

NORTH DAKOTA LEGISLATIVE MANAGEMENT

Minutes of the

LEGISLATIVE MANAGEMENT COMMITTEE

Wednesday, February 18, 1998
Harvest Room, State Capitol
Bismarck, North Dakota

Representative John Dorso, Chairman, called the meeting to order at 9:25 a.m.

Members present: Representatives John Dorso, Tom D. Freier, William E. Kretschmar; Senators Tony Grindberg, Aaron Krauter, Gary J. Nelson

Members absent: Representatives Merle Boucher, Pam Gulleason; Senators Tim Mathern, David E. Nething

Others present: Lee Ellison, KXMB-TV 12 News, Bismarck

Greg Larson, Wayne Stoller; Facility Management Division, Office of Management and Budget, Bismarck
Warren Tvenge, Vaughn Rhodes; Tvenge Associates Architects & Planners, Bismarck

Maryann F. Trauger, Karen J. Mund; Legislative Council, Bismarck

Dale Wetzal, Associated Press, Bismarck

LEGISLATIVE RENOVATION

Review of Bids

At the request of Chairman Dorso, Mr. Warren Tvenge, Tvenge Associates Architects & Planners, reviewed the bids received for the legislative chambers renovation project. He distributed a tabulation of the bids of the four general contractors who submitted bids--Associated Builders, Gurholt Construction, JPB, and Metric Construction. A copy of the bid tabulation is attached as Appendix A. He said there are three distinct phases of the project--remodeling, carpeting, and chairs. He described the base bid as rostrum remodeling. The base bids ranged from \$47,230 to \$69,100.

Mr. Tvenge said alternate bid 1 is for carpet and the three types of carpet are type A - Bigelow, type B - Bentley, and type C - Milliken. Bids for the three types ranged from \$46,500 to \$58,843.

Mr. Tvenge said alternate bid 2 is for acquiring 195 chairs (chairs for legislators' desks, the front desk areas, and the leaders' offices behind the chambers) and reupholstering 30 benches and chairs in the chambers. He said four styles of chairs were specified: type A - Steelcase Sensor, type B - Steelcase Concentrex, type C - Herman Miller Ergon 3, and type D - Roughrider Industries Tuf Delux. Other than for the Steelcase Concentrex, he said, each type includes a base bid and two options: type 1 includes an adjustable back and type 2 includes an adjustable back and adjustable arms. Bids for nine different types of chairs ranged from \$84,369 to \$114,600.

Mr. Tvenge said alternate bid 3 is for a handicap ramp along the west wall of each chamber. He said the ramps would be three feet wide and would have a railing. He said one question that needs to be addressed is where the ramps will be stored when not in use. Bids for the ramps ranged from \$16,385 to \$22,700.

Mr. Tvenge said alternate bid 4 is for remodeling the Senate rostrum and related case work. Basically, he said, the former page seating areas (currently file drawer areas) would be removed and the front desk extended to replace these file drawer areas with workspace areas, thus providing three workspace areas on each side of the Secretary of the Senate's rostrum. Bids for this remodeling ranged from \$21,817 to \$47,700.

Mr. Tvenge said Gurholt Construction submitted the lowest total bid, regardless of any combination of the alternate bids. He distributed a tabulation separating the costs between the Senate and the House. A copy of the tabulation is attached as Appendix B.

In response to a question from Senator Nelson as to why the cost of new chairs and reupholstering the benches in the Senate is more than half the cost for chairs and reupholstering in the House, Mr. Tvenge said the Senate has more benches and chairs and the types of benches and chairs in the Senate require reupholstering rather than merely recovering replaceable pads.

Tour of Chambers

Chairman Dorso recessed the meeting so members could tour the chambers and review the specifics of the planned project. Mr. Lee Ellison, KXMB-TV 12 News, requested that audio jacks be placed in the front of the Chief Clerk's desk area so that cameramen in the well would have a backup audio source if their wireless microphones did not work. This would be in addition to the audio jacks and hookups to be provided behind the Speaker's desk for cameras on tripods in that area.

Award of Legislative Renovation Project Contract

At the request of Chairman Dorso, the assistant director reviewed the funds available for legislative renovation. He said the balance remaining from the 1989 legislative renovation appropriation is \$109,764

and the funds remaining after acquiring the Gateway computers, adding the carryover from the 1995-97 Legislative Assembly appropriation, and reserving an amount for acquiring 80 replacement notebook computers for legislators is \$78,801. He said chairs could be acquired under the committee's responsibility for making arrangements for the 1999 legislative session. He said the amount budgeted for the 1999 legislative session is based on 72 legislative days, and each legislative day costs approximately \$55,000. Unless the committee directs otherwise, he said, the funds for alternate bid 2 (acquiring the chairs and reupholstering specified chamber decorative chairs and benches) would be taken from the Legislative Assembly appropriation with a view toward reducing the number of days in session. He noted that the 1997 legislative session lasted 66 legislative days.

