

2009 SENATE POLITICAL SUBDIVISIONS

SB 2142

2009 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. 2142

Senate Political Subdivisions Committee

Check here for Conference Committee

Hearing Date: 01/09/09

Recorder Job Number: 6733, 6734

Committee Clerk Signature

Emily Spaulding

Minutes:

Chairman Andrist: Opened the meeting. The Clerk called the role.

Senator Anderson: Discussed the hearing schedule on Bill 2144

Discussed some business matters relating to weekend packets

Jeff Swank: Enterprise Architecture and Planning Program Manager with Policy and Planning at the Information Technology Department. Spoke in support of SB 2142. See attachment # 1.

Introduced an Amendment to SB 2142. I apologize for the timing but the amendment was not drafted in time to attach to the original bill. See attachment #2.

Chairman Andrist: Jeff, this appears to be an agency bill but can I presume that you discussed it with the interim information technology committee?

Swank: That would be a fair assumption. We have discussed it with the interim committee but again due to timing we had to submit it as an agency bill.

Chairman Andrist: It is your presumption that it has been discussed enough so that it would have their support?

Swank: I believe that we would have the support of the interim committee. I have spoken with several members and they seem to support it. I would not want to say that they we have guaranteed support but they are supportive in general.

Chairman Andrist: Are they aware of all the specifics of the bill other than the amendment?

Swank: I believe that they are.

Chairman Andrist: Any questions for Jeff?

Senator Lee: Can you clarify for us the deletion on page 3 where you strike through the Higher Education. Is that because you have struck the requirements of higher education previously and you are just cleaning it up?

Swank: Yes, that is correct. We are just now cleaning up the language.

Chairman Andrist: Any further questions?

Senator Bakke: Where is this amendment going?

Swank: That is actually another section of the bill. I apologize for the roughness as this is a first attempt at drafting an amendment. This would be section 4 of the bill.

Chairman Andrist: Any further questions?

Senator Dotzenrod: We are adding to sections to the bill, the bill has 3 sections and if we add 2 more it will be 5. Section 4 is an amendment that repeals 54-59-2.01. So, I don't know what that section says. I understand that by adding section 5 you are in effect putting that language back in, just renumbering it. Is that the correct understanding?

Swank: Yes, section 4 repeals that subsection 2.01 and deals with the prioritization of large funds (unclear). Section 5 takes the exact same language and places it in section 3 which is the section dealing with large (unclear).

Senator Dotzenrod: What part of the section 5 is the 59.2.01?

Swank: On your handout...Swank goes over to Dotzenrod and points to his handout. We are just moving the language to another section.

Chairman Andrist: Any further questions? Anybody else in support?

Illona Jeffcoat-Sacco: I am here representing the Public Service Commission. We were prepared to support the bill as originally introduced, specifically the planning changes. We have not seen the amendment so the commissioners have not seen it. We would ask for an opportunity to that otherwise we are in support of the bill as it was first amended.

Chairman Andrist: Any questions for Illona? Anybody else wish to speak in support? Any opposed? Anyone neutral on SB 2142? If not we are closing the hearing on SB 2142.

There was no opposition testimony given.

Recorder # 6734: **Senator Dotzenrod** briefly wished to discuss SB2142 after the hearing was closed.

Senator Dotzenrod: On page 3 line 19 and 20 you deleted that section 12 and from your remarks I understand that you were a little troubled by the word management. You didn't think in your agency and your capacity that that you really had any business dealing with their management. So I was just wondering if that's the problem should that sections about management be replaced with requirements?

Swank: I believe that management is covered in an earlier section.

Senator Dotzenrod: So it is said somewhere else.

Swank: Exactly.

