

NORTH DAKOTA LEGISLATIVE COUNCIL

Minutes of the

INFORMATION TECHNOLOGY COMMITTEE

Thursday, October 1, 1998
Harvest Room, State Capitol
Bismarck, North Dakota

Senator Larry J. Robinson, Chairman, called the meeting to order at 9:00 a.m.

Members present: Senators Larry J. Robinson, Karen K. Krebsbach, Carolyn Nelson, Ken Solberg, Rod St. Aubyn; Representatives Eliot Glassheim, Rich Wardner, Robin Weisz

Members absent: Representatives Rex R. Byerly, Ken Svedjan

Others present: See attached appendix

MINUTES

It was moved by Senator Nelson, seconded by Representative Glassheim, and carried on a voice vote that the minutes of the September 8, 1998, meeting be approved as distributed.

STATEWIDE TELECOMMUNICATIONS NETWORK

Current Network

Chairman Robinson recognized Mr. Jim Heck, Director, Information Services Division, and Chief Information Officer, Governor's office, for a presentation on the current state telecommunications network. Mr. Heck distributed a prepared statement that contained information provided by a video presentation. A copy of his statement is on file in the Legislative Council office.

Mr. Heck described network history:

- In 1982 the first statewide network connected district offices to the central office of the Department of Transportation.
- In 1984 the Higher Education Computer Network (HECN) was integrated into the private state network and North Dakota Information Network (NDIN) was created to jointly manage the network. North Dakota was the first state with combined state government and higher education networks. He described the development of the NDIN from when the service provider delivered three separate circuits--voice, data, and video--to the Information Services Division and the NDIN managed the switching equipment (basically the state was the telephone company).
- In 1985 the network was extended to all counties to provide connectivity between county

social service boards and the Department of Human Services.

- In 1987 telecommunications responsibility and one full-time equivalent position was transferred from the Director of Institutions to Central Data Processing (the predecessor of the Information Services Division).
- In 1990 the Capitol telephone system was replaced, which was the start of a seven-year statewide plan to replace outdated telephone systems.
- In 1991 the network's backbone was converted to digital facilities, and the Interactive Video Network (IVN) was implemented on these new digital facilities.
- In 1992 the NDIN selected AT&T's Software Defined Network (SDN) long-distance voice services, and North Dakota became an early adopter of virtual private network technology, which is now used by most states and large businesses for long-distance service. The rate is determined by the total committed aggregate of minutes of state government and higher education. The rates for state government are nine cents per minute for credit card and 1-800 service, five cents per minute for in-state long-distance service, and 10.5 cents per minute for out-of-state long-distance service. The contract is used by higher education and is available to counties, cities, and school districts, and each customer group is billed separately by AT&T. One result of migrating from the private network was the reduction of rates to state government.
- In 1994 the NDIN committed as the anchor tenant for U S West to establish a statewide frame relay network. This contract converted the existing private network to a router-based frame relay network. The rates remained the same as under the private network, and businesses now use frame relay service which is an indirect economic impact of the state contract. Current use of this service is by state government with 22 percent, large business with 52 percent, and small business with 26 percent. North Dakota was second only to

Nebraska in having statewide frame relay services.

- In 1994 the NDIN provided Internet access from the state network, and NorthwestNet was selected as the Internet service provider. North Dakota was an early adopter of state government access to the Internet.
- In 1996 all buildings on the Capitol grounds with the exception of the Governor's residence were connected with fiber optic cable, and migration of agency local area network infrastructures from token ring to Ethernet and fast Ethernet began. Total migration is expected to take five to seven years.
- In 1997 state government entered a partnership with Montana-Dakota Utilities for fiber optic cable connection of 10 state government buildings in Bismarck to the Capitol. The public/private partnership with Montana-Dakota Utilities resulted from an agreement when Montana-Dakota Utilities acquired the former Gold Seal building and was going to connect that building with its company headquarters in Bismarck. The cost for the 10 connections is \$3,400 per month compared to the \$3,000 per month cost of the previous fiber optic connection provided by U S West between the Capitol and the Bank of North Dakota.
- In 1998 a dial-up video conferencing pilot project was started with the Department of Transportation; the Dakota Carrier Network's SONET network was completed and the state moved its connections from Worldcom to Dakota Carrier Network, and an asynchronous transfer mode (ATM) was implemented between the Capitol and North Dakota State University and the IVN video traffic was combined with data.

