

# NORTH DAKOTA LEGISLATIVE COUNCIL

## Minutes of the

### GOVERNMENT PERFORMANCE AND ACCOUNTABILITY COMMITTEE

Monday, October 4, 2004  
Roughrider Room, State Capitol  
Bismarck, North Dakota

Representative Al Carlson, Chairman, called the meeting to order at 1:00 p.m.

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

**Others present:** See attached appendix

**It was moved by Senator Holmberg, seconded by Representative Svedjan, 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 memorandum entitled *Performance Measures - Definitions and Example*. The Legislative Council staff provided definitions of performance-related terminology, including performance measurement data, performance measure, performance target, and performance result. The Legislative Council staff provided an example of the format agencies may use to report their data to the Legislative Assembly.

The Legislative Council staff presented the bill draft [50060.0300] providing for a government performance and accountability system. The Legislative Council staff reviewed the changes made to the bill draft compared to the previous version. Changes include:

1. Allowing the University System to participate in the system by submitting its strategic plan and performance and accountability information prepared in accordance with North Dakota Century Code (NDCC) Section 15-10-14.2 as requested by the Government Performance and Accountability Committee.
2. Adding definitions for certain performance-related terminology.
3. Changing the membership of the government performance and accountability system by reducing the maximum number of legislative members from each chamber from six to four, providing that the citizen members serve six-year terms; replacing the Governor with the director of the Office of Management and Budget (OMB) as a member of the

committee; and making the director of OMB and the State Auditor statutory members of the committee.

4. Requiring the Government Performance and Accountability Committee to assess the effectiveness of the government performance and accountability system.
5. Providing the Legislative Council staff assist the committee in performing its duties and responsibilities, including the development of a consistent format for agencies and departments to submit their biennial goals and objectives or strategic plans and performance measurement data, analyzing proposed performance measures prior to committee review, and summarizing performance measurement data for the committee or the Legislative Assembly.
6. Allowing an elected official who objects to revisions made by the Government Performance and Accountability Committee to the elected official's goals, objectives, and performance measurement data, to submit to the committee in writing the objections and reasons for the objections, and upon submission, continue to use the proposed performance measurement data until the next Legislative Assembly.
7. Allowing agencies to prepare three- to five-year strategic plans rather than five-year strategic plans.
8. Changing reference in the bill draft from rewards to incentives and allowing an incentive to be used for only one-time purposes.

The committee reviewed each section of the bill draft.

Section 1 establishes the government performance and accountability system.

Representative Svedjan suggested changing the provision that the system focus on the results and outcomes of major agency activities to refer only to the results of major agency activities.

Citizen Member Traynor questioned whether major agency activities refer to major activities of an agency or activities of major agencies. The Legislative Council staff said the term is intended to refer to major activities of each agency.

Senator Holmberg said the University System has expressed concern regarding the provisions in Section 1 that require the University System to participate in the system in accordance with NDCC Section 15-10-14.2.

Ms. Laura Glatt, Vice Chancellor for Administrative Affairs, North Dakota University System, said the State Board of Higher Education concern is that the provision in the bill draft could be interpreted to require the University System to establish a new system of performance and accountability. She said the board is suggesting changing the provision to clarify the intent that the University System is to use the performance and accountability system already in place.

Representative Svedjan believes the language in the bill draft expresses the committee's intent that the University System will participate in the system but in accordance with the statutory provisions already in place for the University System's performance and accountability. Senator Holmberg suggested not changing the current provisions.

Senator Traynor suggested changing the name of the system to government performance improvement and accountability system to focus efforts on improving government performance. Representative Svedjan said he believes improving government performance is inherent in the system and does not need to be separately identified in the bill draft.

Section 2 provides definitions.

Representative Svedjan suggested adding definitions for goals and objectives. Representative Carlson asked the Legislative Council staff to research other states' statutes for definitions of goals and objectives and, if appropriate, to consider adding those definitions to the bill draft before it is finalized.

Executive Branch Member Smith expressed concern with the definition of a performance target that refers to an expected level of agency performance. Citizen Member Traynor suggested replacing the term expected with projected.

Section 3 creates the Government Performance and Accountability Committee.

Senator Every expressed concern that six-year terms for citizen members may be too long. Citizen Member Hedahl said six years is a long time for an individual to commit to serve on a committee. Representative Svedjan suggested changing the citizen member terms from six-year terms to up to three 2-year terms.

Section 4 provides for the responsibilities of the committee and the Legislative Council staff.

Section 5 creates the process of establishing biennial goals and objectives and performance measurement data.