2009 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. SB 2142

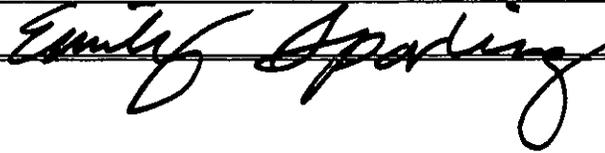
Senate Political Subdivisions Committee

Check here for Conference Committee

Hearing Date: 01/22/2009

Recorder Job Number: 7519

Committee Clerk Signature



Minutes:

Chairman Andrist: Opened the hearing on SB 2142

Illona Jeffcoat-Sacco: Representing Public Service Commission. We have seen the new amendment and we support the bill.

Senator Lee: I move to **Do Pass**

Senator Bakke: Second

Clerk called the role on the motion to **Do Pass. Yes: 6, No: 0, Absent: 0.**

Senator Lee: I move the bill as amended for a **Do Pass** resolution

Senator Dotzenrod: Second

Clerk called the role on the motion to move the bill as amended for a **Do Pass. Yes: 6, No: 0, Absent: 0.**

Senator Dotzenrod will carry the bill.

2009 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. SB 2142

Senate Political Subdivisions Committee

Check here for Conference Committee

Hearing Date: 01/23/2009

Recorder Job Number: 7628

Committee Clerk Signature



Minutes:

Chairman Andrist: Reopened the discussion on SB 2142

John Bjornson: Legislative Council. Spoke briefly about the amendment to SB 2142. As I understand it, the amendment was simply to repeal a section, move it, and re-enact it. The problem is that people will look at it and be unable to figure out why the amendment was adopted. This is problematic because if a researcher were to look into the bill's intent for a legal matter, the history would be missing. This amendment is really doing nothing other than moving language, which is the same language as before, but it would cause the section to lose its history.

Senator Lee: Makes sense to me.

Jeff Swank: Representing ITD. I do not have any objections to removing this amendment. We were simply trying to clean up and consolidate the code. If it makes more sense to withdraw, I am fine with that.

Senator Dotzenrod: Is this something that happens often, where they need to clear up the language?

Bjornson: Sometimes, one option may be to repeal the section and combine it with another section. What was proposed is not wrong; it would just lead to some confusion down the road if there were questions of interpretation. Our concern is the history.

Senator Dotzenrod: So this doesn't change anything, we're just trying to get new numbers. Is that correct?

Bjornson: That was my understanding and typically there is a process for reserving a number in the NDCC. We do not do it through the amendment process.

Senator Dotzenrod: Is it common to have changes in numbers without legislation?

Bjornson: Not typically, things do get fit into different places based on the order they were adopted when necessary by the code reviser. I am just trying to point out that this amendment would erase the history associated with the language.

Vice Chairman Olafson: What is the negative side to withdrawing the amendment?

Bjornson: To my knowledge there would be no negatives other than it would not necessarily accomplish what ITD wants which was to put the language in a logical order.

Chairman Andrist: I think John has given us a good reason to reconsider the bill and ITD does not have a problem with it. It seems to me that is sufficient enough for us to act.

Senator Anderson: I move to reconsider the bill.

Vice Chairman Olafson: Second

Clerk called the role on the motion to reconsider the bill. **Yes: 6, No: 0, Absent: 0.**

Chairman Andrist: Reopened the discussion on SB 2142.

Senator Anderson: Motion to remove the amendment attached to the bill.

Senator Bakke: Second

Clerk called the role on the motion to remove the amendment attached to the bill. **Yes: 6, No: 0, Absent: 0.**

Senator Lee: Motion to **Do Pass** on SB 2142

Vice Chairman Olafson: Second

Clerk called the role on the motion to **Do Pass**. **Yes: 6, No: 0, Absent: 0.**

Senator Dotzenrod will carry the bill.

2009 SENATE STANDING COMMITTEE ROLL CALL VOTES
 BILL/RESOLUTION NO. 2142

Senate Political Subdivisions Committee

Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken Do pass Do not pass Amend ^{other}
to reconsider SB 2142

Motion Made By Andersen Seconded By Olafson

Senators	Yes	No	Senators	Yes	No
Chairman John M. Andrist	/		Senator Arden C. Anderson	/	
Vice Chairman Curtis Olafson	/		Senator JoNell A. Bakke	/	
Senator Judy Lee	/		Senator Jim Dotzenrod	/	

Total (Yes) 6 No 0

Absent 0

Floor Assignment _____

If the vote is on an amendment, briefly indicate intent:

reconsider the bill

REPORT OF STANDING COMMITTEE (410)
January 23, 2009 2:44 p.m.