Mr. Heck explained that a service provider creates a T-1 circuit by using electronics with the primary benefits being increased transfer capacity and speed, and a T-3 circuit provides the capacity of 28 T-1 circuits. He said T-1 circuits connect major cities to SDN switches, and the cost of the connection is based on the amount of traffic. He said the Internet service provided by the NDIN has experienced rapid growth--from one 156KB circuit in 1994 to two T-1 circuits at the Capitol to U S West and two T-1 circuits at the University of North Dakota and two T-1 circuits at North Dakota State University to MCI. He presented information showing the Internet service dedicated to state government experiences most traffic between 8:00 a.m. and 5:00 p.m., while most Internet traffic at the higher education institutions in western North Dakota is from 8:00 a.m. to midnight.

Mr. Heck described the ATM service that connects three major locations--the Capitol campus, the University of North Dakota campus, and North Dakota State

University campus. He said the capacity and cost are shared by state government and higher education, and each location bought its own equipment. He said the effect is that of becoming a telephone company again but that may change depending on contracts in the future.

Mr. Heck provided an administrative view of the state network. He pointed out that state agencies and counties, colleges and universities, and elementary and secondary schools all use the same physical network equipment and transport facilities. The difference, he said, is state government needs to protect certain information data bases, and thus a firewall is installed. The higher education computer network needs open access for over 20,000 students, and North Dakota School Net has a common customer base to support.

Mr. Heck said state government needs to make current applications web-enabled to achieve maximum benefit of the wide area network and public access. He said government has a lot of information available on the Internet but very little self-service government access, e.g., ability to apply for licenses. He said the first requirement is for an inventory of applications to determine those that can be modified with minimal investment. He said those that cannot be modified should be reengineered, and a priority list should be developed and funding appropriated for that service.

Mr. Heck noted the Information Services Division is a member of the National Association of State Telecommunications Directors, whose mission is to provide leadership in sharing information among states, advance telecommunications public policy, and develop national telecommunications infrastructure to improve the operational efficiency of state government. He said the division is also a member of the National Association of State Information Resource Executives, whose mission is to be the leading forum for addressing the opportunities, implications, and challenges of improving the business of government through the application of information technology.

In response to a question from Senator Nelson, Mr. Heck said the Dakota Carrier Network is a consortium of North Dakota independent telephone companies that have a fiber optic network throughout the state. He said the network was basically for those companies' use, but they sell access to other users such as AT&T and the state.

Mr. Heck said it is difficult to provide expanded services due to budgetary limitations. He identified these challenges to the network:

1. Higher education receives free resources or discounts from vendors in order to get their software used.
2. Grants cause different types of software requirements.

3. Federal agencies require certain types of software.
4. New technology presents a challenge because small states do not have the resources to attract new technology.
5. Current technology and use may be viewed as reactive because the division installs what is requested.

Strategic Telecommunications Plan

Mr. Rod Backman, Director, Office of Management and Budget, presented comments concerning the *Strategic Telecommunications Plan* presented by Wolfe & Associates during the September 8, 1998, meeting of the committee. He distributed a prepared statement, a copy of which is on file in the Legislative Council office.

Mr. Backman reviewed the recommendations and provided these responses:

- Establish a statewide communications infrastructure agency for all telecommunications planning, selection, implementation, and management for all state agencies, higher education, and public schools. **Response:** We agree. The Information Services Division is responsible for the wide area network used by state government and higher education. This recommendation adds public schools and mandates their participation in the wide area network. The portion of the recommendation that adds public schools needs more discussion and is a policy decision that rests with the Legislative Assembly.
- Establish the director of the agency as the chief information officer for the state as a cabinet-level position reporting directly to the Governor. **Response:** We agree with the recommendation, and we have been doing this for the last two years.
- Establish a state communications infrastructure board that includes representatives from the three branches of government, private enterprise, and local government with the overall responsibility to approve standards and policies related to network technologies in the state. **Response:** The Information Technology Committee has requested a bill draft to establish a legislative information technology committee which may conflict with the proposed board. This board should be at a policy and services level rather than an operations level. The Governor should appoint the chairman of the board.
- Mandate that the agency develop a strategic business plan defining rate plans, missions, goals, policies, transition plan, business objective, measurements, and general procedures. **Response:** We agree that a business plan is appropriate. Presumably, the business plan includes all information technology and not just the wide area network portion.
- Establish a group within the agency for improving personnel productivity and workflow processes for customers. **Response:** We agree that as technology applications change, the need to be reengineered is ongoing. The plan does not document what the resource requirements are for this process.
- Establish a technology development fund to establish the statewide network and to evaluate emerging technologies and implement common, shared components for users of the network. **Response:** We are unable to evaluate this recommendation because the plan does not provide an estimated cost or identify potential savings.
- Require each entity that uses the statewide network or is a user of agency services to file a strategic information technology plan. **Response:** We agree. Technology plans are created by the agencies today and are the basis for creating a statewide information technology plan. The Information Services Division intends to include all areas of technology in the next guidelines for state agencies.
- Establish a project quality assurance process to provide an independent assessment of the status of major projects. **Response:** We agree. We are unable to evaluate this recommendation because the plan does not include a cost estimate for this process.
- Create a separate department within the agency to plan and administer access to state information primarily through the Internet. **Response:** This recommendation requires the creation of a new function, and we are unable to evaluate it because the plan does not include the cost of this function. Citizens may object to paying for access to government information.

Mr. Backman said the plan assumes cost savings based on bringing elementary and secondary schools, cities, counties, and hospitals into the state's system. He said the savings may not be realized if the total combination cannot be achieved. He emphasized that he understands the plan is based on a compilation of what other states are doing but does not identify what is happening in North Dakota. He said the state needs to be careful to understand not only what the costs will be but what the service demands are in this state.

In response to a question from Senator Solberg, Mr. Backman said he does not know of any negatives for bringing elementary and secondary schools into the system. He noted that the federal government's E-rate technology discount program, administered by the Schools and Libraries Corporation (whose Internet address is <http://www.slcfund.org>), may affect the

economies resulting from schools being in the network. The E-rate program is funded from Federal Communications Commission assessments on telecommunications carriers and provides funds for telecommunications services, Internet access and service, and internal connections, including wiring and network equipment.

Chairman Robinson recognized Mr. Larry Isaak, Chancellor, North Dakota University System. Mr. Isaak said the University System has been working with Wolfe & Associates, the Office of Management and Budget, and the Information Services Division in reviewing the plan. He said Mr. Heck will be recommending changes to the bill draft, and the University System supports those recommendations.

In response to a question from Senator Solberg, Mr. Isaak said the University System has cooperated with the development of the network. He pointed out that since 1984 the network has been operated through one entity.

Chairman Robinson recognized Mr. Robert J. Pope, Wolfe & Associates, who described activities by Wolfe & Associates with respect to the *Strategic Telecommunications Plan* since the September 8, 1998, meeting of the committee. Mr. Pope announced that Wolfe & Associates has merged with several firms and is now known as Inteliant. He presented a video presentation and distributed copies of the presentation. A copy of the presentation is on file in the Legislative Council office.

Mr. Pope said the project scope was an inventory of selected North Dakota networks and a quick followup of five innovative states. He said the scope of the project did not include an analysis of the North Dakota network operation. He said three joint meetings were held with representatives from Inteliant, the University System, the Information Services Division, and the Office of Management and Budget. He said points of clarification include the fact that the plan does not propose providing services to the private sector except for nonprofit institutions. However, he said, private sector enterprises can piggyback onto the capacity provided as a result of service contracts between private providers and the state. He said the savings projections are based on other states' experiences and are based on the services provided today; but, he said, services will expand in the future.

In response to a question from Representative Glasheim, Mr. Pope said the statewide network would not provide direct service to the private sector. He said the private sector would benefit through the state specifying to private providers a level of service that the state requires, and the private sector components could take advantage of the capacity resulting from providing this increased level of service.

Strategic Telecommunications Plan Bill Draft

The assistant director reviewed the bill draft to provide for the Information Technology Department and transition of responsibilities to the department. He said the bill draft substantially implements the recommendations contained in the *Strategic Telecommunications Plan*. The bill draft establishes an Information Technology Department, responsible for all telecommunications planning, selection, and implementation for all state agencies and public schools. The department also is responsible for exercising the authority of the current Information Services Division, which is repealed. The department is administered by a chief information officer appointed by the Governor. In addition, the bill draft creates an Information Technology Board, consisting of four legislators appointed by the Legislative Council, six members appointed by the Governor, the chief information officer, the commissioner of higher education, and the Supreme Court administrator. This board is responsible for approving the business plan of the department, reviewing and approving statewide information technologies standards and the statewide information technology plan, assessing major projects to ensure quality assurance, reviewing the qualifications of department personnel, and reporting to the Governor and the Legislative Council on matters concerning information technology.

