

# NORTH DAKOTA LEGISLATIVE COUNCIL

## Minutes of the

### LEGISLATIVE MANAGEMENT COMMITTEE

Wednesday, October 10, 2001  
Harvest Room, State Capitol  
Bismarck, North Dakota

Senator Bob Stenehjem, Chairman, called the meeting to order at 9:00 a.m.

**Members present:** Senators Bob Stenehjem, Bill Bowman, Randel Christmann, Joel C. Heitkamp, Aaron Krauter; Representatives Wesley R. Belter, LeRoy G. Bernstein, Merle Boucher, David Monson, Mike Timm

**Member absent:** Representative Pam Guleson

**Others present:** Dave Thompson, Prairie Public Radio, Bismarck

Dale Wetzel, Associated Press, Bismarck

Karen J. Mund, Legislative Council, Bismarck

**It was moved by Senator Krauter, seconded by Senator Heitkamp, and carried on a voice vote to approve the minutes of the July 13, 2001, meeting of the committee.**

Chairman Stenehjem said the meeting was called for the Legislative Council staff to present information on the activities surrounding the 1991 special legislative session that considered legislative redistricting plans. He called on the assistant director to present the information to the committee.

#### **SPECIAL SESSION ARRANGEMENTS**

##### **Senate, House, and Joint Rules Amendments**

The assistant director referred to a memorandum entitled *Proposed Senate and Joint Rules Amendments Relating to a Special Legislative Session* and a memorandum entitled *Proposed House and Joint Rules Amendments Relating to a Special Legislative Session*. He said the memorandums contain amendments similar to the amendments that were made to the legislative rules during the 1991 special session. He said the difference between the two memorandums is the difference in wording between the Senate and House rules.

The assistant director said if a reconvened session is held rather than a special session, few legislative rules would need to be amended. He said most of the rules amendments in the memorandums shorten the timeframes for considering amendments after receipt of committee reports and for considering second reading after adoption of amendments. He said this issue does not arise for a reconvened session because a reconvened session would start with the 78th legislative day and most of the timeframes dealt with in the affected rules do not apply after the

55th legislative day. He reviewed the memorandums on a section-by-section basis.

Senator Krauter inquired whether it has been determined there would be a reconvened legislative session or a special session. Representative Belter said that decision has not been made and he would be meeting with the Governor to discuss issues involving whether the Legislative Council would reconvene the Legislative Assembly or whether the Governor would issue a call for a special session. He said the question involves whether other issues need to be addressed during the session.

In response to a question from Senator Heitkamp, Representative Belter said legislators should continue to plan for a session to begin on November 26.

During discussion of Joint Rules 303 and 304, relating to establishment of a Joint Legislative Redistricting Committee and a Joint Technical Corrections Committee, Representative Timm inquired as to the procedure followed during the 1991 special session. The assistant director said the redistricting bill was recommended by the Legislative Council and introduced in the Senate; the bill was referred to the Joint Legislative Redistricting Committee; that committee held hearings and recommended amendments; the report of the committee reflected the votes of all members of the committee; the committee reported the bill to the Senate and the report was from the Senate cochairman of the committee; the Senate approved the bill and messaged the bill to the House of Representatives; and the House received the bill, noted the bill had been heard by committee, and voted on the bill the following day. He said the 1991 special session convened on Monday, November 4, 1991; the Senate approved the bill on Thursday, November 7; the House received the bill on Thursday, November 7; and the House approved the bill on Friday, November 8.

In response to a question from Representative Monson, the assistant director said the normal procedure is for the Legislative Management Committee to recommend legislative rules changes. He said the rules changes are presented to the appropriate Rules Committees of each house. He said each Rules Committee reviews the rules changes and makes its recommendation to the appropriate house.

In response to a question from Senator Bowman, the assistant director said depending on the substance in the rules amendments, e.g., the procedure for introducing bills and the composition of any new committees, adoption of rules would generally be one of the first orders of business during a special session.

Representative Timm noted the procedure in 1991 was for most decisions to be made in the house of origin and inquired whether the Senate would suspend its ability to propose floor amendments. Senator Stenehjem said rules could be proposed to eliminate floor amendments, but a majority can suspend the rules and amend from the floor. The director emphasized any amendment to the legislative redistricting bill would require a legal description of the changes and would take time to be prepared and proofed.

