:** Are you talking both hardware and software?

**Representative Weisz:** We already have set procurement rules in place for the hardware. For example, agencies have to go through the IT department for hardware whether it is phones, servers, laptops, etc. This would not directly address the hardware because whatever hardware that addition was necessary, they have to go to the IT department. We have standardized all of that and everything runs through the IT Department. I think there

was a lot of resistance initially but that is working quite well. The email is standardized ...etc.

**(20:10) Lisa Feldner, Information and Technologies Department:** See Attachment #1 in support and see Attachment #2 for proposed amendment.

**(27:34) Chairman Dever:** This applies to major projects and I am just curious if there are proper controls for smaller projects? I understand they don't require the same oversight.

**Lisa Feldner:** They do in a sense, just not the executive steering committee piece. So anything now, if you pass SB 2033, anything under \$500,000 still has all of the project management reporting and whatnot in place. They still have to report their projects to us. I just don't require an oversight analyst to verify everything unless we at ITD deem it necessary. They still have to follow project management practices and report to the IT committee and they have report to SYTAC.

**Chairman Dever:** If a project is over \$500,000 do they come over oversight?

**Lisa Feldner:** Yes

**Senator Marcellais:** Is the steering committee the auditor of the IT project or do you have staff that does the auditing of the IT in the software area?

**Lisa Feldner:** Certainly our oversight analysts are looking at the project reports and verifying their budgets and that sort of thing.

**Chairman Dever:** Any other testimony?

**(30:15) Pam Sharp, Director of the Office of Management and Budget:** Testifying in support. I have been part of this executive order for the past 18 months and I have been on the executive steering committee as result of that on many large projects. We have been working with this and we believe we can continue to do this with existing staff and we think it has been very useful. It has added a lot to the IT projects and we have received

really positive comments from the agencies that had IT projects of which we were involved in. It is a really good process. I urge your support.

**Chairman Dever:** Subsection 2 states "procurement officer and primary project manager must meet the qualifications established by the department and OMB", are those qualifications in place now?

**Pam Sharp:** Yes they are in place now for procurement officers. ITD has qualifications in place for project managers as well. For procurement officers, they need specific training to do a particular level of procurement. So, in some agencies they might require some more training. We may need to provide more training. We will make sure that every procurement officer that is involved in this does have the proper amount of training.

**Chairman Dever:** I would image that large agencies, just like they have IT staff, have procurement staff?

**Pam Sharp:** That is correct. Always a procurement officer from OMB's procurement office is available.

**Chairman Dever:** Any further testimony in support, opposition, neutral?

**Closed hearing on SB 2034.**

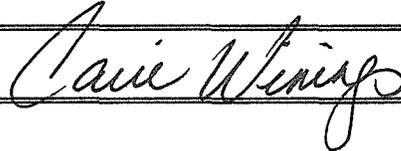
# 2013 SENATE STANDING COMMITTEE MINUTES

Senate Government and Veterans Affairs Committee  
Missouri River Room, State Capitol

SB 2034  
01/17/2013  
Job Number 17320

Conference Committee

Committee Clerk Signature



## Minutes:

**Chairman Dever:** Reopened discussion for SB 2034. Amendment proposed to discuss.

**Vice Chairman Berry:** What was the purpose of the amendment by excluding?

**Senator Nelson:** (Inaudible)

**Chairman Dever:** That is another branch of government.

**Senator Cook:** I thing they are another branch of government.

**Senator Nelson:** I would think it probably goes with the tech park projects that all are over \$500,000.

**Chairman Dever:** State ITD doesn't get involved in higher educational IT projects.

**Vice Chairman Berry:** The reason being?

**Senator Nelson:** I think the tech parks are kind of an adjunct to the university; they are not really part of the university but they are on university land, and they lease it but yet some of our students do research projects there.

**Senator Cook:** Whether it is a tech park or the university itself, I think it is irrelevant. This bill has to do with the executive branch having some authority over decisions and how contracts are written. I think the university system would unfortunately find that offensive.

**Senator Marcellais:** Is there a reason why no legislators are on the steering committee?

**Senator Schaible:** There are legislators on this information technology committee. That is all legislators. There are some other people on there, but mostly legislators and that is where both these bills came from.

**Chairman Dever:** I don't think this is about developing policy. This is about overseeing projects.

**Senator Cook:** The bill creates an executive steering committee.

**Senator Schaible:** When we were discussing this in the interim committee meeting, the idea was that the Governor had this in his arsenal of things that he could do was request this and we thought that it was this format that came after that request. It seemed like a good idea with all these over the \$500,000 limit which that other bill does. We just thought why should we just make it discretionary? We thought we should make it mandatory. It was the Governor's recommendation. He could have done that anyway and we thought it was such a good idea to make it mandatory. Same as his recommendations.

