

NORTH DAKOTA LEGISLATIVE MANAGEMENT

Minutes of the

LEGISLATIVE PROCEDURE AND ARRANGEMENTS COMMITTEE

Monday, March 19, 2018
Harvest Room, State Capitol
Bismarck, North Dakota

Representative Al Carlson, Chairman, called the meeting to order at 11:30 a.m.

Members present: Representatives Al Carlson, Larry Bellew, Kathy Hogan; Senators Joan Heckaman, Ray Holmberg, Jerry Klein, Dave Oehlke, Rich Wardner

Members absent: Representatives Corey Mock, Don Vigesaa; Senator John Grabinger

Others present: Kyle W. Forster, Cody Malloy, Jim W. Smith, Jason J. Steckler, and Lori Ziegler, Legislative Council, Bismarck

See [Appendix A](#) for additional persons present.

It was moved by Senator Holmberg, seconded by Senator Klein, and carried on a voice vote that the minutes of the December 6, 2017, meeting be approved as distributed.

INFORMATION TECHNOLOGY DEPARTMENT SERVICES PROVIDED TO LEGISLATIVE BRANCH

At the request of Chairman Carlson, Mr. Kyle W. Forster, Information Technology Manager, Legislative Council, reviewed a memorandum entitled [Legislative Branch Use of Information Technology Department Services](#). Mr. Forster said legislative branch business applications are hosted at the Information Technology Department (ITD) data center and in space leased by ITD at a data center in Mandan. He said the production environment for the bill drafting and session management applications is hosted at the ITD data center and is replicated at the data center in Mandan. He said the test environment is hosted at the Mandan data center, and the production applications can be brought up if necessary at that center.

Mr. Forster said ITD has been able to keep costs down by using shared infrastructure. Through the shared environment, he said, all the applications developed by ITD can be signed onto through a single sign-on through WebSphere, which provides efficiencies and flexibility. He said if ITD moves applications to the cloud, the applications will be hosted at a remote location by a third party. He said ITD has not communicated clearly whether the department intends to use a cloud first or a cloud only approach. He said ITD has provided no information regarding its intentions, the cost of potential changes, and the impact on legislative branch applications.

In response to a question from Senator Holmberg, Mr. Forster said there are many cloud providers.

In response to a question from Senator Wardner, Mr. Forster said a benefit of the cloud is the ease in deploying applications. In addition, he said, it is easier to quickly meet demand for new applications with cloud hosting.

In response to a question from Representative Hogan, Mr. Forster said most cybersecurity issues arise due to human error, such as phishing.

Mr. Forster said he opposes moving mission-critical legislative branch applications to the cloud because it would be less efficient to deal with ITD and a third party rather than dealing directly with ITD. He said ITD hosting has been responsive because ITD employees understand the critical nature of legislative branch applications and the hosting is onsite. He said the current cost for the legislative branch WebSphere hosting through ITD is approximately \$20,000 per biennium. He said to have dedicated legislative branch WebSphere hosting would involve one-time costs and ongoing costs of about \$90,000 per biennium. To use dedicated open source hosting, he said, would involve lower one-time costs and ongoing costs of about \$48,000 per biennium. He said he has concerns with what ITD will do with WebSphere, and whether other agencies will go to cloud hosting and be unable to share costs.

In response to a question from Senator Wardner, Mr. Forster said the LEGEND applications should remain on a dedicated server. He said there is no benefit to move the mission-critical applications to the cloud. However, he said, he is concerned with backup hosting if ITD does not continue to lease space in Mandan. He said the legislative branch may need to examine contracting for that space or other space, such as that used by the judicial branch in Fargo.

Mr. Forster said the legislative branch has been using ITD email services for years. He said ITD is running a hybrid system, but appears to be moving toward full use of Microsoft Exchange Online. He said several states and many businesses use cloud hosting of email services. He said he has discussed this issue with colleagues through the National Conference of State Legislatures and has heard reports of performance issues. He said he will try to find out whether ITD has any experience with those types of performance issues. He said other concerns with respect to cloud email services include getting guarantees of security at the same level as now provided and how public records requests be handled.

Chairman Carlson called on Mr. Shawn Riley, Chief Information Officer, Information Technology Department, for a presentation ([Appendix B](#)) regarding legislative branch use of ITD services.