Chairman Robinson asked Mr. Heck to respond to the bill draft. Mr. Heck distributed a prepared statement, a copy of which is on file in the Legislative Council office. Mr. Heck presented these comments with respect to specific sections of the bill draft:

1. In Section 1, the definitions of information technology services and information technology systems need to be clarified. Possibly, services could refer to equipment, software, and services purchased by individual entities, excluding higher education; and systems could refer to operations, excluding shrinkwrapped software and excluding higher education.
2. In Section 2, the department is responsible for all telecommunications, but telecommunications is not defined; a suggestion is to use the definition of network services in Section 1. Also, although there is a reference to public schools, the assumption is that counties, cities, and nonprofit hospitals would be required to use the statewide network if they are seeking network services. In addition, the specific listing of divisions should be deleted, and the business plan should identify the organizational structure of the department.
3. In Section 4, subsection 1, relating to the duty of the chief information officer to supervise and regulate information technologies systems, should be placed in Section 5 as a

- duty of the department; and the requirement of subsection 3 that the director establish a group within the department for improving personnel productivity and workflow processes should be incorporated in the business plan.
4. In Section 5, subsection 1, add "and the network support for the entity to carry out its mission" under the types of network services provided; in subsection 2 allow the department to review and approve additional network services that are not provided by the department; and in subsection 3 change the reference to providing "information technology services" to providing "information technology systems, with the exception of institutions of higher education" in order to avoid duplication with subsection 5.
 5. In Section 6, provide that the business plan should define the department's overall organization, mission, and delivery of services; qualify the determination of how use of the statewide network will improve learning in the state by having the board define learning; define the user community that is to be aware of the technology available; and allow the administration of digital signatures to be addressed outside the wide area network.
 6. In Section 7, provide that the Information Technology Board serves in an advisory capacity to the chief information officer and provide that the Governor designates the chairman of the board.
 7. In Section 8, reword the responsibilities of the board to provide for advising the chief information officer and make appropriate advisor-type reference changes throughout the section; eliminate reference to a single technology such as the mainframe computer processing unit; add an emphasis on long-term strategic goals and objectives in developing the statewide technology plan; remove the provision that the board reviews the qualifications used to appoint the chief information officer and for each position within the department.
 8. In Section 13, provide that if the board suspends the expenditure of moneys appropriated for a project, the board is to notify the Office of Management and Budget.
 9. In Section 14, the current requirement for a report of noncompliance by institutions of higher education to statewide standards and policies conflicts with the exception of those institutions from complying with the statewide standards and policies. This apparent conflict is somewhat resolved informally by involving higher education in the development of the standards and policies, but a

question does exist as to excluding higher education from compliance but reporting noncompliance.

10. In Section 15, the information technology development account is to include any moneys received for charges in excess of the cost of providing network services, and this may cause a problem with the indirect cost allocation process because excess income is used to reduce rates. This is a special concern because federal funds cannot subsidize other areas of government.
11. In Section 18, the confidentiality language tracks current law, but consideration should be given to ensuring the Information Technology Department, which merely is the custodian of information, is not required to provide information that more appropriately would be provided by the agency involved. Issues such as which information is confidential and which information is appropriate for release are better handled by the agency rather than by the department.

Senator Solberg said one way of resolving any conflict in Section 14 between excepting institutions of higher education from the statewide policies and standards and reporting noncompliance would be to remove the exception.

Chairman Robinson asked if anyone present wanted to speak on the bill draft.

Chairman Robinson called on Mr. Al Jaeger, Secretary of State, who distributed prepared comments. A copy of his comments is on file in the Legislative Council office. Mr. Jaeger said Section 5, relating to the powers and duties of the department, should include references to electronic records retention, maintenance of archival electronic records, backup systems, and disaster prevention; and the duty of providing information technology services to the legislative and judicial branches should include providing these services to the executive branch. He questioned what is a "major" state agency with respect to representation on the Information Technology Board in Section 7. He said that qualification should be eliminated to allow the Governor the ability to appoint a representative from any agency and that it should be made clear that the Governor can appoint either an appointed or elected agency head. He said the deadline of January 15 to submit information technology plans in Section 11 is unrealistic and should coincide with the deadline set by the Office of Management and Budget for submission of an agency's budget.