**Senator Cook: Moved a Do Pass on Amendments.**

**Vice Chairman Berry: Seconded.**

**Roll call vote was taken: 7 yea, 0 nay, 0 absent.**

**Amendment passed.**

**Senator Poolman: Moved Do Pass As Amended.**

**Vice Chairman Berry: Seconded.**

**Chairman Dever:** Discussion?

**Senator Cook:** I am going to vote for this, but I cannot believe that WSI signed a contract without some of the smartest council that they could get. I find it unbelievable. I would not spend \$50,000 on a software upgrade without having a pretty good legal counsel telling me

how to draft that contract. Part of me wishes I could see the initial contract that was signed to know what went wrong. It is embarrassing.

**Chairman Dever:** It would be interesting to know now what the legal implications are of what is happening. Do they hire someone else? And can they pick up where it was left off? Is the information proprietary?

**Senator Schaible:** Some of the discussions we had in that committee on relating to those comments was, yes, there is always lawyers hired by their departments but the problem is that WSI lawyers are lawyer for WSI services. That was the thing, they were getting people getting involved but it was not the expertise and the right people that should have been. I don't know if that is a good excuse or not, but that was the idea behind this. If we have tech people in the AG's office writing these contracts or in our tech department with their legal staff and getting them in the front of this instead of reviewing it after the fact is probably a better idea. These are lessons hard learned. When these tech projects start going bad, it is easy to review a product if it is out there and being used by someone, but when they develop a product that is never being used before for certain situations; that is the difference. You think you can develop a product and you try to make it work and as you find out you can't. That is an immense thing. It seems like the IT department has found out that the stuff we develop here at home works way better than the other stuff. It is lessons we learned the hard way.

**Chairman Dever:** Is there a process in place for the legislature to keep accountability on where the project is and where it is going? Is there a committee they report to?

**Senator Schaible:** That is the IT committee. It is the committee that does that. As of now, we have a tracking program of on budget, over budget, and under budget. It is a very good tracking process. We are getting better at it and the problems we have had have helped

develop it. Now the projects, other than the two we have had, 97% of the projects are doing quite well, under budget, and on time. That is the track record you want. This WSI project is 8 years old. There is a quarterly review now.

**Chairman Dever:** By Governor's executive order, this committee was created and now is codified and they now are in the process too I would imagine with that project.

**Senator Marcellais:** I think what Senator Schaible is trying to say is that their legal counsel probably needs some IT experience or knowledge. That is why they cannot monitor the particular projects that we are talking about. I would put the blame back on the project manager. The project manager needs to report back to the agency on a weekly, monthly basis. A lot of the systems that I have worked on, we had to do a weekly report. We did a lot of projects in phases. There was also an auditor there as a watchdog. Basically your systems are pretty simple. You have an input side, update program, and after that the majority is reporting. Where the reporting came out, that is where you found a lot of the errors. It sounds like WSI did not stay on top of this project.

**Senator Cook:** Sounds like the company hired was not being very truthful. They could not deliver what was promised. The real question is the contract that was drafted and what protection we get when you deal with a business or company that cannot deliver.

**Chairman Dever:** That is what legal contracts are for. Any further discussion?

**A Roll Call Vote was taken: 7 yeas, 0 nay, 0 absent.**

**SB 2034 passed as amended.**

**Senator Schaible: Carrier.**

13.0008.04001  
Title.05000

7  
GNK  
Adopted by the Education Committee

January 17, 2013

1/17/13  
TO

PROPOSED AMENDMENTS TO SENATE BILL NO. 2034

Page 1, line 9, after "agency" insert ", excluding institutions under the control of the board of higher education."

