

## NORTH DAKOTA LEGISLATIVE MANAGEMENT

## Minutes of the

**LEGISLATIVE PROCEDURE AND ARRANGEMENTS COMMITTEE**

Wednesday, March 12, 2014  
Harvest Room, State Capitol  
Bismarck, North Dakota

Representative Al Carlson, Chairman, called the meeting to order at 8:00 a.m.

**Members present:** Representatives Bill Devlin, Al Carlson, Corey Mock, Kenton Onstad, Don Vigesaa; Senators Tim Flakoll, Joan Heckaman, Ray Holmberg, Jerry Klein, Mac Schneider, Rich Wardner

**Others present:** Senator Donald Schaible, Mott Blair Thoreson, State Representative, Fargo  
Ms. Courtney Koebele, North Dakota Medical Association, Bismarck  
Mr. John Boyle, Facility Management Division, Bismarck  
Mr. Jason J. Steckler, Mr. Kyle W. Forster, Mr. Cody Malloy, Ms. Lori Ziegler; Legislative Council, Bismarck  
Representative Mark S. Owens, member of the Legislative Management, was also in attendance.

**It was moved by Senator Flakoll, seconded by Senator Schneider, and carried on a voice vote that the minutes of the September 20, 2013, meeting be approved as distributed.**

**USE OF LEGISLATIVE CHAMBERS AND COMMITTEE ROOMS**

The Legal Services Division Director reviewed a request by Ms. Linda Fisher, Leasing Coordinator, Department of Trust Lands, to use the House chamber for oil and gas lease auctions on Tuesday, May 6, Tuesday, August 5, and Tuesday, November 4, 2014. He said in September 2012 the committee approved a similar request for oil and gas lease auctions in May, August, and November 2013.

The Legal Services Division Director reviewed a request by Ms. Fisher to use the Senate chamber for a roll call of states at the summer conference of the Western States Land Commissioners Association on Monday, July 21, 2014.

The Legal Services Division Director reviewed a request by Mr. Jedediah Geer, North Dakota Leadership Seminar, to use the House chamber on Saturday, May 31, 2014, for the legislative process portion of the three-day leadership development seminar for North Dakota high school sophomores. He said in March 2008 the committee approved a similar request by the North Dakota Leadership Seminar.

The Legal Services Division Director said all approvals for use of legislative space are subject to preemption in case a special legislative session is called.

**It was moved by Representative Mock, seconded by Representative Vigesaa, and carried on a roll call vote to approve the request by the Department of Trust Lands to use the House chamber for oil and gas lease auctions on Tuesday, May 6, Tuesday, August 5, and Tuesday, November 4, 2014; the request by the Department of Trust Lands to use the Senate chamber for a roll call of states at the summer conference of the Western States Land Commissioners Association on Monday, July 21, 2014; and the request by the North Dakota Leadership Seminar to use the House chamber for a legislative process program on Saturday, May 31, 2014.** Representatives Carlson, Devlin, Mock, Onstad, and Vigesaa and Senators Flakoll, Heckaman, Holmberg, Klein, Schneider, and Wardner voted "aye." No negative votes were cast.

**LEGISLATIVE SESSION ARRANGEMENTS****Doctor of the Day Program**

The Legal Services Division Director referred to a letter from Ms. Courtney Koebele, North Dakota Medical Association, regarding an offer by the North Dakota Medical Association to continue the association's doctor of the day program during the 2015 legislative session. The letter notes the program will rely on physicians and residents from around the state to volunteer for the program and provide basic health care services and referrals on most days during which the Legislative Assembly is in session. The medical association is also planning to provide opportunities as in past legislative sessions for legislators to participate in health screenings and other educational and wellness activities during the session.

**It was moved by Senator Wardner, seconded by Representative Mock, and carried on a roll call vote to accept the offer of the North Dakota Medical Association to continue the doctor of the day program during the 2015 legislative session.** Representatives Carlson, Devlin, Mock, Onstad, and Vigesaa and Senators Flakoll, Heckaman, Holmberg, Klein, Schneider, and Wardner voted "aye." No negative votes were cast.

### **Addresses and Reports**

The Legal Services Division Director said the committee traditionally has authorized the Legislative Council staff to contact the Governor with respect to arrangements for the State of the State address to a joint session of the Legislative Assembly on the first legislative day, to contact the Chief Justice with respect to a presentation of the State of the Judiciary address to a joint session on the second legislative day, and to extend an invitation to have a representative of the Indian tribes to address the Legislative Assembly on the third legislative day.

