

# NORTH DAKOTA LEGISLATIVE COUNCIL

## Minutes of the

### GOVERNMENT PERFORMANCE AND ACCOUNTABILITY COMMITTEE

Wednesday, June 30, 2004  
Harvest Room, State Capitol  
Bismarck, North Dakota

Representative Al Carlson, Chairman, called the meeting to order at 9:00 a.m.

**Members present:** Representatives Al Carlson, Ken Svedjan, Dave Weiler; Senators Randel Christmann, Ray Holmberg; Citizen Members Dick Hedahl, John Patrick Traynor; Executive Branch Members Pam Sharp, Gordy Smith

**Member absent:** Senator Michael A. Every

**Others present:** See attached appendix

**It was moved by Senator Holmberg, seconded by Citizen Member Traynor, and carried on a voice vote that the minutes of the previous meeting be approved as distributed.**

#### GOVERNMENT PERFORMANCE AND ACCOUNTABILITY STUDY

The Legislative Council staff presented a bill draft [50060.0100] providing for a government performance and accountability system to be implemented over three bienniums. The Legislative Council staff said the bill draft provides for the establishment of a statutory Government Performance and Accountability Committee that would be responsible for monitoring state government performance and accountability by reviewing state agency strategic plans, performance measure outcome development, and related reports. The Legislative Council staff said the bill draft provides that the Office of Management and Budget would have primary responsibility for implementing and maintaining the system, subject to the approval of the Government Performance and Accountability Committee. The system would utilize strategic plans and designated performance measurement indicators that focus on results and outcomes to provide agency managers, the Governor, the Legislative Assembly, and the public with the information necessary to evaluate and assess agency performance for the purpose of ensuring that state government services are effective and state resources are used efficiently.

The Legislative Council staff said the bill draft lists items that agencies must include in their strategic plans and requires agencies to prepare an annual performance report. The Legislative Council staff said the bill draft provides that the State Auditor review and validate performance reports as requested by the Legislative Assembly or the Government Performance and Accountability Committee.

The Legislative Council staff said the bill draft includes a section providing for agency rewards and penalties that may be recommended by the Government Performance and Accountability Committee based on an agency's actual performance.

The Legislative Council staff said the bill draft provides that the performance information be included in agency budget requests and submitted to the Legislative Assembly as part of the executive budget recommendation.

The Legislative Council staff distributed a memorandum entitled *Government Performance and Accountability System - Tentative Implementation Schedule* which provides the details of a potential implementation schedule consistent with the bill draft.

Senator Christmann suggested the bill draft provide the flexibility to remove performance measurement indicators if no longer applicable.

Representative Carlson said the Legislative Assembly as well as state agencies need to be prepared to properly implement the government performance and accountability system. He said certain agencies, including the Legislative Council, Office of Management and Budget, and State Auditor's office, may need additional funding. The legislative budget analyst and auditor said the Legislative Council staff would anticipate the interim committee established by the bill draft would operate similar to other interim committees, except possibly meeting more often. He expects that initially the Legislative Council fiscal staff would provide staff services to the committee within existing resources similar to staffing other interim committees. He said he anticipates that state agencies would prepare proposed performance measurement indicators for presentation to the interim committee and the Legislative Council staff would provide some analysis. He said if more indepth involvement is expected of the Legislative Council fiscal staff, additional staff resources may be required.

Executive Branch Member Sharp suggested the bill draft provide for additional involvement by the Legislative Council staff in the development of performance measures to ensure legislative participation and acceptance. The legislative budget analyst and auditor said because agencies are most familiar with their operations, it would be appropriate for the agencies to initiate the development of the proposed

measures and through discussion and input from the Office of Management and Budget and committee members, the measures would be refined to meet the expectations of both the executive and legislative branches.

Representative Carlson suggested legislators be more involved in the development of the budget and budget priorities prior to a legislative session.

Senator Holmberg said the government performance and accountability process will allow the Legislative Assembly an opportunity to communicate legislative priorities prior to the development of the executive budget. He said this is strengthened even more through the involvement of the legislators on "policy" committees.