Module No: SR-14-0875
Carrier: Dotzenrod
Insert LC: . Title: .

REPORT OF STANDING COMMITTEE

SB 2142: Political Subdivisions Committee (Sen. Andrist, Chairman) recommends DO PASS (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2142 was placed on the Eleventh order on the calendar.

2009 HOUSE POLITICAL SUBDIVISIONS

SB 2142

2009 HOUSE STANDING COMMITTEE MINUTES

Bill No. SB 2142

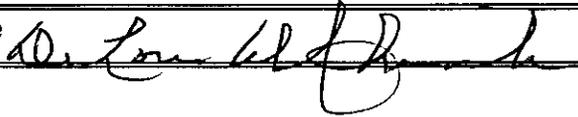
House Political Subdivisions Committee

Check here for Conference Committee

Hearing Date: February 26, 2009

Recorder Job Number: 9751

Committee Clerk Signature



Minutes:

Chairman Wrangham opened the hearing on SB 2142.

Jeff Swank, EA and Planning Program Manager, ITD: (see testimony #1). He went over the changes in the bill. Section 3 is the heart of the bill. The legislative branch and the judicial branch are required an IT plan to ID for their review. We are just allowing a change of date of July 15 to August 15th. We received unanimous support in the Senate and we would appreciate your support.

Rep. Jerry Kelsh: Your department will develop the guidelines that need to be followed for their planning?

Jeff Swank: Yes that is right.

Chairman Wrangham: Do you know the history on page 5 numbers 1-4. When that was put in there was that intended to be limiting or just a basic beginning of what the plan had to contain?

Jeff Swank: I am not sure what the original intent was.

Chairman Wrangham: Do you think the agency viewed this as being limiting or just the bare bones of what the plan had to have?

Jeff Swank: I think it is what the plan needed to contain.

Rep. Koppelman: some language for the state board of higher ed is removed and I understand that was some sort of a cleanup, but you have included it as you mentioned you have included higher education. Can you touch on that a bit?

Jeff Swank: At the last legislative assembly they dealt with the planning process and the technology oversight for higher ed except for the role of ITD and the university system. That section of code we are removing this time around should have been pulled when we made the other changes last session.

Rep. Koppelman: You worked so hard with IT to get them all under one umbrella and now why are you doing the opposite with higher ed particularly when they have had so much trouble with their software system?

Jeff Swank: The university system office and my office has worked well trying to create a narrow process and they have a very good processing place and what we have seen from a technology usage it appears the university system is making more and more use of ITD services as this evolves rather than less and less.

Luna Jeffcoat: Public Service Commission: We just want to go on records in support of the bill.

Opposition: None

Neutral: None

Hearing closed.

Chairman Wrangham reopened the hearing on SB 2142.

Do Pass Motion Made By Rep. Hatlestad: Seconded By Rep. Nancy Johnson

Discussion: none

Vote: 12 Yes 0 No 1 Absent Carrier: Rep. Hatlestad

Hearing closed.

Date: 2/26
Roll Call Vote #: 1

2009 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 2172

HOUSE POLITICAL SUBS COMMITTEE

Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken DP DNP DP AS AMEND DNP AS AMEND

Motion Made By Rep Hatlestad Seconded By Rep Johnson

Representatives	Yes	No	Representatives	Yes	No
Ch. Wrangham	✓		Rep. Conrad	✓	
Vice Chair Rep. Headland	✓		Rep. Kelsh	✓	
Rep. Hatlestad	✓		Rep. Kilichowski	✓	
Rep. N. Johnson	✓		Rep. Mock	✓	
Rep. Klemin	0		Rep. Zaiser	✓	
Rep. Koppelman	✓				
Rep. Kretschmar	✓				
Rep. Pietsch	✓				

Total (Yes) 12 No 0

Absent 1

Floor Carrier: Rep. Hatlestad

If the vote is on an amendment, briefly indicate intent:

REPORT OF STANDING COMMITTEE

SB 2142: Political Subdivisions Committee (Rep. Wrangham, Chairman) recommends DO PASS (12 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). SB 2142 was placed on the Fourteenth order on the calendar.