Renumber accordingly

Date: 1/

Roll Call Vote #: 1

2013 SENATE STANDING COMMITTEE  
ROLL CALL VOTES

BILL/RESOLUTION NO. : 2034

Senate Government and Veterans Affairs Committee

Check here for Conference Committee

Legislative Council Amendment Number 13.0008.04001

Action Taken Propossed Amendment .05000

Motion Made By Senator Cook Seconded By Senator Berry

Senators	Yes	No	Senator	Yes	No
Chariman Dick Dever	✓		Senator Carolyn Nelson	✓	
Vice Chairman Spencer Berry	✓		Senator Richard Marcellais	✓	
Senator Dwight Cook	✓				
Senator Donald Schaible	✓				
Senator Nicole Poolman	✓				

Total (Yes) 7 No 0

Absent 0

Floor Assignment \_\_\_\_\_

If the vote is on an amendment, briefly indicate intent:

Date: 1/17

Roll Call Vote #: 2

2013 SENATE STANDING COMMITTEE  
ROLL CALL VOTES

BILL/RESOLUTION NO. : 2034

Senate Government and Veterans Affairs Committee

Check here for Conference Committee

Legislative Council Amendment Number \_\_\_\_\_

Action Taken DO PASS AS AMENDED

Motion Made By Senator Poolman Seconded By Senator Berry

Senators	Yes	No	Senator	Yes	No
Chairman Dick Dever	✓		Senator Carolyn Nelson	✓	
Vice Chairman Spencer Berry	✓		Senator Richard Marcellais	✓	
Senator Dwight Cook	✓				
Senator Donald Schaible	✓				
Senator Nicole Poolman	✓				

Total (Yes) 7 No 0

Absent 0

Floor Assignment Sen. Schaible

If the vote is on an amendment, briefly indicate intent:

**REPORT OF STANDING COMMITTEE**

**SB 2034: Government and Veterans Affairs Committee (Sen. Dever, Chairman)** recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2034 was placed on the Sixth order on the calendar.

Page 1, line 9, after "agency" insert "excluding institutions under the control of the state board of higher education."

Renumber accordingly

**2013 HOUSE APPROPRIATIONS**

**SB 2034**

# 2013 HOUSE STANDING COMMITTEE MINUTES

## House Appropriations Committee Roughrider Room, State Capitol

SB 2034  
3/12/13  
Jobs 19740 and 19751

Conference Committee

Committee Clerk Signature

*Meredith Tracholt*

### Explanation or reason for introduction of bill/resolution:

A BILL for an Act to create and enact a new section to chapter 54-59 of the North Dakota Century Code, relating to information technology projects and the creation of executive steering committees for information technology projects.

### Minutes:

You may make reference to "attached testimony."

**Chairman Delzer** opened the hearing on SB 2034.

**Rep. Robin Weisz, District 14:** I chaired the interim information technology committee, and I am here in support of SB 2034. This came about because of an executive order the governor made after last session, having to do with setting up an executive steering committee to take a look at these major projects. We liked the concept of what the governor was doing, and we decided it was important to bring that forward and put it into law. This brings in all the players, particularly pertaining to contracts and negotiations. He went through the bill. The point of this bill is to tighten up things on these large projects. The vast majority of our projects are on budget and on time, but we do have problem projects. We're better than almost every state in the nation as far as our on time/on budget completion percentages, but that doesn't mean there isn't room for improvement. On these major projects, there is a lot of potential for things to go wrong. It is important that the initial contracts are structured so when things do go wrong, the state has some recourse. We felt this was another piece of the puzzle for better accountability on a project.

05:05

**Chairman Delzer:** How many people are you putting on the committee?

**Rep. Weisz:** You have at least five on the executive steering committee, and it is their job to monitor this. Also, every project has to have a 'project sponsor,' so the agency has to designate somebody to be the project lead, and they are also part of the committee.

**Chairman Delzer:** The designee for the attorney general, can they be an employee of the department doing the project, like DHS for example?

**Rep. Weisz:** My understanding is the AG will have one of his assistant attorney generals who specializes in these kinds of contracts as the designee. There are two different groups

here: subsection 1 outlines what happens before submission, before any contract is issued; subsection 3 is the committee formation, after there is a contract.

**Chairman Delzer:** I see OMB is pretty involved in the committee; what's the reason for that?

**Rep. Weisz:** Basically that's the governor's office, and we felt they should play a strong role in that. We did follow somewhat closely what the governor had.

**Chairman Delzer:** How does this affect the other branches besides the executive branch? Does Legislative Council have to follow this rule, or judicial?

**Rep. Weisz:** My understanding is LC is still exempt, as it was before.

**Rep. Skarphol:** The first few words of subsection 1 indicate it applies to an executive branch agency. There is the anticipation that the legislative branch would have something similar to this, and judicial. An important part of the bill is in the last line of subsection 3, where it says, "Any project decision declared by a member of the committee to be a major project decision requires at least four affirmative votes." That's intended to have a supermajority, is it not? Because in the past, sometimes projects have been too easily swayed as to their direction by an agency head, and not always appropriately.

