

NORTH DAKOTA LEGISLATIVE COUNCIL

Minutes of the

LEGISLATIVE COUNCIL

Wednesday, June 22, 2005
Roughrider Room, State Capitol
Bismarck, North Dakota

Senator Bob Stenehjem, Chairman, called the meeting to order at 1:00 p.m.

Members present: Senators Bob Stenehjem, Dick Dever, Ray Holmberg, Aaron Krauter, Karen K. Krebsbach, Stanley W. Lyson, David O'Connell, Larry J. Robinson; Representatives Rick Berg, Al Carlson, Lois Delmore, William R. Devlin, Scot Kelsh, Matthew M. Klein, Joe Kroeber, Chet Pollert

Member absent: Representative Merle Boucher

Others present: Jay E. Buringrud, Jim W. Smith; Legislative Council, Bismarck

Ken Svedjan, State Representative, Grand Forks

See attached appendix for additional persons present.

It was moved by Senator Robinson, seconded by Senator Holmberg, and carried on a voice vote to dispense with the reading of the minutes of the May 19, 2005, meeting and to approve the minutes as distributed.

Chairman Stenehjem distributed copies of a proposed committee structure. He said the committee structure was based primarily upon the preferences reported by legislators on the questionnaires mailed to them following the last meeting. He also distributed a list of legislators showing the interim committees on which they would sit under the proposed committee structure. He announced the Legislative Council would stand at ease while the members reviewed the proposed committee structure.

Following the recess, Chairman Stenehjem announced that he would entertain a motion to adopt the proposed committee structure and he would then ask the members to make suggestions for changes in that committee structure and he would either accept the changes as proposed or entertain motions to amend the list to make any changes. **It was moved by Senator O'Connell and seconded by Senator Krebsbach that the proposed committee structure be adopted.** In the discussion that followed, Chairman Stenehjem went through an alphabetical listing of the proposed interim committees and asked for any suggested changes.

Chairman Stenehjem presented the proposed membership of the Administrative Rules Committee. No changes were proposed to the membership of the Administrative Rules Committee as presented.

Chairman Stenehjem presented the proposed membership of the Advisory Commission on Intergovernmental Relations. No changes were proposed to the membership of the Advisory Commission on Intergovernmental Relations as presented.

Chairman Stenehjem presented the proposed membership of the Agriculture and Natural Resources Committee. No changes were proposed to the membership of the Agriculture and Natural Resources Committee as presented.

Chairman Stenehjem presented the proposed membership of the Budget Section. No changes were proposed to the membership of the Budget Section as presented.

Chairman Stenehjem presented the proposed membership of the Budget Committee on Government Services. No changes were proposed to the membership of the Budget Committee on Government Services as presented.

Chairman Stenehjem presented the proposed membership of the Budget Committee on Health Care. Representative Berg suggested that Representatives Clara Sue Price, William R. Devlin, and Robin Weisz be added to this committee. Chairman Stenehjem announced that, without objection, those names would be added as members of the Budget Committee on Health Care.

Chairman Stenehjem presented the proposed membership of the Budget Committee on Human Services. Senator Robinson suggested that Senator John M. Warner be added to this committee and Representative Kroeber said he planned to suggest replacing Senator Warner with Senator Carolyn Nelson on the Employee Benefits Programs Committee. Chairman Stenehjem announced that, without objection, Senator Warner would replace Senator Nelson on the Budget Committee on Human Services.

Chairman Stenehjem announced that under the law the majority and minority leaders selected the members of the Commission on Alternatives to Incarceration, so no further action was needed at this time.

Chairman Stenehjem presented the proposed membership of the Economic Development Committee. Representative Kelsh suggested adding Representative Kenton Onstad to the Economic Development Committee. Chairman Stenehjem

announced that, without objection, Representative Onstad's name would be added as a member of the Economic Development Committee.

Chairman Stenehjøm presented the proposed membership of the Education Committee. No changes were proposed to the membership.

Chairman Stenehjøm presented the proposed membership of the Electric Industry Competition Committee and he announced that the membership of that committee is limited to six members of each house. Senator O'Connell suggested that Senator Larry J. Robinson replace Senator Joel C. Heitkamp on the Electric Industry Competition Committee. Chairman Stenehjøm announced that, without objection, Senator Robinson would replace Senator Heitkamp as a member of this committee. Chairman Stenehjøm announced that he has the statutory authority to name the chairman of this committee and he plans to name Representative Merle Boucher. Therefore, he said, Representative Boucher needs to be one of the members of the committee and the consensus was to replace Representative Kenton Onstad with Representative Merle Boucher as a member of the Electric Industry Competition Committee.