2009 TESTIMONY

SB 2142

SB 2142 TESTIMONY
POLITICAL SUBDIVISIONS COMMITTEE
BY: JEFF SWANK, EA AND PLANNING PROGRAM MANAGER,
POLICY AND PLANNING
INFORMATION TECHNOLOGY DEPARTMENT (ITD)
JANUARY 9, 2009

Mr. Chairman and members of the committee, my name is Jeff Swank. I am the Enterprise Architecture and Planning Program Manager within Policy and Planning at the Information Technology Department. It is my pleasure to be here representing ITD and speaking in support of SB 2142.

SB 2142 has three sections, the first two contain minor language cleanups, and the third is the meat of the bill – the IT Plan section.

Section one of the bill amends NDCC 54-59-05, which includes the Powers and Duties of the Information Technology Department. The first change is to remove item 12, which states “Shall review the information technology management of executive branch agencies or institutions” . ITD believes that the operations of each agency, which IT management is part of, is best reviewed by the agency themselves or the State Auditor’s Office, and that ITD should not involve itself in agencies’ internal operations. As a result of this deletion, the remaining four items are renumbered, and in item 14 / 13, the language requiring a report to State Auditor’s office due on September 1, 2003 is removed. Since that filing date has passed, and the report has been filed, we believe the deletion of this language is appropriate.

Section two of the bill amends NDCC 54-59-08, removing the requirement for the CIO to grant exemptions prior to July 31, 2001. Again this timeframe has passed and should be removed from the code.

Section three of the bill amends NDCC 54-59-11. This section of the code defines the information technology plans, and this bill proposes 4 changes to the section

The first change grants the CIO the power to exempt entities from the requirements outlined in this section of the NDCC. We believe this power is the most effective way to handle situations involving the few very small agencies whose IT activities do not warrant the effort required to file a formal IT Plan.

The second change moves the filing date from July 15th, to August 15th of each even numbered year and provides the CIO the power to grant an extension to agencies. We are requesting this change to provide additional time for agencies to prepare their plans each biennium.

The third change impacts the IT plans. We are proposing replacing the required document preparation with required participation in an IT planning process. As I

understand it, in 1997 when HB1034 was enacted, the concern was the increased cost of technology and the disjointed direction state agencies were taking. NDCC 54-59-11 as created focuses on a document and very tight connection to the budget process, which has resulted in an IT planning effort that is compliance based, and a budget process that at times requires significant extra work to ensure the IT plan document and the budget request remain consistent. The bill you have before you today requires agency participation in an IT planning process as defined by ITD Policy and Planning. Our intention is to use the Enterprise Architecture process, which has been very successful in establishing state-wide IT standards and policies, to develop a refined IT planning process that provides greater value to the agencies, continued accountability for agency IT budget requests, and a more clear and effective definition of IT projects.

The final change included in section three removes the detailed list of requirements for the State IT Plan. We believe that the definition on page 5, line 15 and 16, clearly defines what is needed in the Statewide IT Plan document and that the removal of further definitions will allow this document to evolve without repeated changes to the NDCC.

These changes will result in a more concise chapter 54-59 of NDCC as well as an improved IT planning effort for the State.

That concludes my remarks on the bill as introduced. Before questions, I would like to present an amendment for your consideration. This amendment further clarifies 54-59 by moving 54-59-02.1 Prioritization of proposed major information technology projects to 54-59-23.01 Prioritization of proposed major information technology projects. With that, I will be happy to entertain any questions.