**Rep. Wiesz:** Correct. Just to expand on that, for example, if you were going to change the timeline, it's very easy for the agency to make the project look better to just change the new completion date so it's not two years past due. This would require that supermajority to say they were willing to shift the timeline, or increase the budget.

**Chairman Delzer:** Further questions? Thank you. Further testimony in support of 2034?

09:50

**Lisa Feldner, Information Technology Department:** We support this bill.

**Chairman Delzer:** Is there any opposition to SB 2034? Neutral testimony?

**Dave Schaibley, Assistant Attorney General:** See Attachment 1.

14:05

**Chairman Delzer:** Questions by the committee? Thank you. Further testimony? Seeing none, the hearing was closed.

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Second recording job 19751

**Chairman Delzer:** Any concerns on 2034?

**Rep. Wieland:** If this is an executive order by the governor, why is the bill necessary and why aren't the rules done through administrative rules?

**Chairman Delzer:** We can ask ourselves whether or not we want them doing this under executive order, or if we think it is valid enough that we should put it in code, so there isn't any question as to whether or not it should be done. This is a legislative prerogative; currently it's being done under executive order, but if it's a policy that we agree with, maybe the legislature should consider the policy. I think that's why it is here.

**Rep. Kempenich:** In IT committee, we felt this was a policy we wanted to go forward with. The Workers Safety issue was one of the drivers of this. The original bill had higher ed in here, too; that gets to be another conversation. I was reading an article the other day that said ND was fourth in the nation in IT spending. That's got to say something of what we're doing in this state with technology. I think a formal procedure is a good idea; every time an agency goes outside that, they have a wreck.

**Rep. Skarphol:** I'm not sure you interpreted what you read correctly, I think the article was actually complementary about the fact that ND is fourth in the utilization of IT, and that it's fourth as a state, not as a state government, specifically because of all the technological utilization in the oil industry.

**Rep. Kempenich:** It gets to be interesting, the more rural you are as a state, the more you are using technology, and it isn't just the government. But some of these formal procedures are actually beneficial to catch problems earlier.

**Chairman Delzer:** I'm probably going to support this bill; it does put it in code. If the executive branch wanted to change that, they could, but this puts it in code for a couple of years and we meet every two years. If future legislatures decide this is not the best set up for IT, for the whole state, then they can repeal it or change it. If we don't take a stand on it, we're banking on the executive branch to do our policy for us.

**Rep. Skarphol:** I agree. It's important we do this. In the past there has not been sufficient oversight of these projects at the agencies. I move Do Pass on SB 2034. **Rep. Kempenich** seconded the motion.

**Chairman Delzer:** Further discussion? Seeing none, a roll call vote was done. The motion carried 20 Yes, 0 No, 2 Absent. **Rep. Kempenich** will carry the bill. The meeting was adjourned.

Date: 3/12/13  
 Roll Call Vote #: 1

**2013 HOUSE STANDING COMMITTEE  
 ROLL CALL VOTES  
 BILL/RESOLUTION NO. 2034**

House Appropriations Committee

Check here for Conference Committee

Legislative Council Amendment Number \_\_\_\_\_

Action Taken:  Do Pass  Do Not Pass  Amended  Adopt Amendment  
 Rerefer to Appropriations  Reconsider

Motion Made By Rep. Skarphol Seconded By Rep. Kempenich

Representatives	Yes	No	Representatives	Yes	No
Chairman Delzer	X		Rep. Streyle	X	
Vice Chairman Kempenich	X		Rep. Thoreson	X	
Rep. Bellew	X		Rep. Wieland	X	
Rep. Brandenburg	X				
Rep. Dosch	X				
Rep. Grande			Rep. Boe	X	
Rep. Hawken	X		Rep. Glassheim	X	
Rep. Kreidt	X		Rep. Guggisberg	X	
Rep. Martinson	X		Rep. Holman	X	
Rep. Monson	X		Rep. Williams	X	
Rep. Nelson					
Rep. Pollert	X				
Rep. Sanford	X				
Rep. Skarphol	X				

Total Yes 20 No 0

Absent 2

Floor Assignment Rep. Kempenich

If the vote is on an amendment, briefly indicate intent:

**REPORT OF STANDING COMMITTEE**

**SB 2034, as engrossed: Appropriations Committee (Rep. Delzer, Chairman)**  
recommends **DO PASS** (20 YEAS, 0 NAYS, 2 ABSENT AND NOT VOTING).  
Engrossed SB 2034 was placed on the Fourteenth order on the calendar.