Citizen Member Traynor questioned whether the Government Performance and Accountability Committee will have the ability to change agencies' goals and objectives. The Legislative Council staff

said the bill draft requires an agency to make revisions to its goals, objectives, and related performance measurement data as requested by the Government Performance and Accountability Committee. Citizen Member Traynor said he does not believe it is appropriate for the committee to require an agency to change its goals and objectives. Representative Svedjan said the committee should not be approving state agencies' strategic plans, goals, or objectives but only the performance measurement data. The legislative budget analyst and auditor said if the committee does not have the ability to ask agencies to change their goals and objectives, the committee may not receive useful information from agencies that develop inappropriate goals and objectives or from agencies that develop very broad goals and objectives. Executive Branch Member Sharp said with the training agency personnel receive and the involvement of OMB analysts in agency development of goals and objectives, the goals and objectives should be well-defined and appropriate when presented to the committee.

Citizen Member Traynor asked whether legislative members attending the Government Performance and Accountability Committee meetings may vote only when discussion relates to their standing committee assignments. The Legislative Council staff said all legislative members who are members of the committee or who are invited to participate in committee discussion will be able to vote.

Representative Svedjan expressed concern with the provision allowing an elected official to continue to use proposed performance measurement data until the next Legislative Assembly if the elected official objects to committee revisions. He said elected officials could make the same objections each biennium. Representative Carlson suggested changing the provision to allow an elected official to object in writing to the committee but remove the elected official's authority to continue to use the proposed performance measurement data until the next Legislative Assembly.

Section 6 provides for state agency strategic plans.

Citizen Member Traynor suggested changing the provision that a state agency's strategic plan must include the identification of groups of people served by the agency and the results of any user group, public, or employee survey used to improve services. He said this provision may be too limiting. He suggested changing the language to indicate that the strategic plan include the identification of groups of people served by the agency and the results of any methodology used to assess and improve services of the agency.

Representative Svedjan suggested removing the requirement that state agencies include in their strategic plan an analysis of the use of agency resources to provide agency services and instead require a

general description of the agency's sources and uses of funds.

Section 7 provides for state agency performance reports and a review of agency performance results by the State Auditor as part of each agency's biennial audit.

Section 8 allows the committee to recommend to the Legislative Assembly incentives or reviews for agencies based on their performance.

Section 9 provides for legislative and judicial branch participation in the system.

Sections 10 and 11 provide that performance measurement data be included in agency budget requests and in the executive budget information submitted to the Legislative Assembly.

Section 12 provides for the implementation of the government performance and accountability system.

Representative Svedjan suggested changing the provision that OMB arrange for select state agencies to implement the system during the 2005-07 biennium to the Office of Management and Budget arrange for selected state agencies to implement the system.

Sections 13, 14, and 15 provide appropriations to OMB, the State Auditor, and the Legislative Council for administering provisions of the bill draft.

Representative Carlson asked whether the appropriation amounts included in the bill draft would also be included in agency budget requests and the executive budget recommendation. Executive Branch Member Sharp said OMB is not planning to include the \$200,000 appropriation in its budget request or the executive budget. Executive Branch Member Smith said the State Auditor's office did not include the \$90,000 appropriation in its budget request. The legislative budget analyst and auditor said the Legislative Council does not plan to include the \$115,000 appropriation in its budget request unless directed to do so by the Legislative Council chairman.

Citizen Member Traynor asked for the detail of the funding being requested by each agency. The Legislative Council staff said the Legislative Council's request includes \$110,000 for a fiscal analyst position and \$5,000 for related operating expenses, including training, computer equipment, and other office equipment and supplies.

Executive Branch Member Sharp said the OMB \$200,000 appropriation includes funding for one full-time equivalent position and training for budget analysts.

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

**It was moved by Representative Svedjan, seconded by Senator Every, and carried on a voice vote that the committee ask the Legislative Council chairman to invite the National Conference of State Legislatures and the Urban Institute to conduct performance and accountability training for state agencies in North Dakota.**

Executive Branch Member Sharp presented information regarding potential agencies that may be selected for implementation of the government performance and accountability system during the 2005-07 biennium, if the system is approved. She distributed a listing of 28 agencies that could begin implementing the government performance and accountability system during the 2005-07 biennium and 28 agencies that would implement the system during the 2007-09 biennium. A copy of the report is on file in the Legislative Council office.

Executive Branch Member Sharp provided information on performance information submitted by agencies as part of 2005-07 biennium budget requests. She said 12 agencies have submitted very credible performance measures, including Job Service North Dakota, Labor Department, Highway Patrol, Division of Emergency Management, Department of Commerce, Tax Department, State Library, Parks and Recreation Department, Protection and Advocacy, Seed Department, Council on the Arts, and Game and Fish Department. She said the higher education institutions and related agriculture budgets indicated that its information would be submitted later. She said five agencies indicated they were in the process of developing or updating performance measures and chose not to include the information and 10 agencies indicated they did not have performance measures. She said the remaining agencies included measures but additional data would be needed for the measures to be useful. Representative Svedjan noted that some of the 12 agencies were targeted for implementation in the 2007-09 biennium and it may be more appropriate to move those to the 2005-07 biennium.