Ms. Laura Glatt, North Dakota University System, commented on the composition of the Information Technology Board. She said the commissioner of higher education should be allowed to designate a representative to attend board meetings. She said the board has a number of substantive responsibilities

and consideration should be given to the time required for serving on this board in addition to fulfilling other responsibilities. She said the representative of the commissioner would probably be the chief information officer for the University System. She said there should be clarification that the commissioner is a voting member of the board. She said she disagrees with the suggestion that the excepting of institutions of higher education from complying with statewide standards would be a way of resolving any conflict with the reporting of noncompliance with the standards. She said removing the exception would affect academic and research uses of technology which may be controlled by federal requirements or grant requirements.

Mr. Joe Linnertz, Department of Public Instruction, said he is concerned over the required involvement by elementary and secondary schools. He said this may be a good idea, but there are 230 districts and 500 school buildings, and there does not appear to be any cost estimates or designation of resources to do this. He said the Information Technology Board should include representation from elementary and secondary education if that segment is required to use the state network.

Chairman Robinson recognized Mr. James R. Stepp, Inteliant, for an updated cost-benefit analysis. Mr. Stepp distributed the analysis, a copy of which is on file in the Legislative Council office. He emphasized that the costs are based on the experience of other states. The estimate is \$6.2 million additional expense during the 1999-2001 biennium; \$2.6 million additional expense during the 2001-03 biennium; \$3.6 million savings during the 2003-05 biennium; and \$12.5 million savings during the 2005-07 biennium. Based on the experience of other states, he said, implementation of the recommendations may result in a savings of as much as \$10 million or additional costs of as much as \$8 million over the next four bienniums. He explained the reasons costs would be lower under a new state network plan include purchasing leverage, improved technologies, economies of scale, and consolidated administration. He said the position of Inteliant with respect to cost estimates is that the Legislative Assembly provides funds for setting up the agency and deploying the network. He said the users, including counties, cities, schools, public television, and nonprofit hospitals, fund the network through fees for using the network. He said the assumption is that after the initial development funding, user fees will cover ongoing and new development costs.

Mr. Stepp said the impact of the plan is more centralized functions with respect to wide area communications, quality assurance, process engineering, strategic planning, statewide standards, and the position of chief information officer. He said the plan does not change decentralized functions of data

center operations, programmers and analysts, and agency control over applications.

Mr. Stepp suggested that Section 9 of the bill draft be revised to clarify that any entity connecting to the network must comply with the statewide standards with respect to the network. In response to a question from Senator St. Aubyn, Mr. Stepp said if a local school connects to anything other than its local network, it would have to comply with the state network standard.

Mr. Stepp said the next steps in this process include revising the executive summary to describe efforts since the September 8 committee meeting, updating the cost analysis, further explaining the recommendations, responding to agency questions, providing initial funding requirements and the fiscal note completing the addendum, and publishing the *Strategic Telecommunications Plan* with the addendum.

In response to a question from Senator St. Aubyn, Mr. Stepp said the plan does not require schools to connect to the statewide network but does require that schools use the statewide network if they use wide area network services.

In response to a question from Representative Wardner, Mr. Stepp said he believes other states are bringing elementary and secondary schools into the state network and what happens is schools become a focal point of the networks. He said funding ranges from total to partial funding to bring schools into the networks.

Representative Glassheim said the current state network does provide for interconnectivity. Mr. Stepp said the information contained in the inventory did not include elementary and secondary schools, but the inventory does provide a basis that can be used to show what is needed.

Bill Draft Recommendations

Chairman Robinson asked for recommendations concerning the bill draft to provide for the Information Technology Department. He said the basis for discussion would be the recommendations or suggestions presented during the meeting.

Senator Solberg said if the committee is to proceed with this bill draft, the bill draft should make it mandatory that if political subdivisions access wide area networks, they use the statewide network. He said this idea will not work if it continues to be fragmented and voluntary. Senator St. Aubyn concurred.