The Legal Services Division Director said North Dakota Century Code Section 4-24-10 requires 14 agricultural commodity promotion groups to file a uniform report at a public hearing before the standing Agriculture Committee of each house. He said the report must be filed between the 1<sup>st</sup> and 10<sup>th</sup> legislative days. Since 2000, he said, the Legislative Procedure and Arrangements Committee has designated the second legislative day the Agriculture Committees meet as the day for a joint hearing by the Senate and House Agriculture Committees to receive this report. He said this day would be Friday, January 9, 2015.

The Legal Services Division Director said Section 4-35.2-04 requires the Agriculture Commissioner to submit a biennial report to a joint meeting of the House and Senate Agriculture Committees on the status of the pesticide container disposal program. He said this originally was a four-year program established in 2003, which was made permanent in 2007, with a report to be first given in 2009. Since 2009, he said, the Legislative Procedure and Arrangements Committee has determined this report should be presented on the same day the joint meeting is held to receive the agricultural commodity promotion groups report. He said this day would be Friday, January 9, 2015.

The Legal Services Division Director said Section 54-60-03 requires the Commissioner of Commerce to report between the 1<sup>st</sup> and 10<sup>th</sup> legislative days to a standing committee of each house of the Legislative Assembly as determined by the Legislative Management with respect to the department's goals, objectives, activities, measurable results, and commerce benchmarks. Since 2003, he said, this report has been given to the Industry, Business and Labor Committees on the second day those committees met. He said this day would be Monday, January 12, 2015.

The Legal Services Division Director said the committee has set the days for these reports due to the need to notify the entities involved sufficiently in advance of the legislative session to allow planning and scheduling by those entities. He said the Brynhild Haugland Room, which is used for the joint meeting of the committees involved, also needs to be reserved--usually during the first day of the organizational session--as early as possible. He said the reports are scheduled in advance so as to work around those times when scheduling bills for hearing during the first week of committee meetings.

Senator Klein inquired whether there has been discussions about streamlining the addresses.

Chairman Carlson recognized Representative Blair Thoreson. Representative Thoreson said consideration should be given to saving legislative days early in the session. He said the State of the Judiciary address and the Tribal-State Relationship Message could be received on the same day. He said the Governor could give the State of the State address during the evening so that more people would have the opportunity to view the message as it is being given.

Senator Wardner said if addresses are consolidated into one day, extra effort must be to ensure that legislative business--committee meetings and floor sessions--will be conducted during the full days resulting from moving the addresses to one day.

Chairman Carlson said the Governor has never asked for his address to be scheduled during the evening. He said he prefers that the schedule for 2015 be continued as it has in the past.

**It was moved by Representative Onstad, seconded by Senator Wardner, and carried on a roll call vote:**

- **The Legislative Council staff be requested to contact the Governor with respect to the time for a joint session to hear the State of the State address by the Governor on the first legislative day (Tuesday, January 6, 2015), to contact the Chief Justice to make plans for the State of the Judiciary address to a joint session on the second legislative day (Wednesday, January 7, 2015), and to invite a representative of the Indian tribes to address a joint session on the third legislative day (Thursday, January 8, 2015);**

- **The second legislative day the Agriculture Committees meet (Friday, January 9, 2015) be designated as the day for a joint hearing by the Senate and House Agriculture Committees to receive the report of the agricultural commodity promotion groups under Section 4-24-10;**
- **The second legislative day the Agriculture Committees meet (Friday, January 9, 2015) be designated as the day for a joint meeting by the Senate and House Agriculture Committees to receive the biennial report of the Agriculture Commissioner on the status of the pesticide container disposal program under Section 4-35.2-04; and**
- **The Commissioner of Commerce report to the Industry, Business and Labor Committees on the second day those committees meet (Monday, January 12, 2015).**

Representatives Carlson, Devlin, Mock, Onstad, and Vigesaa and Senators Heckaman, Holmberg, Klein, Schneider, and Wardner voted "aye." Senator Flakoll voted "nay."