Representative Svedjan suggested select agencies be asked to propose performance measures prior to the 2005 legislative session to give the committee an opportunity to review the measures prior to the session. Executive Branch Member Sharp said pursuant to the committee's motion at its last meeting, agencies were encouraged to include performance measurement indicators in 2005-07 budget request forms to the extent that performance measurement indicators are available. She said this information will be available for review by this committee at its next meeting.

Executive Branch Member Smith suggested the committee consider adding a full-time equivalent position in the Office of Management and Budget to assist agencies with the development of strategic plans. He expressed a concern with the potential high cost of several agencies hiring consultants to assist in the establishment of agency strategic plans. He said recently the Department of Veterans Affairs, which has approximately six employees, paid \$25,000 for a consultant to assist in developing its strategic plan. Senator Christmann said he does not believe smaller agencies would need to hire a consultant to develop the strategic plan that is required by the bill draft.

Representative Carlson suggested that an employee be added in either the Office of Management and Budget or the Legislative Council to coordinate and assist agencies in developing strategic plans. He said it may be beneficial to contact other states to determine how their strategic planning process was conducted.

Citizen Member Traynor suggested delaying the requirement that agencies have strategic plans until after the initial performance measurement indicators are established. He said this may alleviate some of the initial workload for agencies.

Representative Weiler suggested the system be kept simple. He said agencies should be asked to identify the agency mission statement and five major performance measurement indicators to begin the process.

Executive Branch Member Smith said agencies may have been able to identify key measurement

indicators but may encounter difficulties in establishing systems to gather the necessary data to provide meaningful comparisons.

Senator Holmberg said the committee should not require agencies to do a substantial amount of work until the 2005 Legislative Assembly has had an opportunity to consider the bill draft. He suggested performance audits should not be identified as a penalty for poor performance. He said performance audits are viewed as a way to improve agency operations.

Senator Holmberg suggested shortening the implementation schedule by proceeding with a limited number of agencies during the 2005-07 biennium and, if the initial implementation is successful, to incorporate the remaining agencies during the 2007-09 biennium.

Representative Carlson suggested that a review of agencies' performance by the State Auditor's office could be accomplished by making the review a requirement of the biennial operational audit of the agency.

Executive Branch Member Sharp suggested the following changes be made to the bill draft:

1. Involve legislators and legislative staff more directly in the development of performance measures.
2. Require agencies to submit a biennial rather than annual performance report.
3. Involve Legislative Council fiscal staff in reviewing agency performance reports to determine whether the reported measures are appropriate and to summarize areas of legislative interest.
4. Delay implementing penalties for poor performance.
5. Do not relate performance measures to the budget.
6. Include an appropriation within the bill draft providing additional funding to the Office of Management and Budget, State Auditor, and Legislative Council for the costs of performing the additional duties required by the bill draft.

Executive Branch Member Smith made the following suggestions for changes to the bill draft:

1. Provide funding to the Office of Management and Budget to hire a full-time equivalent position to assist with the development of agency strategic plans.
2. Provide for additional legislative input into the development of performance measurement indicators.
3. Include provisions requiring routine audits of the performance measurement results.
4. Do not refer to performance audits as a penalty for poor performance.
5. Do not relate performance measures to the budget.

Representative Svedjan suggested changing the provisions relating to rewards and penalties to rewards and reviews.

Representative Carlson said the committee may wish to address how much authority should be given to the interim Government Performance and Accountability Committee to carry out its responsibilities, including recommending rewards and reviews.

Representative Carlson said the focus of the Legislative Assembly should be on the performance measures and not an agency's strategic plan. Citizen Member Traynor said initially agencies should be asked to provide information on biennial goals rather than five-year strategic plans. He said this would lessen the initial workload of agencies.

Representative Carlson suggested the bill draft include guidelines for the development of performance measurement indicators.

Representative Svedjan suggested that initially agencies be asked to develop their biennial goals and performance measurement indicators and subsequently be asked to develop their five-year strategic plan.

Representative Svedjan suggested the bill draft include a statement that the government performance and accountability process is to inform legislators, agency personnel, and the public that this process is to lead to more efficiency, effectiveness, and accountability.

Representative Carlson suggested the bill draft be amended to provide that all members of the committee, including the citizen members and the Governor and the State Auditor or their designees as well as additional legislators, be voting members of the committee.