Representative Glassheim requested that the listing of department divisions in Section 2 be deleted, but the descriptions of the responsibilities of the divisions be retained as a description of responsibilities of the department.

Senator St. Aubyn questioned the requirement in Section 3 that the chief information officer be appointed without reference to partisan politics. The assistant director said this requirement was continued

from existing law but does not apply to any other appointee of the Governor. Senator St. Aubyn requested this provision be removed. He also questioned whether the Governor could make an interim appointment if it is difficult to find a qualified person to appoint as chief information officer. Representative Glassheim said the section does not establish the minimum qualifications and any interpretation could be used for "education, experience, and other qualifications in information technology and administration." Senator St. Aubyn said his concern is if the Information Technology Board establishes minimum qualifications that could interfere with appointing an interim chief information officer. He said his concern would be resolved by deleting that provision from Section 8.

Representative Glassheim said he does not agree with the suggestion to revise Section 7 to remove "major" as the type of the agencies represented on the Information Technology Board because it is important representatives on the board be representatives of major users of information technology. He said the board should include representation of elementary and secondary education. He said the current language does not prohibit the appointment of elected officials to the board. Committee discussion also favored not providing for designees to represent the members. Representative Wardner said he does not agree with the recommended changes to Section 7 to provide for the Governor to appoint the chairman of the board or to make the board an advisory board. He requested that those recommended changes not be made.

Senator Solberg said another approach may be to have the board appoint the chief information officer and make the board a stand-alone agency similar to the Workers Compensation Board of Directors. He suggested the committee could look at this type of "privatization" of information technology services. Senator Krebsbach disagreed. She said information technology functions are different from workers' compensation coverage. She said the Information Technology Department is funded by taxpayers, while workers' compensation is funded by employers.

Senator St. Aubyn said the authority of the board to review the qualifications of department personnel should remain in subsection 5 of Section 8, but the authority to review the qualifications used to appoint the chief information officer should be deleted to avoid any problem with appointing an interim chief information officer who does not meet the qualifications. Representative Weisz said he does not see the need for the board to review the qualifications for each position in the department. He said he also has a problem if the board rather than the Governor appoints the chief information officer because the chief information officer is to be a member of and work with the Governor's cabinet. Senator Nelson suggested that the board could review the "criteria" used to appoint the chief information officer rather

than the "qualifications." Senator St. Aubyn requested that subsection 5 be deleted as a result of this discussion, but the substantive responsibilities of the board should remain, and the board should not be an advisory board.

Senator St. Aubyn said he has a question with respect to Section 9, whether there would be any problem with administrative functions of higher education being subjected to compliance with statewide standards and policies. Ms. Glatt said the University System is complying with policies with respect to administration, but the concern is with academic and research environment. Senator St. Aubyn requested that Section 9 be revised to provide that the policies and standards apply to the administrative functions of higher education and to ensure that users of the network must comply with statewide policies and standards as they apply to the network.

Mr. Heck said the Information Services Division is responsible for records management under North Dakota Century Code (NDCC) Chapter 54-46 and the January 15 deadline in Section 11 is current law and is important. He said the guidelines could require the planning process to be completed by January 15 but allow budget sheets to be delivered when they are delivered to the Office of Management and Budget.

It was moved by Senator Nelson, seconded by Senator St. Aubyn, and carried on a voice vote that the Legislative Council staff be requested to revise the bill draft to provide an Information Technology Department to reflect the recommendations and discussion.

Senator Solberg suggested that consideration of the second draft of the bill draft relating to information technology planning and activities and the bill draft establishing a Legislative Council Information Technology Committee be postponed so all three bill drafts could be considered at the next meeting of the committee. The bill draft relating to information technology planning and activities will be revised to incorporate relevant changes reflecting the discussion of changes to the Information Technology Department bill draft.

Response to Secretary of State's Network Cost Concerns

Mr. Heck distributed a statement describing the background of the changes in the wide area network rate charged the Secretary of State, as described to the committee at its September 8, 1998, meeting. A copy of his statement is on file in the Legislative Council office.