It was moved by Senator Nelson, seconded by Representative Freier, and carried on a roll call vote that the committee proceed with awarding the contract for the legislative renovation project. Representatives Dorso, Freier, and Kretschmar and Senators Grindberg, Krauter, and Nelson voted "aye." No negative votes were cast.

In response to a question from Senator Nelson, Mr. Tvenge said he has worked with Gurholt Construction for the past 15 years on a number of projects. He described Gurholt Construction as a small commercial builder. He said Gurholt would do the platform work and Minot Sash and Door would be the subcontractor for the woodwork. He said Minot Sash and Door was the subcontractor for the woodwork during the legislative renovation project during the early 1980s. He recommended awarding the contract to Gurholt Construction.

It was moved by Senator Krauter, seconded by Representative Kretschmar, and carried on a roll call vote that the committee accept the low base bid of \$47,230 by Gurholt Construction. Representatives Dorso, Freier, and Kretschmar and Senators Grindberg, Krauter, and Nelson voted "aye." No negative votes were cast.

In response to a question from Representative Dorso, Mr. Tvenge recommended type C (Milliken) carpet. He said Milliken will provide carpet in any color suggested and will also provide patterns. He said carpet samples could be obtained from all three carpet suppliers. If the committee wants to select a different carpet manufacturer under the bid after reviewing color samples, he said, that could be accomplished through a change order.

In response to a question from Representative Dorso, Mr. Tvenge said it would take six weeks for carpet to be delivered after the color and pattern is selected and the contract provides for a completion by mid-June. Representative Dorso requested carpet samples and chair colorboards be provided to the committee if possible during its March 17 meeting in Grand Forks.

Mr. Tvenge inquired as to the preferred color scheme for each chamber. Senator Nelson requested

a maroon carpet for the Senate. Mr. Tvenge said he would provide recommendations based on maintaining a maroon color scheme in the Senate and a blue color scheme in the House. Representative Dorso requested Mr. Tvenge also provide suggestions for a patterned carpet, such as wheat or anything that would be appropriate in the legislative chambers.

It was moved by Representative Freier and seconded by Representative Kretschmar that the committee accept type C (Milliken) carpet as alternate bid 1 at a price of \$56,157. Senator Krauter said there is not enough money in the legislative renovation appropriation for awarding all the alternates and carpet could be delayed until a specific appropriation is made for this portion of legislative renovation work. Representative Dorso said the carpet in the House well area will be removed during the front desk remodeling and platform renovation and carpet in at least this area would be necessary before the 1999 session. After this discussion, **the motion carried on a roll call vote.** Representatives Dorso, Freier, and Kretschmar and Senators Grindberg and Nelson voted "aye." Senator Krauter voted "nay."

It was moved by Senator Nelson, seconded by Senator Krauter, and carried on a roll call vote that the committee accept alternate bid 3 (handicap ramp) of \$16,385 and alternate bid 4 (Senate front desk renovation) of \$21,817. Representatives Dorso, Freier, and Kretschmar and Senators Grindberg, Krauter, and Nelson voted "aye." No negative votes were cast.

The committee members viewed the four types of chairs on display and narrowed the choice to type A-1 (Steelcase Sensor with adjustable back) and type C (Herman Miller Ergon 3). Representative Dorso said he prefers the comfort of the Herman Miller chair, but likes the richness of the looks of the Steelcase chair. He noted the \$19,170 lower bid for the Herman Miller chair. Senator Nelson said he likes the loop arm style of the Steelcase chair and, with an adjustable back, the Steelcase chair may be as comfortable as the Herman Miller chair.

It was moved by Senator Nelson, seconded by Representative Kretschmar, and carried on a roll call vote that the committee select the Steelcase Sensor chair with an adjustable back and accept alternate bid 2 chair type A-1 at a price of \$106,739. Representative Kretschmar and Senators Grindberg, Krauter, and Nelson voted "aye." Representatives Dorso and Freier voted "nay." Senator Nelson suggested that the chairs in the leaders' offices be only replaced with respect to those chairs used by the leaders and their secretaries. Representative Dorso requested the Legislative Council staff to determine the actual number of chairs needed and determine the types of chairs to be located in the leaders' offices and at the front desk area in each chamber. He suggested a cost savings may be realized if the number of chairs ordered can be reduced.