## LEGISLATIVE RULES

The Legal Services Division Director said he compiled questions on legislative procedures or rules which he received during the 2013 legislative session. He said he prepared proposed amendments to the rules to address questions or suggestions and will present them to the committee for its consideration. He said notes following the amendments explain the purpose of the amendments. If the committee approves the proposed amendments, he said, the recommended amendments will be presented to the Senate and House Rules Committees for consideration during the organizational session.

### House Rule 202 - Member to Preside in Place of Speaker

The Legal Services Division Director reviewed *Proposed Amendments to House Rule 202* [[15.9119.01000](#)], which would delete the requirement that the Speaker obtain leave of the House to leave the chair for a longer time than one day.

Representative Devlin said he does not see the need for the requirement that special permission be obtained before the Speaker leaves the chair.

**It was moved by Representative Devlin, seconded by Representative Onstad, and carried on a voice vote that the committee recommend the proposed amendments to House Rule 202 relating to a member to preside in place of the Speaker.**

### Senate and House Rules 306 - Rules of Debate

The Legal Services Division Director reviewed *Proposed Amendments to Senate and House Rules 306* [[15.9123.01000](#)], which would clarify that a Chairman's designation of the carrier of a measure would not subject the Chairman to the limits on number of times nor length the Chairman may speak on a measure.

**It was moved by Senator Flakoll, seconded by Representative Vigesaa, and carried on a voice vote to recommend the proposed amendments to Senate and House Rules 306 relating to rules of debate.**

### Senate and House Rules 339.1 - Voice Votes on Resolutions

The Legal Services Division Director reviewed *Proposed Creation of Senate and House Rules 339.1* [[15.9124.01000](#)], which would clarify when voice votes are to be taken on resolutions. He said unless the resolution provides for the expenditure of money or proposes a constitutional amendment, or when a roll call vote or verification vote has been requested, the vote on a resolution is to be by a voice vote. This would, by rule, describe the general practice followed in voting on resolutions.

**It was moved by Senator Wardner, seconded by Representative Mock, and carried on a voice vote to recommend the proposed creation of Senate and House Rules 339.1 relating to voice votes on resolutions.**

### Senate Rule 401 - Introduction of House Measures

The Legal Services Division Director reviewed *Proposed Amendments to Senate Rule 401* [[15.9120.01000](#)], which would allow the Senate to accept House bills or resolutions that have more than six sponsors. He said Senate Rule 401 limits the number of sponsors to six. He said the House amended House Rule 401 during the 2013 legislative session to allow 12 members of the Legislative Assembly as sponsors of bills and resolutions. Without the proposed amendment, he said, the Senate cannot accept House bills or resolutions that have more than six sponsors.

It was moved by Senator Wardner, seconded by Senator Flakoll, and carried on a voice vote to recommend the proposed amendments to Senate Rule 401 relating to the introduction of House Measures.

### **Senate Rule 402 - Appropriations Introduction Deadline**

Senator Holmberg requested the Legislative Council staff prepare a proposed amendment to Senate Rule 402 to require that bills containing appropriations clauses be introduced by the 10<sup>th</sup> legislative day.

### **Senate and House Rules 507.1 - Hearing of Measures**

The Legal Services Division Director reviewed *Proposed Creation of Senate and House Rules 507.1* [[15.9122.01000](#)], which would require every measure referred to committee to be scheduled for a hearing in committee and a hearing to be held before the measure is reported back to the house. He said although people assume every measure is given a hearing, the rules only require that every measure be referred to committee and that every measure be reported from committee according to various legislative deadlines.

In response to a question from Chairman Carlson, the Legal Services Division Director said the proposal, as written, would require a hearing on a measure that the sponsor desired to withdraw. Chairman Carlson requested that the proposal be revised to exclude a measure that is to be withdrawn.

### **Senate and House Rules 317 - Nondebatable Motions**

The Legal Services Division Director reviewed *Proposed Amendments to Senate and House Rules 317* [[15.9121.01000](#)], which would add a motion to refer or rerefer to committee to the list of nondebatable motions.

Representative Onstad said it is not necessary to add a motion to refer or rerefer to the list of nondebatable motions.

Senator Holmberg said the proposal would preclude the Chairman of the committee from speaking on the motion to refer or rerefer the measure to the committee.

Chairman Carlson said the House seldom rerefers bills to committee. He said he does not know of any reason to change the current procedure.

### **Senate and House Rules 319 - Division of Question**

The Legal Services Division Director reviewed *Proposed Amendments to Senate and House Rules 319* [[15.9125.01000](#)], which would limit requests to divide a question to be made only after the question has been stated (immediately before the carrier has described the measure) or immediately after the carrier has first spoken on the measure (before anyone else speaks).