Ms. Maren Daley, Executive Director, Job Service North Dakota, provided information regarding performance information submitted as part of the agency's 2005-07 biennium budget request. Ms. Daley said Job Service receives 125 different grants that provide the majority of funding for Job Service. She said grants require the recipient to fulfill specific purposes and requirements. As a result, she said, Job Service has much experience in monitoring and reporting performance. She said the information submitted is based on outcomes, not processes.

Ms. Daley said Job Service has now established a "Report Card." She said this report combines into one document all major performance measures for the agency.

Ms. Daley said the recent performance audit of Job Service analyzed and evaluated the "Report Card" and the agency received many positive comments in the audit. She said the "Report Card" is intended to provide answers to Job Service stakeholders in a clear and quantifiable manner. A copy of Ms. Daley's testimony and an excerpt from the agency's performance audit report is on file in the Legislative Council office.

In response to a question from Representative Carlson, Ms. Daley said performance information now prepared by Job Service should provide the majority of the information being requested in the bill draft.

Colonel Bryan Klipfel, Superintendent, Highway Patrol, presented performance information submitted as part of the agency's 2005-07 biennium budget request.

Colonel Klipfel provided examples of performance measures and performance results provided by the Highway Patrol. Colonel Klipfel said the Highway Patrol process for establishing annual goals and objectives begins with a review by staff officers of the Highway Patrol multiyear plan and an evaluation of the previous year's accomplishments and shortfalls relating to its annual goals and objectives. He said this review allows the Highway Patrol to modify and update its multiyear plan based on changing conditions and new information. A copy of the report is on file in the Legislative Council office.

In response to a question from Representative Svedjan, Colonel Klipfel said the information prepared by the Highway Patrol appears to be similar to the information being requested of agencies in the bill draft.

Mr. Doug Prchal, Director, Parks and Recreation Department, provided performance information submitted as part of the agency's 2005-07 biennium budget request.

Mr. Prchal said the development of the department's mission statement begins the performance and accountability process. He said the mission statement provides the focus for agency programs. Mr. Prchal said the agency defines its goals and objectives and develops action plans and performance measures to monitor the agency's progress in achieving its goals and objectives.

A copy of the report is on file in the Legislative Council office.

In response to a question from Representative Carlson, Mr. Prchal said the provisions of the bill draft appear to be compatible with the performance monitoring systems now utilized by the Parks and Recreation Department.

Representative Svedjan said that based on the performance data that some agencies are already developing and monitoring, representatives from these agencies could train personnel in other agencies to assist in the development and implementation of the performance and accountability system.

Representative Svedjan stressed the importance of developing a consistent format for all agencies to report their performance information to the Legislative Assembly.

**It was moved by Representative Svedjan, seconded by Senator Holmberg, and carried on a**

**voice vote that the bill draft, as amended, relating to a government performance and accountability system be approved and recommended to the Legislative Council.**

**It was moved by Representative Svedjan, seconded by Senator Holmberg, and carried that the chairman and the staff of the Legislative Council be requested to prepare a report and the bill draft recommended by the committee and to present the report and recommended bill draft to the Legislative Council.**

## BUDGET MONITORING

The Legislative Council staff presented budget monitoring information regarding select appropriations for the 2003-05 biennium.

The Legislative Council staff presented a memorandum entitled *Oil Production, Oil Market Price, and Oil Tax Revenue Information for the 2003-05 Biennium*. The Legislative Council staff presented a memorandum entitled *Status Report on State School Aid and Other Major State Grants to School Districts*. The Legislative Council staff presented a memorandum entitled *Department of Human Services - Status of Select Grant Program Expenditures*. The Legislative Council staff presented a memorandum entitled *Comparison of Estimated and Actual FTE Positions, Expenditures, Revenues, and Populations at Charitable and Penal Institutions for the Period July 1, 2003, Through June 30, 2004*. The Legislative Council staff said these reports provide the status of major agency revenues and appropriations for the first year of the biennium. The legislative budget analyst and auditor said the reports will also be distributed to the Budget Section members on Tuesday, October 5, 2004.

**It was moved by Representative Svedjan, seconded by Senator Holmberg, and carried that the meeting be adjourned sine die.**

Chairman Carlson adjourned the meeting sine die at 4:40 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

ATTACH:1