

# NORTH DAKOTA LEGISLATIVE COUNCIL

## Minutes of the

### LEGISLATIVE COUNCIL

Tuesday, January 29, 2008  
Roughrider Room, State Capitol  
Bismarck, North Dakota

Representative Al Carlson, Chairman, called the meeting to order at 1:00 p.m.

**Members present:** Representatives Al Carlson, Rick Berg, Merle Boucher, Jeff Delzer, Lee Kaldor, Shirley Meyer, Phillip Mueller, Chet Pollert, Bob Skarphol; Senators Dick Dever, Tim Flakoll, Joel C. Heitkamp, David O'Connell, Larry J. Robinson, Bob Stenehjem, Rich Wardner

**Member absent:** Senator Ray Holmberg

**Others present:** See [Appendix A](#)

**It was moved by Senator O'Connell, seconded by Senator Wardner, and carried on a voice vote to approve the minutes of the January 8, 2008, meeting as distributed.**

Chairman Carlson said the purpose of the meeting was to review the organizational structure of the Legislative Council staff and the job description of the director of the Legislative Council.

Mr. Jim W. Smith, Director, Legislative Council, reviewed the new organization of the Legislative Council staff reflected in the organizational chart, the existing organizational chart, and the revised job description for the director. A copy of the materials is attached as [Appendix B](#). He said the new chart reflects the 33 full-time equivalent (FTE) positions authorized by the Legislative Assembly, of which three are vacant--the assistant office manager and two information processing specialists. He said the assistant office manager position is vacant because of the retirement of the former officer manager and the promotion of the assistant office manager to the office manager position.

The director said the revised organizational structure clearly delineates three separate divisions--legal services, administrative services, and fiscal services. He said legal services is headed by the assistant director (director of legal services) and fiscal services is headed by the legislative budget analyst and auditor (director of fiscal services). He said administrative services has been placed directly under the director. He said the revised structure provides for streamlined reporting to the director and coordination of services within the administrative services area.

In response to a question from Representative Boucher, the director said it may be feasible to eliminate the two vacant information processing specialist positions, but the new legislative applications system being developed may affect the skill-sets and types of staff positions and flexibility may be needed with respect to positions within

administrative services. He said the funding for those positions has not been used and has been turned back at the end of the biennium in which the positions have been vacant.

In response to a question from Senator Heitkamp, the director said if the previous director were considered to be an attorney position, there were nine attorneys under the old administrative structure, while there are eight attorneys now. He said he has discussed this issue with the assistant director and for now, due in part to the amount of experience the attorneys have, the number of attorneys is adequate. He said he does not look at the director's position as being filled by a fiscal person. He said the substantial majority of the director's time is spent on administrative matters. Senator Heitkamp said there are more policy committee members than Appropriations Committee members and he is concerned over a shift in staff focus to appropriations issues.

Representative Carlson said the purpose of the revised organizational structure is to have a separate head of legal services, head of fiscal services, and the director responsible for administrative services, and ultimately a separate position for heading administrative services.

In response to a question from Senator Heitkamp, the director said consideration was given during the 2007 legislative session to adding a fiscal analyst position. He said the Senate did not agree to that addition. Representative Berg said the proposal during the 2007 legislative session was to add an additional fiscal analyst position to provide for evaluation of state agency implementation of legislative intent.

Representative Skarphol said based on information received by the Legislator Computer Replacement Task Force, legislators will require more technical support if BlackBerry-type mobile communication devices are provided to legislators.

In response to a question from Representative Berg, the director said a view of the future includes the impact of the new legislative applications replacement system on personnel, a review of skill-sets required by personnel in administrative services, and the staffing needs to be reflected in the 2009-11 budget request.

Representative Boucher said all of these issues are a work in progress and he would prefer an update at each Legislative Council meeting. He said he

would like to hear a report from the head of each division at a Legislative Council meeting.

Senator O'Connell requested the Legislative Council be provided with a review of legislative staff compensation.

The director reviewed the proposed revision of the job description for the director. He said the revision was due to the change from the director being an attorney.

Senator Flakoll said the minimum qualifications provide for considerable experience with the North Dakota legislative process. He said this may limit any future search outside the state. The director said he does not see any problem with deleting the North Dakota requirement.

Senator Flakoll suggested there needs to be specific requirements that the director report to the Legislative Council. Representative Carlson said there may ultimately need to be a Legislative Council annual performance evaluation of the director. Senator Heitkamp said the Summary of Work portion of the job description appears to address Senator Flakoll's concern about the director reporting to the Legislative Council.

## **JOINT MEETING WITH LEGISLATIVE MANAGEMENT COMMITTEE**

### **Legislative Applications Replacement Project Status Report**

At the request of Chairman Carlson, Mr. Jim Gienger, project manager of the legislative applications replacement system project, provided a status report. Mr. Gienger introduced PTC representatives Mr. Paul DeMarco, Mr. Brian Connolly, Mr. Nils Edstrom, and Ms. Nancy O'Dell who participated in the meeting by teleconference.

Mr. Gienger reviewed the *Quarterly Project Status Report* for the period October 1 through December 31, 2007. A copy of the report is attached as [Appendix C](#). The executive summary notes that the overall project status is green, which indicates a strong probability the project will be delivered on time, within budget, and with acceptable quality. Mr. Gienger reviewed accomplishments during the reporting period, with emphasis on training on the editor, which is used throughout the drafting process with respect to creating all documents in the legislative branch. He said XML technology is driven by two concepts--data and format. He said the DTD development defines the format of data and uses stylesheets to provide various views of the data.