Chairman Stenehjøm presented the proposed membership of the Employee Benefits Programs Committee. Senator O'Connell suggested replacing Senator John M. Warner with Senator Carolyn Nelson on this committee. Representative Kroeber noted that there was only one member of the minority from each house on this committee. Representative Carlson said that he believes that either Representative George J. Keiser or Representative Ken Svedjan should be on this committee, as they both have experience in employee compensation issues. He suggested replacing Representative Bette B. Grande with either Representative Keiser or Representative Svedjan. Representative Carlson noted that he is on this committee and he and Representative Grande are from the same legislative district. Representative Berg suggested the Council return to consideration of the Employee Benefits Programs Committee later in the day, and Chairman Stenehjøm announced that would be acceptable.

Chairman Stenehjøm presented the proposed membership of the Finance and Taxation Committee. No changes were proposed to the membership.

Chairman Stenehjøm presented the proposed membership of the Higher Education Committee. Senator O'Connell requested that his name be added as a member of this committee. Chairman Stenehjøm announced that, without objection, Senator O'Connell would be added as a member of the Higher Education Committee.

Chairman Stenehjøm presented the proposed membership of the Industry, Business, and Labor Committee. Senator O'Connell noted that there were no members of the minority from the Senate on the list and he suggested that Senator Joel C. Heitkamp

be added as a member of the committee. Chairman Stenehjøm announced that, without objection, Senator Heitkamp's name would be added as a member of the Industry, Business, and Labor Committee.

Chairman Stenehjøm presented the proposed membership of the Information Technology Committee. Senator Robinson noted that no member of the minority from the House was on the list of committee members. He noted that the membership of this committee is limited by law and, therefore, someone would have to come off the committee if another House member were to be added. Senator Robinson suggested Representative Eliot Glassheim for this committee. Representative Carlson suggested that Representative Bette B. Grande replace Representative Ken Svedjan on this committee. Senator Robinson asked Representative Berg if any House majority member on the list could be moved to another committee. After further discussion, Chairman Stenehjøm announced that the Council would return to consideration of the membership for the Information Technology Committee.

Chairman Stenehjøm presented the proposed membership of the Judicial Process Committee. He said he suggested that Senator Stanley W. Lyson be chairman of this committee and, therefore, his name needs to be added as a member of the Judicial Process Committee.

Chairman Stenehjøm presented the proposed membership of the Judiciary Committee. He said he planned to suggest Representative Lois Delmore as chairman of this committee. Senator O'Connell said there were no members of the minority on this committee, so he suggested Senator Carolyn Nelson be added as a member of the committee. Chairman Stenehjøm announced that, without objection, Representative Delmore and Senator Nelson would be added as members of the Judiciary Committee.

Chairman Stenehjøm presented the proposed membership of the Legislative Audit and Fiscal Review Committee. Senator Robinson noted that there were no members of the minority from the Senate on the proposed membership, and he suggested that Senator Tim Mathern be added as a member of the committee. Chairman Stenehjøm announced that, without objection, Senator Mathern would be added as a member of the Legislative Audit and Fiscal Review Committee.

Chairman Stenehjøm presented the proposed membership of the Legislative Management Committee. No changes were proposed to the membership of the Legislative Management Committee as presented.

Chairman Stenehjøm presented the proposed membership of the No Child Left Behind Committee. No changes were proposed to the membership of the No Child Left Behind Committee as presented.

Chairman Stenehjøm presented the proposed membership of the Transportation Committee. No

changes were proposed to the membership of the Transportation Committee as presented.