LEGISLATIVE CHAMBERS USE

At the request of Chairman Dorso, the assistant director reviewed a request from the North Dakota High School Activities Association for use of the Senate and House chambers and nine committee rooms for the 1998 State Student Congress on November 5-6, 1998. The director pointed out that this would be immediately preceding the Legislative Council meeting and committee rooms may be required for committees to conclude their interim work.

It was moved by Representative Kretschmar, seconded by Senator Nelson, and carried on a voice vote that the committee approve the request of the North Dakota High School Activities Association for use of the Senate and House chambers on November 5-6, 1998, but that specific committee rooms be made available for the Student Congress only with the concurrence of the director of the Facility Management Division and the director of the Legislative Council after determining which rooms are necessary for interim committee meetings during those dates.

LEGISLATIVE FACILITIES AND EQUIPMENT

Lights

Mr. Greg Larson, Facility Management Division, said the fluorescent light bulbs and ballasts are being changed throughout the Capitol to reduce "hum" and save approximately 30 percent in electrical costs. He said the project is funded by a federal grant.

Sound System

Representative Dorso summarized correspondence he had received from the director concerning a request from the Secretary of State for connections to the audio system in the House and Senate chambers. He said information from Mr. Larson indicates that 52 speakers are connected to the House and Senate chambers and the current system, with its 100-watt amplifier, is nearing its capacity. He said Mr. Larson described six ways to expand access to the system, including providing RealAudio software and a feed to the Internet through a web server, installing a low power radio broadcasting system (at an approximate cost of \$20,000), expanding the current system by adding another amplifier, providing telephone access through the Capitol PBX (at an approximate cost of \$40,000 for 32 ports), providing telephone access through a separate system (at a cost of \$40,000 for 48 ports), and providing a closed-circuit television broadcast. He said the system appears to be at its maximum with respect to permitting additional connections.

Mr. Larson said there are four audio systems in the legislative chambers. He said there is a public address system, a wireless system for hearing-impaired members under the Americans with Disabilities Act, a system providing audio feeds to the press, and a system providing external hookups. He

said this external system consists of a 100-watt amplifier providing hookups to 52 speakers. He said the jacks, wiring, and speaker with each hookup requires approximately 1-1½ watts. He said hookups outside the legislative branch include eight speakers in the Office of Management and Budget and three speakers in the Governor's office.

The director said the Legislative Management Committee approved hookups to speakers within the legislative wing during the last legislative renovation project but has not approved extension of wiring to speakers in executive branch agency offices.

Mr. Larson said since his letter to the director, he has also received requests for audio hookups from the University System office, the Attorney General, and the Superintendent of Public Instruction.

Representative Dorso said he cannot support adding additional wiring and speaker connections that may degrade the current system. He said the legislative branch should not have to bear the burden of providing executive branch agencies with access to the legislative audio system.

Senator Nelson suggested that the location of the current speakers be reviewed to determine whether any speakers could be disconnected. He questioned why the speaker in the men's restroom behind the Senate chamber no longer works.

Mr. Wayne Stoller, Facility Management Division, said the speakers in the restrooms and the lounges are connected to the paging system, and the audio feed through those speakers is controlled by the Chief Clerk of the House or Secretary of the Senate by pushing the page button. He said the audio feed is provided only when that button is pushed.

Senator Krauter said the committee is on the right track by providing audio hookups for legislative branch personnel and he suggested that a policy be implemented for providing access to anyone else.

It was moved by Senator Nelson, seconded by Representative Freier, and carried on a voice vote that the Legislative Council staff notify all agencies in the executive branch that the committee plans to have disconnected all speakers connected to the amplifier for the external audio system which are not located in legislative offices or legislative space. Senator Nelson said the audio feeds to the press room need to be continued, regardless of whether they are part of this system or a separate audio system for the press.

LEGISLATIVE RULES

At the request of Chairman Dorso, the assistant director reviewed rules memorandums and rules amendments addressing issues raised during the 1997 legislative session.

Legislative Floor Procedures - Reading the Titles of Bills

The assistant director reviewed a memorandum describing the constitutional requirements for the

reading of bills or bill titles. The constitution requires every bill to be read on two separate natural days but allows the readings to be by title only unless a reading at length is demanded by one-fifth of the members present. The Secretary of the Senate summarizes the title on second reading, and the Chief Clerk of the House reads the complete title on second reading. In cases in which the House wants to speed up the proceedings, the House by motion waives the reading of the title and records this waiver in the journal. The memorandum concludes that to avoid the possibility of a successful argument that a bill is ineffective because the reading of its title has been waived as indicated by the journals, it is advisable not to waive the reading of a title to a bill. If the purpose is to save time, the title could be summarized similar to the procedure followed by the Senate.