During discussion of the use of a joint committee rather than a regular standing committee to conduct hearings on redistricting bills, Representative Boucher said he understands the reason for reducing the delay in voting on amendments and voting on the amended bills, but neither house should skip hearings. Senator Stenehjem said every bill not introduced by the Legislative Council should go to the Delayed Bills Committee for a hearing on whether the bill should be introduced. If that committee approves the bill for introduction, he said, the bill would be referred to a committee for hearing. He said if the hearing involves a committee of one house and that bill is approved by that house, the bill should receive a hearing in the other house. He said the ability of each house to conduct a hearing could be accomplished through a separate hearing by separate committees, a joint hearing by separate committees, or a joint committee.

Senator Heitkamp said standing committee members have expertise in specific areas and referring a bill to a newly created committee may result in a committee whose members have no expertise in that subject matter. Senator Stenehjem said his intent is that the only controversial issue that will be considered during the special session is redistricting. He said his personal view is that if the Legislative Assembly considers 2001 Senate Bill No. 2191, relating to disclosure of financial information, during the special session, the consideration be only of suspending that bill until the primary election. He said any other change to the bill would be interfering with the referral process.

Representative Belter said his intent is to consider only legislation relating to redistricting. He said it is too early to decide whether standing committees or special committees should be established if other issues arise. If a complex issue does come forward, he said, that may be the time to look at using a standing committee to take advantage of the expertise of its members.

Senator Christmann inquired concerning the change in Senate and House Rules 346 which would result in transmittal of a bill to the other house immediately after second reading unless notice of intention has been given for reconsideration. He inquired as to the time period allowed for that reconsideration. The assistant director said it is not clear, but based on Senate and House Rules 347, the bill could be held until the end of the next legislative day, after which it would require a two-thirds vote to reconsider the bill.

Representative Monson inquired whether a reconvened session would be shorter than a special session. The assistant director said Article IV, Section 7, of the Constitution of North Dakota specifically provides that days spent in regular session need not be consecutive and the Legislative Assembly may authorize its committees to meet at any time during the biennium. He said the Legislative Assembly could meet in reconvened session on Monday, give first reading to bills and refer those bills to committee, direct the committees to meet, and then recess until those committees have recommended reports on those bills.

Senator Stenehjem inquired as to the length of notice required for issuing a call for a special session. The director said there is no constitutional or statutory requirement as to a certain timeframe for the Governor to issue the call for a special session. He said a presumption would be that any notice must be reasonable. With respect to a reconvened session, he said, there is no timeframe for providing notice. North Dakota Century Code Section 54-03-02 provides the Legislative Assembly shall reconvene as determined by the Legislative Council.

### **Administrative Arrangements**

The assistant director reviewed the memorandum entitled *Special Legislative Session - Background and Statutory References*.

The assistant director said the memorandum addresses statutory references that could have an impact on the Legislative Assembly during a special legislative session and provides information on the 1991 special session.

With respect to legislative employees, the assistant director said the Senate employed 17 individuals and the House employed 18 individuals during the 1991 special session. He said this was when the Senate and House employed substantially more employees during a regular session than are employed now. He emphasized the importance of the positions of Secretary of the Senate/Chief Clerk of the House, assistant secretary/chief clerk, journal reporter, and calendar clerk with respect to maintaining records and computer programs. He said the number of committee clerks would depend on the number of standing committees or joint committees created for considering bills introduced. Although the pay of legislative employees must be set by

concurrent resolution, he said, 2001 Senate Concurrent Resolution No. 4007 sets legislative employee compensation levels by position and thus no additional resolution is needed for a special session unless legislative pay levels are changed. He said employees could be designated in a report of the Employment Committee of each house and that would be sufficient to designate employees.

Senator Heitkamp inquired whether Legislative Council staff could provide staff services to standing committees or the joint committees. Senator Stenehjem said committee clerks receive very specialized training with respect to computer programs. He said committee clerks during the regular legislative session should provide committee staffing services during the special session.

Representative Boucher said he was appalled to learn that the House minority leader did not have an administrative assistant during the 1991 special session. Representative Bernstein said the Speaker of the House should have an administrative assistant to help with the computer systems. Senator Bowman said the calendar clerk should be available in the Senate to assist the President Pro Tempore.