Chairman Stenehjem announced that the Council would return to consideration of the membership of the Employee Benefits Programs Committee. **It was moved by Representative Carlson, seconded by Representative Klein, and carried on a voice vote that Representative Ken Svedjan replace Representative Bette B. Grande on the Employee Benefits Programs Committee and that Representative Grande replace Representative Svedjan on the Information Technology Committee.**

It was moved by Representative Kroeber and seconded by Senator Krauter to replace Representative Ken Svedjan with Representative Ralph Metcalf on the Employee Benefits Programs Committee. In the discussion that followed, Representative Klein noted that Representative Svedjan has expertise in the subject of employee compensation and would make a valuable contribution to the committee. Representative Kroeber said the idea is to give the minority representation on this committee, and because the membership of the committee is limited, someone from the majority will have to be removed if anyone from the minority in the House of Representatives is to serve on this committee. Chairman Stenehjem called for a vote on the motion, and **the motion was defeated on a voice vote.**

Chairman Stenehjem announced that the Council would return to its consideration of the membership of the Information Technology Committee. Senator Robinson said that no one from the minority in the House is on the list to serve on this committee. He said that he hoped that someone on the majority side would know if any of the members listed to serve on this committee would be willing to take another assignment. Representative Berg said Representative Blair Thoreson's third choice was to serve on the Budget Committee on Government Services and his fourth choice was to serve on the Information Technology Committee. **It was moved by Representative Berg, seconded by Senator Holmberg, and carried on a voice vote that Representative Thoreson be replaced with Representative Eliot Glassheim on the Information Technology Committee and that Representative Thoreson be added as a member on the Budget Committee on Government Services.**

Chairman Stenehjem asked if there were any other changes proposed for the committee structure. **It was moved by Representative Berg, seconded by Representative Devlin, and carried on a voice vote that Representative Kim Koppelman be added as a member of the Judiciary Committee. It was moved by Representative Kelsh, seconded by Senator O'Connell, and carried on a voice vote that Representative Kelsh be added as a member of the Industry, Business, and Labor Committee.**

Chairman Stenehjem announced the Council would take a roll call vote on the main motion, which

was to approve the proposed committee structure with changes that had been proposed, some of which were by voice vote and others which were by consensus. He reviewed the changes that had been made to be sure all the members of the Council understood the main motion. Voting in favor of the motion were Senators Stenehjem, Dever, Holmberg, Krauter, Krebsbach, Lyson, O'Connell, and Robinson and Representatives Berg, Carlson, Delmore, Devlin, Kelsh, Klein, Kroeber, and Pollert. Chairman Stenehjem announced that **the motion carried.**

Chairman Stenehjem announced that, as chairman of the Legislative Council, he has the statutory authority to name the chairman of the Commission on Alternatives to Incarceration, Electric Industry Competition Committee, Tribal and State Relations Committee, and Workers' Compensation Review Committee. He said he planned to name Representative Joe Kroeber as chairman of the Commission on Alternatives to Incarceration and Representative Merle Boucher as chairman of the Electric Industry Competition Committee. He said he would name the chairman of the other two committees at a later date. Chairman Stenehjem announced that he was proposing chairmen and vice chairmen for the other committees as follows:

Committee	Chairman	Vice Chairman
Administrative Rules	Devlin, William R.	Klein, Jerry
Advisory Commission on Intergovernmental Relations	Kelsh, Scot	Cook, Dwight
Agriculture and Natural Resources	Pollert, Chet	Flakoll, Tim
Budget Section	Svedjan, Ken	Grindberg, Tony
Budget Committee on Government Services	Carlson, Al	Kringstad, Ed
Budget Committee on Health Care	Krauter, Aaron	Porter, Todd
Budget Committee on Human Services	Dever, Dick	Price, Clara Sue
Economic Development	Berg, Rick	Mutch, Duane
Education	Freborg, Layton W.	Haas, C. B.
Employee Benefits Programs	Klein, Matthew M.	Kilzer, Ralph L.
Finance and Taxation	Urlacher, Herb	Belter, Wesley R.
Higher Education	Holmberg, Ray	Brusegaard, Tom
Industry, Business, and Labor	Krebsbach, Karen K.	Dosch, Mark A.
Information Technology	Robinson, Larry J.	Monson, David
Judicial Process	Lyson, Stanley W.	Klemin, Lawrence R.
Judiciary	Delmore, Lois	Traynor, John T.
Legislative Audit and Fiscal Review	Wald, Francis J.	Bowman, Bill L.
Legislative Management	Stenehjem, Bob	Berg, Rick
No Child Left Behind	Kelsch, RaeAnn G.	Lee, Gary A.
Transportation	O'Connell, David	Weisz, Robin

It was moved by Senator O'Connell, seconded by Senator Krebsbach, and carried on a roll call vote that the proposed list of committee chairmen and vice chairmen be approved. Voting in favor of the motion were Senators Stenehjem, Dever, Holmberg, Krauter, Krebsbach, Lyson, O'Connell, and Robinson and Representatives Berg, Carlson, Delmore, Devlin, Kelsh, Klein, Kroeber, and Pollert. There were no negative votes.