Representative Svedjan suggested that consideration be given to including the legislative and judicial branches in the government performance and accountability system.

Senator Holmberg said the executive branch by law is not permitted to change budget requests submitted by the legislative and judicial branches and, therefore, the other branches need to be treated differently.

Representative Svedjan said more involvement from legislators and legislative staff will be needed for the system to be successful. He said lack of legislative involvement was a major reason the performance budgeting system failed previously. He said additional resources are necessary to allow the Legislative Council staff to analyze performance data for legislators and to assist agencies with strategic planning.

The legislative budget analyst and auditor said due to the separation of powers among the branches of government, it does not seem appropriate for legislative staff or legislators to assist executive branch agencies with strategic planning.

Representative Carlson said additional resources will be needed to properly implement this system. He

suggested an additional fiscal staff person be added to the Legislative Council to coordinate the development of the performance measurement indicators and to provide analysis of the performance reports submitted by state agencies. The legislative budget analyst and auditor said he anticipates if the bill is approved, all fiscal staff members would be involved in the performance process. He said each member of the fiscal staff is assigned a portfolio of agencies; therefore, if an additional fiscal staff member is added, the new position would also have a portfolio of agencies and all fiscal staff members would assist with performance measure development and analysis based on agency assignments. Senator Holmberg expressed support for this type of approach.

Citizen Member Traynor said it may be important for continuity on the Government Performance and Accountability Committee that the citizen members serve more than one term. He suggested the bill draft be amended to allow the citizen members to continue serving for more than two years.

Executive Branch Member Sharp suggested the bill draft be amended to provide a general relationship of the Governor's budget recommendations to state-wide performance rather than tying specific recommendations to agency performance measures.

Chairman Carlson asked the Legislative Council staff to identify the estimated cost of adding an additional employee to assist the fiscal staff in developing and analyzing performance data and to ask the Office of Management and Budget and the State Auditor's office for their estimated cost of implementing the provisions of the bill draft.

Chairman Carlson asked the Legislative Council staff to make the changes to the bill draft as suggested by the committee.

The Legislative Council staff summarized the following changes to be made to the bill draft:

1. Add a statement regarding the purpose of the system.
2. Allow all members of the committee to vote.
3. Include a provision encouraging the Legislative Council to consider reappointment of citizen members to the committee to maintain continuity.
4. Provide for the establishment of agency biennial goals and delay the requirement for state agency strategic plans.
5. Change the section providing for rewards and penalties to rewards and reviews.
6. Provide that performance measure reviews be a part of the agency biennial audit process.
7. Include provisions establishing guidelines for development of performance measures.
8. Provide that the legislative and judicial branches participate in the government performance and accountability system.

9. Provide that the Governor's recommendations provide a general relationship to the performance measurement indicators.
10. Remove the specific identified agencies from the implementation section and accelerate the implementation to two bienniums.
11. Add an appropriations section providing funding for the Legislative Council, Office of Management and Budget, and State Auditor's office for costs associated with the provisions of the bill draft.
12. Allow for flexibility regarding changing performance measures.

The Legislative Council staff distributed the Legislative Council *2003-05 Biennium Report on Compliance With Legislative Intent* and a memorandum entitled *Oil Production, Oil Market Price, and Oil Tax Revenue Information*. The legislative budget analyst and auditor indicated the report was prepared as part of the committee's budget monitoring responsibilities.

Chairman Carlson announced the next committee meeting is tentatively scheduled for Thursday, August 26, 2004, and will include an overview by Executive Branch Member Sharp of the performance measurement indicators included in state agency

budget requests as well as presentations by selected agencies on their proposed performance measurement indicators. He said the meeting will also include a review of the revised bill draft based on discussion during this meeting. Chairman Carlson said the committee's final meeting will be on Monday, October 4, 2004, and will include additional review of proposed agency performance measures and final action on the bill draft.

The committee adjourned subject to the call of the chair at 12:05 p.m.

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Allen H. Knudson  
Assistant Legislative Budget Analyst and Auditor

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Jim W. Smith  
Legislative Budget Analyst and Auditor

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