Jeff Swank
Enterprise Architecture and Planning Program Manager,
Policy and Planning
Information Technology Department
(701) 328-1994
jpswank@nd.gov

PROPOSED AMENDMENTSTO SENATE BILL NO. 2142

Page 1, line 1, after "sections" insert "54-59-02"

Page 1, line 1, replace "and 54-59-11" with ", 54-59-11 and 54-59-23"

Page 5, line 27, add "Section 4. AMENDMENT Section 54-59-02.1 of the North Dakota Century Code is repealed"

Page 5, line 28, add "Section 5 AMENDMENT Section 54-59-23 of the North Dakota Century Code is amended and reenacted as follows: "**54-59-23 Information Technology Projects**

54-59-23.01 Prioritization of proposed major information technology projects. The department shall submit information regarding proposed major information technology projects for executive branch state agencies, departments, and institutions, excluding institutions under control of the state board of higher education and agencies of the judicial and legislative branches to the state information technology advisory committee. The committee shall review the projects and rank those projects that receive the committee's affirmative recommendation. The chief information officer shall submit recommendations of the committee regarding the prioritization of major information technology projects to the information technology committee, the office of management and budget, and the appropriations committees of the legislative assembly. The judicial and legislative branches shall notify biennially the committee on their major information technology projects and priorities.

54-59-23.02. Information technology projects – Reports

1. An executive, legislative, or judicial branch agency, except for institutions under the control of the state board of higher education, shall report to the state information technology advisory committee according to guidelines developed by the department and reviewed by the state information technology advisory committee regarding the plan for and status of any information technology project that is estimated to cost more than two hundred fifty thousand dollars.

2. During the life of the project, the agency shall notify the state information technology advisory committee if:

a. At a project milestone, the amount expended on project costs exceeds the planned budget for that milestone by twenty percent or more; or

b. At a project milestone, the project schedule extends beyond the planned schedule to attain that milestone by twenty percent or more.

3. A report under subsection 2 must specify corrective measures being undertaken to address any cost or time of completion issue. If the agency has not taken adequate corrective measures within ninety days after the report, the agency shall submit a report to the legislative council's information technology committee regarding the project.

4. Upon completion of the project, the agency shall notify the state information technology advisory committee if:

a. The budget for the project exceeded the original budget by twenty percent or more; or

b. The final project completion date extended beyond the original project scheduled completion date by twenty percent or more."

PROPOSED AMENDMENTS TO SENATE BILL NO. 2142

Page 1, line 1, after "sections" insert "54-59-02," and replace "and 54-59-11" with ", 54-59-11 and 54-59-23"

Page 1, line 3, after "plans" insert "; and to repeal section 54-59-02.1 of the North Dakota Century Code"

Page 5, line 27, insert:

"SECTION 4. REPEAL. Section 54-59-02.1 of the North Dakota Century Code is repealed"

Page 5, line 28, insert:

"SECTION 5. AMENDMENT. Section 54-59-23 of the North Dakota Century Code is amended and reenacted as follows:

54-59-23.01 Prioritization of proposed major information technology projects. The department shall submit information regarding proposed major information technology projects for executive branch state agencies, departments, and institutions, excluding institutions under control of the state board of higher education and agencies of the judicial and legislative branches to the state information technology advisory committee. The committee shall review the projects and rank those projects that receive the committee's affirmative recommendation. The chief information officer shall submit recommendations of the committee regarding the prioritization of major information technology projects to the information technology committee, the office of management and budget, and the appropriations committees of the legislative assembly. The judicial and legislative branches shall notify biennially the committee on their major information technology projects and priorities.

54-59-23.02. Information technology projects-Reports.