Mr. Gienger reviewed the expected accomplishments during the next reporting period, specifically completion of the drafting application bundle. He said bundles were developed to group-related milestones to allow an easier indication of progress of the project.

Mr. Gienger said there are three identified project risks that have not been resolved or mitigated. He said these risks include user authentication

capabilities, development of a support plan for the 2009 legislative session, and development of a training plan. He said the overall plan is to complete the project by November 2008, and the thought has been that money available to support the old legacy system would be available to support the new system beginning with the 2009 legislative session.

Mr. Gienger reviewed the LARP Application Bundle (AB) Schedule and Progress, a copy of which is attached as [Appendix D](#).

Representative Carlson said there appears to be several milestones yet to be completed, and he is concerned the number of milestones seems to be high with respect to the limited time between now and November. Mr. Gienger said the contract was entered in June 2007 so the timeframe is not quite 50 percent complete which correlates roughly with the milestones completed. He said he continuously reviews the project schedule and he agrees that careful oversight is required on milestone completion.

In response to a question from Representative Meyer, Mr. Gienger said the project will not necessarily fail if a critical path bundle fails. He said PTC will deliver everything required, and the impact of failure of one critical path bundle would depend upon the need for that bundle to be completed before the 2009 legislative session convenes.

In response to a question from Representative Skarphol, Mr. Gienger said the Legislative Council staff is validating the work as it is done by PTC. For example, he said, the migration of the North Dakota Century Code is complete, and the Legislative Council staff has been spot-checking various sections and will be proofreading replacement volumes scheduled for publication this spring against the migrated data base.

Ms. O'Dell reviewed the project vision, which included the goals of the project. She said the Legislative Council staff will be impacted where processes are newly automated. She said an example is the workflow's work request process, by which requests are created, assigned, routed, drafted, and reviewed electronically. She said an impact on the legislative community would be features to allow subscriptions for various events, such as committee hearing scheduling and status. She said an impact on state agencies would be the ability to further advance the electronic transfer of information.

Ms. O'Dell said the framework has been developed, including migration of the North Dakota Century Code and North Dakota Administrative Code, amendments, bills and resolutions, the Constitution of North Dakota, and the *Rules and Committees* book. She said none of this is a "wow" factor, but these projects are the most critical and significant time is spent in their development. She said the Internal Posting Application Bundle includes the new Legislator's Automated Work Station system (LAWS) environment for legislators. During March and April, she said, legislators will be asked about what they want in that environment.

Ms. O'Dell said one "wow" factor for the Legislative Council staff is the generation of amendment language. She said the current process relates back to typewriters and drafting of directions which would be followed by the individuals who engross and enroll bills. The new technology is to directly make the changes to the bills, which in turn results in the automatic engrossment and generation of the directions. She said this would be illustrated by Mr. Connolly.

In response to a question from Representative Delzer, Ms. O'Dell said her reference to using digital signatures to indicate signing of a measure is an option that would be available and a digital signature could only be added or authorized by the individual whose signature is required.

In response to a question from Representative Skarphol, Ms. O'Dell said software used by PTC is enhanced continuously and features are added through upgrades to the software. In many instances, she said, if a milestone is delayed a week or two or three it is because those updates are being included. She said PTC is primarily configuring the applications without affecting the core product. She said the Legislative Council staff will receive everything, including any core software enhancements and fixes as part of a support plan.

Mr. Connolly reviewed the development of the amendment module. He said directions beyond simple adds and deletes are involved. For example, statutory language is removed by overstrike, overstrike is removed by removing overstrike, and nonstatutory language is removed by deletion; statutory language is added by underscore and nonstatutory language simply is added.

Mr. Connolly reviewed the Change Management Module, whereby a drafter would electronically revise the bill by using XML markup. He said the concept is that the bill drafter would use the correct markup and that would result in accurate directions being prepared. He said the colors are used in electronic versions of bills to emphasize new statutory language (green underscore) and removal of statutory language (red overstrike) and to show an amendment's effect of adding language (shaded green) and removing language (shaded pink).

Senator Flakoll inquired as to the effect of a viewer being color blind. Ms. O'Dell said there are several ways of showing changes other than color-shading,

such as boxing the language. She said an alternative to shading could be available for the person to select if colors were an issue.

Senator Christmann said there needs to be a way to ensure that the version of the bill reflecting an amendment prepared for a legislator would not be confused with an engrossment. Ms. O'Dell said a watermark could be used to distinguish versions of bills.

## MISCELLANEOUS

Senator Heitkamp said he has received several e-mails from members of his caucus with respect to ethics. He requested information of ethics of legislators.

The assistant director said the Legislative Council is required to establish an Ethics Committee, and the Council has delegated the Ethics Committee responsibility to the Legislative Management Committee. He said the code of ethics recommended by the committee has been adopted by the Legislative Assembly as Joint Rules 1001 through 1004. He said no separate code of ethics has been developed other than Joint Rule 901, prohibiting sexual harassment.

Senator Heitkamp said his question relates to the protocol if there is a complaint concerning an ethical violation by a legislator. Representative Boucher requested distribution of Joint Rules 1001 through 1004 to members of the Council and members of the Legislative Management Committee. Senator Heitkamp said no one is claiming an ethical violation, but members of his caucus are concerned about inappropriate meetings that have been held.

No further business appearing, Chairman Carlson adjourned the joint meeting of the Legislative Council and Legislative Management Committee at 3:10 p.m.

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Jay E. Buringrud  
Assistant Director

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Jim W. Smith  
Director

ATTACH:4