Representative Kretschmar suggested that the constitution could be amended to reflect the actual practice of either reading the titles or summarizing the titles. The director said if the electorate rejected such a constitutional amendment, this could raise a question as to the practice of summarizing titles.

It was moved by Representative Kretschmar, seconded by Representative Freier, and carried on a voice vote that the House adopt the procedure that the Chief Clerk summarize the titles of bills rather than read the code numbers affected by the bill or all the verbiage in the title.

CONTENTS OF HOUSE AND SENATE JOURNALS

Engrossing and Enrolling Reports

The assistant director reviewed a memorandum describing the decisions made by the Legislative Management Committee over the years to reduce the size of the journals by consolidating reports and messages and eliminating various announcements. The memorandum notes that in 1986 the Senate and House committees on enrolled and engrossed bills were abolished, and although the Senate journal has not included an engrossing and enrolling report since 1986, the House journal continues to include such reports. The memorandum points out that House Rule 335 provides that all House bills are deemed properly engrossed before final passage and the journal lists enrolled bills when they are signed.

It was moved by Representative Kretschmar, seconded by Senator Grindberg, and carried on a voice vote that the House journal no longer include engrossing reports or enrolling reports.

Delivery of Bills to the Governor

The assistant director reviewed a memorandum describing the procedure followed when the Governor returns a vetoed bill. The memorandum notes that Joint Rule 209 was adopted in 1989 to clarify the computation of the three-day time period for the Governor to return vetoed bills. The rule provides that the Governor has three calendar days to return a

vetoed bill. As a result, only the day of presentation is relevant because the Governor has three "calendar" days rather than 72 hours. The memorandum notes that including a reference to the hour and minute when a bill is delivered to the Governor could raise an argument that the Legislative Assembly recognizes a 72-hour rule rather than a calendar day rule in determining the length of time to make a valid veto.

It was moved by Senator Nelson, seconded by Representative Freier, and carried on a voice vote that the House and Senate journals no longer include the hour and minute when bills are delivered to the Governor.

Copies of Permanent Journals

The assistant director reviewed proposed amendments to Senate and House Rules 204(4) and (5) to eliminate the set of permanent journals provided to the Lieutenant Governor and to reduce from seven to five the sets of permanent journals provided to the Legislative Council. He said the entities receiving the sets of permanent journals were contacted, and the Lieutenant Governor suggested that the set to the Lieutenant Governor could be eliminated and the Legislative Council staff suggested that two sets provided to the Legislative Council could be eliminated.

Senator Nelson inquired as to the eight sets provided to the State Library. The assistant director said North Dakota Century Code Section 54-24-09 requires eight copies of all publications issued by any state agency intended for general public distribution to be provided to the State Library (two are to be retained and six are to be distributed to the six depository libraries).

It was moved by Senator Grindberg and seconded by Senator Krauter that the committee approve the proposed amendment of Senate and House Rules 204, relating to the number of copies of permanent journals. Senator Nelson requested the Legislative Council staff to contact the State Library regarding the number of copies to be provided the State Library in light of publication of a legislative information compact disc. After this request, **the motion carried on a voice vote.**

Measures Referred to Appropriations Committee

The assistant director reviewed proposed amendments to Senate and House Rules 329 to provide that a bill or resolution required to be referred or rereferred to the Appropriations Committee which is passed by a house is deemed reconsidered and must be referred to and acted upon by that committee if the measure had not been referred to that committee before passage. He said the amendment would eliminate the requirement for a motion to reconsider and rerefer a measure that had received other than a do not pass recommendation.

Representative Dorso said he likes the current procedure, which requires a motion to reconsider and

rerefer. He said action without rereferral primarily is done for measures that do not warrant the Appropriations Committee taking time for additional hearings.

Representative Kretschmar questioned whether committees are not recommending rereferrals even though rereferrals are required. Senator Nelson said sometimes committees fail to recommend the required rereferral.

Representative Dorso said another way to address this issue is to review the requirement for referring bills with appropriations of \$5,000 or more. He requested the Legislative Council staff to provide information to the committee on the number of bills referred or rereferred to the Appropriations Committee during the 1997 session, for the purpose of allowing the committee to determine whether the limits in Senate and House Rules 329 should be increased.