**2013 TESTIMONY**

**SB 2034**

Testimony in Support of Senate Bill 2034  
Government and Veterans Affairs Committee  
January 11, 2013 – Lisa Feldner

The majority of state agencies only have a large scale technology project roughly once every 20 years so they have little to no experience dealing with contract provisions or implementation of the project. Even though OMB and ITD offer procurement assistance, few agencies were taking advantage of the services. As a result, Governor Dalrymple issued an executive order for additional oversight of contracts and implementation of large scale IT projects on July 6, 2011. One of the key features of the order, is the procurement committee consisting of a team of trained subject matter experts in the area of IT contracts. In addition, each large project requires a five member executive steering committee, three of the members coming from outside the contracting agency.

The executive order is working well. For example, the procurement committee saved the state \$60,000 in one of the vendor contracts as the agency procurement officer didn't understand some of the implications of the contract. All contracts now follow a strict template that includes damages for late deliverables as well as other safeguards for the state.

We learned a few lessons along the way and when the Legislative IT Committee drafted the first version of this bill, we suggested a few changes be made. We worked together with Attorney General's office, OMB, ITD, State Procurement and IT Procurement to draft this version. We appreciate the legislative IT committee giving us the opportunity to work on this bill draft with them. We also got support from SITAC.

Subsection 1 says that ITD, OMB, and the Attorney General's office will collaborate on the procurement, negotiation, and contract administration. The Governor's executive order named a specific procurement committee. However, in practice we found that limiting in that if we needed more help, such as OMB procurement experts, we couldn't include them on the committee because they weren't named in the order. This language allows for much more flexibility than we had in the order. It gives us the freedom to bring in experts from procurement, legal, and technical to augment our experienced team.

Subsection 2 states that OMB and ITD will establish the qualifications required for the procurement officer and project manager.

In subsection 3, the executive steering committee consists of the agency head, the director of OMB, the CIO, or their designees, the project sponsor, and a large project oversight analyst appointed by the CIO. The committee monitors the project and reviews all major decisions. Any major project decision requires at least four affirmative votes. This committee is the same configuration as the Governor's executive order and has worked very well.

Subsection 4 states that any contract amendment, revision, or scope change must be signed by both the agency head and the chief information officer.

PROPOSED AMENDMENTS TO SENATE BILL NO. 2034

Page 1, line 9, after "agency" insert ", excluding institutions under the control of the Board of Higher Education,"

Renumber accordingly

**SENATE BILL 2034  
Appropriations Committee  
March 12, 2013  
Roughrider Room**

**By David Schaibley, Assistant Attorney General**

Senate Bill 2034 codifies aspects of the Governor's Executive Order 2011-20 and provides a mechanism for the oversight of major information technology projects. This testimony explains the two ways in which the Office of Attorney General will provide the legal consultation outlined by the Bill.

Under SB 2034, an executive branch state agency proposing a major IT project, along with ITD and OMB, will procure, negotiate, and administer the project "in consultation with the attorney general." The Office of Attorney General already provides each of these agencies with an assigned assistant or special assistant attorney general. These attorneys carry out the first legal role the Attorney General recognizes for his agency under this Bill. In that role the attorneys assigned to ITD, OMB, and each procuring agency may provide legal advice to their respective agencies on major IT projects.

SB 2034 also establishes an Executive Steering Committee ["Steering Committee"] that consists of five members:

- 1) the director of the office of management and budget or a designee of the director,
- 2) the chief information officer or a designee of the officer,
- 3) the head of the agency contracting for the project or a designee,
- 4) the project sponsor, and
- 5) a large project oversight analyst designated by the chief information officer

The Attorney General anticipates that the Steering Committee will request the appointment of an assistant attorney general to provide the Steering Committee with legal advice regarding the management of the major IT projects. This attorney fulfills the second legal role the Attorney General recognizes for his agency under this Bill. It is anticipated that in

addition to providing legal advice to the Steering Committee, this attorney will act as a liaison between the Steering Committee and the agencies referenced in Paragraph 1 of the Bill. In this circumstance the attorney is expected to share the Steering Committee's perspective on legal and contractual issues with the agencies. The Steering Committee's assistant attorney general, however, will not provide legal advice to the agencies. As noted earlier, the agencies obtain their legal advice from the attorneys assigned to each agency.

It should be noted that even though SB 2034 is written so that the membership of the Steering Committee changes with each project, the Attorney General will endeavor to appoint the same assistant attorney general to each Steering Committee. Doing so is expected to further reinforce the continuity of legal advice among the different major IT projects.

The Steering Committee is responsible for the cost of the legal services.