1. An executive, legislative, or judicial branch agency, except for institutions under the control of the state board of higher education, shall report to the state information technology advisory committee according to guidelines developed by the department and reviewed by the state information technology advisory committee regarding the plan for and status of any information technology project that is estimated to cost more than two hundred fifty thousand dollars.
2. During the life of the project, the agency shall notify the state information technology advisory committee if:
 - a. At a project milestone, the amount expended on project costs exceeds the planned budget for the milestone by twenty percent or more; or

- b. At a project milestone, the project schedule extends beyond the planned schedule to attain that milestone by twenty percent or more.
- 3. A report under subsection 2 must specify corrective measures being undertaken to address any cost or time of completion issue. If the agency has not taken adequate corrective measures within ninety days after the report, the agency shall submit a report to the legislative council's information technology committee regarding the project.
- 4. Upon completion of the project, the agency shall notify the state information technology advisory committee if:
 - a. The budget for the project exceeded the original budget by twenty percent or more; or
 - b. The final project completion date extended beyond the original project scheduled completion date by twenty percent or more."

Renumber Accordingly

#1

SB 2142 TESTIMONY
POLITICAL SUBDIVISIONS COMMITTEE
BY: JEFF SWANK, EA AND PLANNING PROGRAM MANAGER,
POLICY AND PLANNING
INFORMATION TECHNOLOGY DEPARTMENT (ITD)
FEBRUARY 26, 2009

Mr. Chairman and members of the committee, my name is Jeff Swank. I am the Enterprise Architecture and Planning Program Manager within Policy and Planning at the Information Technology Department. It is my pleasure to be here representing ITD and speaking in support of SB 2142.

SB 2142 has three sections, the first two contain minor language cleanups, and the third is the meat of the bill – the IT Plan section.

Section one of the bill amends NDCC 54-59-05, which includes the Powers and Duties of the Information Technology Department. The first change is to remove item 12, which states “Shall review the information technology management of executive branch agencies or institutions”. ITD believes that the operations of each agency, which IT management is part of, is best reviewed by the agency themselves or the State Auditor’s Office, and that ITD should not involve itself in agencies’ internal operations. As a result of this deletion, the remaining four items are renumbered, and in item 14 / 13, the language requiring a report to State Auditor’s office due on September 1, 2003 is removed. Since that filing date has passed, and the report has been filed, we believe the deletion of this language should be completed.

Section two of the bill amends NDCC 54-59-08, removing the requirement for the CIO to grant exemptions prior to July 31, 2001. Again this timeframe has passed and should be removed from the code.

Section three of the bill amends NDCC 54-59-11. This section of the code defines the information technology plans, and this bill proposes 4 changes to the section

The first change grants the CIO the power to exempt entities from the requirements outlined in this section of the NDCC. We believe this power is the most effective way to handle situations involving the few very small agencies whose IT activities do not warrant the effort required to file a formal IT Plan.

The second change moves the filing date from July 15th, to August 15th of each even numbered year and provides the CIO the power to grant an extension to agencies. We are requesting this change to provide additional time for agencies to prepare their plans each biennium.

The third change impacts the IT plans. We are proposing replacing the required document preparation with required participation in an IT planning process. As I

understand it, in 1997 when HB1034 was enacted, the concern was the increased cost of technology and the disjointed direction state agencies were taking. NDCC 54-59-11 as created focuses on a document and very tight connection to the budget process, which has resulted in an IT planning effort that is compliance based, and a budget process that at times requires significant extra work to ensure the IT plan document and the budget request remain consistent. The bill you have before you today requires agency participation in an IT planning process as defined by ITD Policy and Planning. Our intention is to use the Enterprise Architecture process, which has been very successful in establishing state-wide IT standards and policies, to develop a refined IT planning process that provides greater value to the agencies, continued accountability for agency IT budget requests, and a more clear and effective definition of IT projects.

The final change included in section three removes the detailed list of requirements for the State IT Plan. We believe that the definition on page 5, line 15 and 16, clearly defines what is needed in the Statewide IT Plan document and that the removal of further definitions will allow this document to evolve without repeated changes to the NDCC.

These changes will result in a more concise chapter 54-59 of NDCC as well as an improved IT planning effort for the State.

That concludes my remarks on the bill and I will be happy to entertain any questions.

Jeff Swank
Enterprise Architecture and Planning Program Manager,
Policy and Planning
Information Technology Department
(701) 328-1994
jpswank@nd.gov