Chairman Stenehjem said the employees identified in the memorandum are not the employees for the 2001 special session. He said the memorandum merely reports what was done in 1991. He suggested each leader prepare a request for positions deemed appropriate during the 2001 special session.

With respect to the lack of incoming WATS line service for constituents to leave messages for legislators, Senator Heitkamp said people should have a means to contact their legislators. He said the availability of e-mail may be the way of providing that opportunity.

The assistant director reported that the Legislator's Automated Work Station (LAWS) system would not be available during a 2001 special session, primarily because the legislators' replacement personal computers have a Windows 2000 operating system and the LAWS system upgrade to work with Windows 2000 will not be finished before mid-2002. He said the text of bills, amendments, and legislative redistricting maps would be available on the legislative branch web page for legislators to view.

### USE OF HOUSE CHAMBER

The assistant director reviewed the *Guidelines for Use of Legislative Chambers and Displays in Memorial Hall, North Dakota State Capitol*. He said the guidelines provide the chambers of the Senate and the House may be used by groups and organizations subject to six requirements. He said one requirement is that a group or organization may use the chambers for mock legislative sessions. He read a letter to the director from Mr. Nels M. Peterson, Coordinator, North Dakota 4-H Centennial. The letter points out 4-H is celebrating its centennial in 2002, and

conversations will be held at local and state levels and culminating with the national conversation in Washington, D.C. The state conversation is scheduled for January 12, 2002, and North Dakota 4-H requests use of the House chamber from 10:00 a.m. to 4:00 p.m. on January 12, 2002.

In response to a question from Senator Heitkamp, the director said this was brought to the attention of the committee because this request is for use of the House chamber for something other than a mock legislative session, which is required for use of the chamber under the guidelines. He said the committee established the guidelines on use of the legislative chambers and the committee can supersede those guidelines, but the current guidelines require that the group or organization be engaged in a mock legislative session.

Senator Bowman said this is the 100th anniversary of 4-H. He said 4-H is a valuable part of North Dakota culture. He said he does not view allowing 4-H use of the House chamber as establishing any precedent because use would be allowed due to the 4-H centennial celebration.

Representative Belter said the committee should be very aware of establishing precedent whenever a use is approved which deviates from the guidelines.

Senator Krauter said he can remember receiving several requests for use of the House or Senate chamber while he has been a member of the Legislative Management Committee. He said the committee first became concerned over use of the chamber as a result of several out-of-state people leaving the House chamber in somewhat of disarray after a function held in the chamber. He said this is a House issue and he will go along with whatever the House members decide.

**It was moved by Representative Bernstein and seconded by Representative Monson to authorize the use of the House chamber for the North Dakota 4-H Centennial.**

In response to a question from Representative Timm, the director said the Legislative Management Committee has approved requests for use of either or both chambers by the North Dakota Intercollegiate State Legislature, the North Dakota Family Alliance, the North Dakota High School Activities Association, the Hugh O'Brian Youth Foundation, and the Silver-Haired Education Association.

Representative Bernstein said his intent is to allow use of the House chamber for the North Dakota 4-H Centennial only if it is a statewide group. He said use should not be approved for a local group.

Senator Christmann said the committee's position can be that no precedent is being set, but the fact is a precedent is being set when non-mock legislative session use is approved.

Senator Heitkamp said 4-H is a good program, and he has no problem supporting use by this state group.

After this discussion, **the motion carried on a roll call vote.** Senators Stenehjem, Bowman, Christmann, Heitkamp, and Krauter and Representatives Belter, Bernstein, Boucher, and Monson voted "aye." Representative Timm voted "nay."

In response to a question from Senator Heitkamp, the director said the fee referred to in the guidelines to cover the cost of janitorial and other services does not apply if the organization or group is sponsored by a state agency and most groups do find a sponsoring agency.

**It was moved by Senator Bowman, seconded by Representative Bernstein, and carried on a voice vote that the meeting be adjourned.** No

further business appearing, Chairman Stenehjem adjourned the meeting at 11:05 a.m.

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Jay E. Buringrud  
Assistant Director

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John D. Olsrud  
Director