Mr. Heck said the report by Wolfe & Associates dated January 1, 1996, recommended the Information Services Division adjust rates to fully recover costs for each of the services provided by the division. In preparation for each budget cycle, he said, the division prepares a rate guideline to assist agencies in preparing their budgets. The guideline prepared for

the 1997-99 budget adjusted the wide area network rate to produce a \$14,000 increase in revenue and adjusted the mainframe service rate to decrease revenue by \$24,000 a month resulting in a net reduction of \$9,000 a month. He said agencies using the wide area network but not the mainframe service realized an increase in their budget requirements, while those agencies using a lot of mainframe service realized a budget decrease. He said the Secretary of State is a substantial user of the wide area network but is not a user of mainframe services. Through oversight in not following up with the Secretary of State during the budget process, he said, the Secretary of State's 1997-99 budget did not reflect the recommended rate adjustments. He said the division has made a one-time exception for the Secretary of State during the 1997-99 biennium by continuing the old rates but has requested the Secretary of State to implement the rate adjustment in the 1999-2001 budget request.

YEAR 2000 COMPLIANCE RECOMMENDATIONS

At the request of Chairman Robinson, the assistant director reviewed a memorandum entitled *Recommendations Regarding Year 2000 Compliance Activities*. The memorandum identifies the recommendations contained in the *Y2K Agency Assessment* presented by Inteliant during the September 8, 1998, meeting of the committee. In summary, the Governor, Information Services Division, Attorney General, and State Purchasing have substantially implemented those recommendations. The assistant director said recommendations with respect to establishing financial contingencies at the state and agency level and ensuring that legislators are cognizant of the potential impact of 1999 legislation on Y2K remediation efforts could be addressed by two specific recommendations:

- That the executive budget include an appropriation subject to the approval of the Emergency Commission for distribution as unforeseen emergencies arise due to failure of state agencies to become Y2K compliant.
- That state agencies and institutions monitor legislative actions that could affect their ability to complete Y2K compliance efforts and notify relevant legislators and legislative committees of those impacts.

In response to a question from Senator St. Aubyn, the assistant director said the recommendation for the executive budget to include an appropriation does not include a dollar amount because that is left up to the determination of the Governor, based upon the best information available when the executive budget is prepared.

Senator St. Aubyn suggested that an alternative could be authorizing borrowing authority from the Bank of North Dakota similar to that authorized for a

disaster under NDCC Section 54-16-13, and thus funds would not be tied up through an appropriation. The director said this would require specific legislation. He said the use of borrowing authority with respect to disasters, e.g., the flood situation in the eastern part of the state, relied on federal or grant funds to repay some loans. In this instance, he said, no new funds would be anticipated to pay back any loan.

It was moved by Representative Wardner, seconded by Representative Glassheim, and carried on a roll call vote that the committee approve the recommendations as presented. Senators Robinson, Krebsbach, Nelson, Solberg, and St. Aubyn and Representatives Glassheim, Wardner, and Weisz voted "aye." No negative votes were cast.

Chairman Robinson asked for discussion of the bill draft limiting state and political subdivision liability for failure to become Y2K compliant.

Senator St. Aubyn said he has struggled with the good-faith requirement that public entities must show in order to receive immunity from liability. However, he said, there would be problems in listing what is required to meet the good-faith effort. He inquired as to whether dates other than January 1, 2000, would be covered by the bill draft. The assistant director said the bill draft describes "compliant with the year 2000 date change" as including interfaces that "prevent noncompliant dates and data from entering or exiting" any system. He said this could be interpreted as including any date, not just January 1.

It was moved by Senator St. Aubyn, seconded by Representative Wardner, and carried on a roll call vote that the bill draft relating to liability of public entities for claims resulting from failure to be Y2K compliant be approved and recommended to the Legislative Council. Senators Robinson, Krebsbach, Nelson, Solberg, and St. Aubyn and Representatives Glassheim, Wardner, and Weisz voted "aye." No negative votes were cast.

TOPICS FOR NEXT COMMITTEE MEETING

Chairman Robinson announced that the committee would meet on Monday, October 26, for one-half day to review the revised bill draft (second draft) providing for the Information Technology Department, review the revised draft (third draft) of the bill draft relating to information technology planning and activities, review the bill draft establishing a Legislative Council Information Technology Committee, receive information on the statewide plan, and receive reports concerning cooperative activities. No further business appearing, Chairman Robinson adjourned the meeting at 2:45 p.m.

Jay E. Buringrud
Assistant Director

John D. Olsrud
Director

ATTACH:1