Chairman Stenehjem announced that the Council would consider appointments to the Committee on Protection and Advocacy, Information Technology Advisory Committee, and State Hospital Governing Body. He suggested Senator Judy Lee for the Committee on Protection and Advocacy and Representative Berg suggested Representative Chet Pollert for appointment to that committee. Representative Pollert noted that he was currently on both the Committee on Protection and Advocacy and the State Hospital Governing Body, and he was not sure if it would be the intent to appoint him to both of these entities. Representative Devlin suggested that Representative Gerald Uglem be appointed to the Committee on Protection and Advocacy.

Chairman Stenehjem suggested Senator Rich Wardner and Representative Berg suggested Representative Bob Skarphol for the Information Technology Advisory Committee. It was noted that two legislators are to be appointed to the committee.

Representative Berg suggested that Representative Chet Pollert be named to the State Hospital Governing Body. Chairman Stenehjem asked for a discussion of appointments to the Advisory Commission on Faith-Based and Community Initiatives, as the law provides that one member is to be selected by members of the Legislative Council representing the majority and one member is to be selected by the members of the Legislative Council representing the minority. Representative Carlson suggested Representative Bette B. Grande and Senator O'Connell suggested Senator Tim Mathern for the Advisory Commission on Faith-Based and Community Initiatives. Senator Krauter questioned whether the members of that advisory commission would receive any compensation for their service. Chairman Stenehjem announced that because the appointments to the Advisory Commission on Faith-Based and Community Initiatives were to be made by members of the majority and members of the minority, no decision would be made at this time to allow the members to gather more information and to determine the interest of legislators to serve on that advisory commission. **It was moved by Senator O'Connell, seconded by Senator Krebsbach, and carried on a roll call vote that Senator Judy Lee and Representative Gerald Uglem be appointed to the Committee on Protection and Advocacy, that Representative Bob Skarphol and Senator Rich Wardner be appointed to the Information Technology Advisory Committee, and that**

Representative Chet Pollert be appointed to the State Hospital Governing Body. Voting in favor of the motion were Senators Stenehjem, Dever, Holmberg, Krauter, Krebsbach, Lyson, O'Connell, and Robinson and Representatives Berg, Carlson, Delmore, Devlin, Kelsh, Klein, Kroeber, and Pollert. There were no negative votes.

Chairman Stenehjem called on the director of the Legislative Council to review the supplementary rules of operation and procedure of the North Dakota Legislative Council. The director noted that the supplementary rules had been in effect for a number of years and a copy of the rules approved in June 2003 had been mailed to members of the Council prior to this meeting. He said the rules are reviewed with each committee at the first committee meetings and the rules are relied upon by the staff in advising interim committee chairmen. **It was moved by Senator Krauter and seconded by Senator O'Connell that the supplementary rules of operation and procedure of the North Dakota Legislative Council be approved.** In the discussion that followed, Representative Carlson said he believes the Legislative Council should meet more often, such as quarterly, and that there are several of the rules that give authority to the chairman of the Legislative Council that should be the subject matter of meetings of the Legislative Council. For example, he said, he believes the Legislative Council should approve additions to the jurisdiction of interim committees to conduct studies.

In response to a question from Senator Holmberg, the director said the Legislative Council has held a few meetings during the interim to get progress reports from interim committees.

Senator Krebsbach said she sees no need to hold meetings to receive progress reports, as each member of the Legislative Council receives the minutes of every interim committee.

In response to a question from Representative Berg, the director said Section 23 of Senate Bill No. 2003, the appropriation for the North Dakota University System, provides for a study of higher education funding and accountability. The director said Section 24 of that bill provides an appropriation of \$175,000 for a consultant to be retained for the purposes of the study provided in Section 23. The director said the Legislative Council has assigned the study provided in Section 23 to the interim Higher Education Committee, but the Council has retained authority to select the consultant. Representative Berg said the study directives provided in the law are quite specific and he asked the Legislative Council staff to provide members of the Legislative Council with copies of those study directives.