Transmittal of Measures to Other House

The assistant director reviewed proposed amendments to Senate and House Rules 346 to provide that after the 58th legislative day the Secretary of the Senate or Chief Clerk of the House is to transmit a measure to the other house immediately after second reading. The assistant director said this amendment would eliminate the necessity of motions for immediate messaging to the other chamber after a certain day.

In response to a question from Representative Kretschmar, the assistant director said the bill or resolution would be transmitted immediately after second reading and reconsideration would require a motion immediately after the vote.

Senator Nelson said members are cognizant of the transmittal at the end of the day on the 33rd legislative day and after the 49th legislative day. If they desire the measure to be held for purposes of reconsideration, he said, they need to notify the majority or minority leader and the bill or resolution is held until the next day.

Representative Dorso requested the Legislative Council staff to revise the proposed amendment to provide the same type of procedure for notifying the majority or minority leader of an intent to move reconsideration as provided for transmittal of measures at the end of the day after the 49th legislative day.

Motion for Reconsideration - Summary of Subject Matter

The assistant director reviewed proposed amendments to Senate and House Rules 347 to require the title of a bill or resolution to be summarized before making a motion for reconsideration. He said this rules amendment arose due to a request to provide a type of notice to other members as to the subject matter of the motion for reconsideration.

Senator Nelson said this procedure would inform the members as to the subject matter of the vote for reconsideration immediately when the motion is

made. Senator Krauter said it would eliminate a lot of "panic" when a motion is made without explanation. Representative Kretschmar said in most cases the desk force searches the records to make sure the person making the motion voted on the prevailing side and the time taken to search the records allows members to acquaint themselves with the subject matter of the motion.

Chairman Dorso said without a motion the committee would proceed to consider the next proposal.

Motion for Reconsideration - Time to Make

The assistant director reviewed proposed amendments to Senate and House Rules 347(3) to require a motion to reconsider to be made before the end of the next legislative day "following the action on the measure" in order to be subject to a majority vote requirement rather than a two-thirds vote requirement. He said this amendment clarifies that the "next legislative day" is the day after action on the measure and not the day after a motion to reconsider. He said a legislator suggested during the 1997 session that if a motion were to be made every day, the two-thirds vote requirement would not apply until the day after a day the motion was not made. He said the amendment ensures the intent that the two-thirds vote requirement applies after the day after action on the matter.

It was moved by Senator Nelson, seconded by Representative Kretschmar, and carried on a voice vote that the committee approve the proposed amendment of Senate and House Rules 347(3), relating to reconsideration by the end of the next legislative day following the action on the measure.

Procedure on Receipt of Vetoed Bills

The assistant director reviewed proposed Senate and House Rules 354.1, relating to placement of a vetoed bill on the 11th order of business on the calendar. He said the procedure for handling a bill returned with objections has been inconsistent--sometimes a motion to reconsider is made and sometimes a motion is not made. He said the purpose of the proposed rule is to clarify that a motion for reconsideration is not necessary or appropriate for considering a vetoed bill.

It was moved by Senator Nelson, seconded by Representative Kretschmar, and carried on a voice vote that the committee approve the proposed creation of Senate and House Rules 354.1, relating to the procedure on receipt of vetoed bills.

Delayed Bills and Resolutions

The assistant director reviewed proposed amendments to Senate Rule 403 to eliminate the reference to "original" sponsors of delayed bills and resolutions. He said the Senate approved deleting the word in 1994, but a clerical error retained the word in

the 1995 and 1997 rules manuals. He said the deletion clarifies that sponsors cannot be changed after approval by the Delayed Bills Committee.

It was moved by Senator Krauter, seconded by Senator Nelson, and carried on a voice vote that the committee approve the proposed amendment of Senate Rule 403, relating to sponsors of delayed bills and resolutions.

LEGISLATIVE GUESTS

Representative Kretschmar requested the committee review the rules allowing guests on the floor. He said House members are avoiding the restrictions by requesting the daily passes of other members so that groups of school students can be seated on the floor. Senator Nelson agreed that the committee should review the issue of guests on the floor.

RECESS AFTER CROSSOVER

Representative Kretschmar requested the committee review the feasibility of increasing the crossover recess to three days by including Friday. Senator Krauter agreed that the committee should review the feasibility of an extended recess. He said crossover is a major legislative deadline and a lot of time is spent during that recess meeting with local officials and taking care of other business.

No further business appearing, Chairman Dorso adjourned the meeting at 2:15 p.m.

Jay E. Buringrud
Assistant Director

John D. Olsrud
Director

ATTACH:2