Senator Holmberg said there could be times members do not know of the need for a division until there is debate on the measure. Senator Flakoll agreed, saying the criticized portion of a measure might not be known until the debate.

Senator Holmberg said if the House has a problem with division of questions, maybe the House could address the problem in the House rules.

Chairman Carlson said this proposal needs no further consideration.

### **Senate and House Rules 321 - Vote by Members**

The Legal Services Division Director reviewed *Proposed Amendments to Senate and House Rules 321* [[15.9126.01000](#)], which contains the text of Rules 321 without any proposed change. He said this is brought to the committee for discussion purposes due to the instance during the 2013 legislative session when a member left the Senate chamber before the vote on a bill under discussion. He said Senate and House Rules 321 rules require every member who is present before the vote is announced from the chair to vote unless excused.

Senator Schneider inquired whether there is a problem with the current rules.

Senator Wardner said over the years, enforcement of the requirement to be in the chamber for votes has become somewhat lax. He said members know of the requirement and enforcement will be stricter.

### **Senate and House Rules 335 and Joint Rule 601 - Engrossment**

The Legal Services Division Director reviewed *Proposed Amendments to Senate and House Rules 335 and Joint Rule 601* [[15.9195.01000](#)], which would require all bills amended in committee or on the floor to be engrossed before second reading. He said the rules allow the second house to order engrossment of a bill from the other

house, but this is very rare (probably not done since the 1970s). He said this proposal is in response to a question whether Senate bills should be reengrossed after the House adopts amendments. He said the official version of a bill is the engrossed version passed by the house of origin. He said the bill status system includes a "marked-up" version of a bill which includes amendments. He said this may cause confusion when members go to conference committees and view the marked-up version rather than the official version, and subsequently propose amendments to the marked-up version rather than the official version.

The Legal Services Division Director said engrossing bills of the other house would change conference committee procedures. He said this may eliminate the game of "we win" when the other house accedes to our amendments or the other house recedes from its amendments. He pointed out that Legislative Council staff has been requested to prepare amendments in an attempt to attain the "we win" scenario. He said engrossing bills of the other house may eliminate this gamesmanship because there would be no accede to or recede from amendments.

The Legal Services Division Director said engrossing bills of the other house may have the effect of opening conference committees to discuss the entire bill, rather than only the amendment by the second house. He inquired whether this has been a common practice notwithstanding Joint Rule 301, which requires conference committees to confine conferences to the general differences that gave rise to appointment of the committees. He said that is easy to determine when the amendments are attached to the official copy of the bill, but if the amendments are placed into the bill (engrossed), the differences would be more difficult to determine.

Senator Holmberg said under the current system, members can easily discover the changes made by the other house.

Representative Onstad said when a measure goes to conference, the committee should discuss only the amendment. In response to a question from Representative Onstad, the Legal Services Division Director said the proposal would weaken the argument that the conference committee did not keep its consideration to the amendment, because the entire bill would be subject to the committee's consideration due to the amendments being inserted into the bill.

Chairman Carlson said he prefers the current process of amendments of the other house being attached to the measure rather than the measure being reengrossed.

### **BILL ANALYSIS PILOT PROJECT CONSIDERATION**

The Legal Services Division Director reviewed the memorandum entitled [Bill Analysis Pilot Project - Background Information](#). The memorandum describes the history of bill summaries, which were prepared by the Legislative Council legal staff from the 1970s to 1991, and the reasons that program was eliminated--little value to legislators at the cost of a heavier workload on the Legislative Council staff's heavy workload in the evenings. The memorandum also describes what an analysis should contain--fiscal analysis and legal analysis--and the impact of an analysis that pointed out constitutional or other issues of concern. The memorandum also describes the bill analysis process of the Washington State Legislature, whose bill analyses are prepared by committee staff assigned by the nonpartisan Office of Program Research in the House (69 staff) and the nonpartisan Senate Committee Services (59 staff) in the Senate. The memorandum also compares those staff numbers to the number of authorized positions on the Legislative Council staff.