Representative Carlson said he believes the higher education study is another reason why the Legislative Council should meet more often. Senator O'Connell said he sees no reason to change the procedures that have worked very well and he does

not see a need to have more meetings. Representative Berg said he believes there is merit in having the Legislative Council meet on a quarterly basis and one item for consideration would be to review the higher education study. Chairman Stenehjem said every member of the Legislative Council is welcome to attend any interim committee meeting but it is not possible to attend every interim committee meeting.

It was moved by Representative Berg and seconded by Representative Klein that the Legislative Council meet quarterly at the time the Budget Section meets. In the discussion that followed, Senator Robinson questioned if the idea was to only meet if there was something for the agenda for a Legislative Council meeting. Chairman Stenehjem said the Budget Section meeting date may not be an appropriate time for a meeting of the Legislative Council. Senator Robinson noted that there had been criticism when the Legislative Council chairman had called a meeting to receive interim committee progress reports, as some legislators thought there were already enough meetings to attend. Chairman Stenehjem said the Legislative Council meeting on the higher education consultant report may not be appropriate on the date of the Budget Section meeting. He said he would not have a problem if the motion were amended to call for a meeting at the time of the next Budget Section meeting, rather than establish a policy of requiring quarterly meetings. **Representative Berg, with the consent of his second, agreed to amend the motion to provide that the Legislative Council would meet at the time of the next Budget Section meeting.** Chairman Stenehjem called for a voice vote, and **the motion carried.**

Chairman Stenehjem called for a roll call vote on the motion to approve the supplementary rules. Voting in favor of the motion were Senators Stenehjem, Dever, Holmberg, Krauter, Krebsbach, Lyson, O'Connell, and Robinson and Representatives Berg and Delmore. Voting against the motion were Representatives Carlson, Devlin, Kelsh, Klein, Kroeber, and Pollert. Chairman Stenehjem announced that **the motion carried.**

In answer to a question from Senator Holmberg regarding the role of the Legislative Council staff in the selection process for a consultant in the higher education study, Mr. Jim W. Smith, Legislative Budget Analyst and Auditor, reviewed the procedures followed by the Information Technology Committee in selecting a consultant for that committee's study during the last interim. He reported that the Information Technology Committee approved the request for proposals and the list of consultants to whom the request for proposals was to be sent, as well as approving the selection of the consultant.

Representative Carlson said it is important the consultant knows that the client is the Legislative Council and not the executive branch agency that is the subject matter of the study.

Chairman Stenehjem announced that the Council would consider the convening date for the 2007 legislative session. He called on the director of the Legislative Council who reported that Article IV, Section 7, of the Constitution of North Dakota provides that regular sessions begin on the first Tuesday after the third day in January or at such other time as may be prescribed by law but not later than January 11. The first Tuesday after the third day in January 2007 is January 9. The director reported that North Dakota Century Code Section 54-03-02 provides that the Legislative Council may select a date other than the first Tuesday after the third day in January but not earlier than January 2 nor later than January 11. **It was moved by Senator Krauter, seconded by Senator Krebsbach, and carried on a roll call vote that Wednesday, January 3, 2007, be selected as the convening date for the 2007 regular session.** Voting in favor of the motion were Senators Stenehjem, Dever, Holmberg, Krauter, Krebsbach, Lyson, O'Connell, and Robinson and Representatives Delmore, Kelsh, and Kroeber. Voting against the motion were Representatives Berg, Carlson, Devlin, Klein, and Pollert.

Representative Berg said the study called for in Section 3 of 2005 House Bill No. 1332 relating to the pharmacy benefits management industry should have been assigned to the interim Industry, Business, and Labor Committee rather than the interim Budget Committee on Health Care. **It was moved by Representative Berg, seconded by Representative Klein, and carried on a roll call vote that the study called for in Section 3 of House Bill No. 1332 be moved from the interim Budget Committee on Health Care to the interim Industry, Business, and Labor Committee.** Voting in favor of the motion were Senators Stenehjem, Dever, Holmberg, Krauter, Krebsbach, Lyson, O'Connell, and Robinson and Representatives Berg, Carlson, Delmore, Devlin, Kelsh, Klein, Kroeber, and Pollert. There were no negative votes.

It was moved by Senator Robinson, seconded by Senator O'Connell, and carried that the meeting be adjourned. Chairman Stenehjem adjourned the meeting at 4:10 p.m.

John D. Olsrud
Director

[ATTACH:1](#)