The Legal Services Division Director said the feasibility of any bill analysis program, whether on a pilot program basis or not, depends on recognition of at least four factors. The analysis should be prepared by an independent, nonpartisan staff, not subject to influence to specially word the analysis; the analysis should be prepared by staff that is present at committee hearings, so as to hear testimony on the bill; the analysis could identify issues not appreciated by some, such as constitutional or indirect impacts not readily apparent; and the analysis (and the staff preparing the analysis) may be criticized as causing "death by bill analysis."

Representative Thoreson said the reason he brought this proposal forward was due to discussions with others. He said his idea is for preparation of a limited bill analysis, maybe with a listing of substantive provisions by bullet points along with a contact name so people know whom to contact with questions.

Representative Onstad said he sees a problem with a limited pilot project, e.g., picking a single committee for bill analyses. He said the committee may have "easy" bills, and if the resulting analyses do not appear to require much time to prepare, the idea would be that the process could be easily expanded to include other committees, regardless of the resulting workload impact on the Legislative Council staff. He said if a legislator needs to know more about a bill, that legislator should be able to get that information from the sponsor or carrier of the bill.

Senator Heckaman suggested the sponsor of a bill should be responsible for preparing a bullet point summary of contents of the bill.

In response to Senator Heckaman's suggestion, the Legal Services Division Director said requiring the sponsor to prepare a bullet point summary of a bill would not solve the issue of increased workload of the Legislative Council staff because, based on experience, sponsors would ask the Legislative Council staff to prepare the summaries.

## LEGISLATIVE RENOVATION PROJECTS

### Legislative Council Library

The Legislative Council Director reviewed the memorandum entitled [Legislative Council 2014 Renovation Project](#), which summarizes the status of the renovation projects that will remodel the existing Senate clerk area into new Legislative Council library space and an office, remodel the existing hallway from the west elevator to the new library space, remodel the existing library into six professional offices, and replace the existing stairwell to the third floor.

### Chambers Sound Systems

Mr. Jason J. Steckler, Administrative Services Division Director, Legislative Council, introduced Mr. Kyle W. Forster, Information Technology Manager, Legislative Council, for a presentation regarding the chambers sound systems project, and Mr. Cody Malloy, Information Technology Specialist, Legislative Council, for a presentation regarding electronic travel request forms.

Mr. Forster reviewed a PowerPoint [presentation](#) that describes the chambers sound systems project approved by the committee at its September 2013 meeting. He said two recommendations are presented for the committee's approval--first, to install Renkus-Heinz ICONYX Digitally Steerable Line Array Loudspeaker Systems on the front walls of both chambers, painted to match the wood, and located near the ends of the concave portions behind the presiding officers; and second, to replace member microphones with Audio-Technica six-inch gooseneck microphones with lighted mute switch at all member desks.

**It was moved by Representative Devlin, seconded by Senator Schneider, and carried on a roll call vote to approve the installation of chamber speakers and member microphones as recommended.** Representatives Carlson, Devlin, Mock, Onstad, and Vigesaa and Senators Heckaman, Holmberg, Klein, Schneider, and Wardner voted "aye." No negative votes were cast.

### Electronic Out-of-State Travel Request Forms

Mr. Malloy reviewed the out-of-state travel request form in the final stages of development. He said the form will be available on legislators' laptop and iPad computers. He said the legislator will fill out the form and transmit it electronically for approval. He said it will be tested with a few legislators before being made available to all legislators.

Chairman Carlson said use of electronic request forms will substantially cut down on paperwork and the time spent in routing forms.

## CAPITOL GROUNDS PROJECTS

Mr. John Boyle, Director, Facility Management Division, reviewed the status of four construction projects on the Capitol grounds. He said the cafeteria has been moved to the 18<sup>th</sup> floor which has been well-received by the vendor as well as by customers, and the remodeling project should be completed by Sunday, August 10, 2014. He said the cafeteria corridor remodeling project, which will match the main hallway, also should be completed by August 10, 2014. He said the north parking lot construction will start when the frost is out of the ground and should be completed by mid-November. He said the brass restoration in the chambers should be completed by November.

In response to a question from Chairman Carlson, Mr. Boyle said the subcontractor--Century Metal--responsible for the brass restoration, has dropped out of the project. He said the general contractor--Capital City Construction--has indicated it will complete the project to the owner's satisfaction.

No further business appearing, Chairman Carlson adjourned the meeting at 9:50 a.m.

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Jay E. Buringrud  
Legal Services Division Director

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Jim W. Smith  
Legislative Council Director