Chairman Carlson said it is important to remember there are three coequal branches of government. He said the lack of communication from ITD to legislators, legislative staff, and various executive branch officials and employees regarding the initiatives being proposed by ITD is disturbing. Although legislators generally are supportive of consolidation of services which promotes efficiency and cost savings, he said, the communication from ITD must improve and legislators must be at the table. He said the legislative branch and other state agencies are captive users of ITD services, and ITD failed to work with at least one important customer in moving forward with initiatives without legislative consultation and involvement. He said the Legislative Council has staff waiting to meet with and obtain information from ITD. Although cost savings are desired, he said, it is important to remember the Legislative Assembly appropriates the funds and establishes policies through legislation.

Mr. Riley said although ITD has been moving quickly with initiatives, he understands their communication can improve and he apologizes for the lack of communication.

In response to a question from Chairman Carlson, Mr. Riley said the use of cloud services can spread the cost of security systems, including physical security.

In response to a question from Senator Heckaman, Mr. Riley said there are redundancies at each data center, and systems will be backed up at separate centers.

In response to a question from Representative Hogan, Mr. Riley said he understands the importance of critical business applications. He said his previous employment was in the health care industry and involved life and death matters.

Representative Hogan said there are many government functions that are mission critical.

In response to a question from Chairman Carlson, Mr. Riley said the proposed executive structure of ITD with five division heads is expected to be funded through the elimination of other positions. He said he would like to fill those positions this year.

In response to a question from Senator Oehlke, Mr. Riley said the various contracts for cloud services generally include provisions for cybersecurity insurance.

Senator Oehlke said the example of insurance coverage provided in Mr. Riley's slides seems to be rather low, and more coverage should be provided.

Mr. Dan Sipes, Deputy Chief Information Officer, Information Technology Department, said in addition to working with vendors regarding insurance, ITD is working with the Risk Management Division, which is coordinating self insurance.

In response to a question from Chairman Carlson, Mr. Riley said he did not bring a copy of a cost-benefit analysis for the proposed initiatives with him. He said he could provide the committee additional information later.

LEGISLATIVE BRANCH INFORMATION TECHNOLOGY INITIATIVES

Chairman Carlson called on Mr. Forster to provide information regarding legislative branch information technology initiatives. Mr. Forster said many legislators have not completed the cybersecurity awareness training.

He said he would like to see 100 percent participation. To do so, he said, it may be necessary to make the training mandatory for new legislators before equipment is given to the legislators.

Mr. Forster said the Legislative Council staff did additional research to determine the potential cost of expanding the pilot project for electronic testimony scanning. He said legislators who participated in the pilot project during the 2017 legislative session indicated the scanned testimony would be more beneficial if the testimony were also available in LAWS. He said changes to LAWS to make that possible would cost approximately \$15,000. He said funding is available in the budget to make that change. He said he would recommend continuing the pilot project and expanding it to additional committees. He said it would cost approximately \$900 per committee room to purchase a scanner and the software necessary to make the documents searchable. Although it would not be feasible to require everyone who testifies to provide electronic copies of testimony, he said, it would be helpful to encourage everyone to do so.

Chairman Carlson said it would not work to require only electronic testimony and he would not want to do anything to discourage citizens from testifying at committee hearings.

Mr. Forster said if the appropriations committees were included in the pilot project, it may be feasible to encourage state agencies to provide electronic copies of testimony.

Senator Holmberg said the pilot project should go forward for the 2019 legislative session.

In response to a question from Representative Bellew, Mr. Forster said the Legislative Council staff will provide any training necessary to help legislators use LAWS to access the electronic testimony.

In response to a question from Senator Heckaman, Mr. Forster said there will need to be additional training of the legislative interns who will be responsible for the scanning of testimony.

It was moved by Senator Wardner, seconded by Senator Heckaman, and carried on a roll call vote that the committee authorize proceeding with the electronic testimony scanning pilot project with at least four committees and to enhance LAWS to include electronic testimony. Representatives Carlson, Bellew, and Hogan and Senators Heckaman, Holmberg, Klein, Oehlke, and Wardner voted "aye." No negative votes were cast.

WORKPLACE HARASSMENT POLICY

At the request of Chairman Carlson, the Legislative Council staff reviewed a draft policy entitled [North Dakota Legislative Assembly Policy Against Workplace Harassment](#).

Chairman Carlson said the policy should include a list of possible sanctions applicable to a legislator found to be in violation of the policy.

Representative Hogan said additional work needs to be done with respect to designation of contact persons. She said it is important to have a neutral third party for reporting and investigating complaints. She said the majority leaders are very busy during legislative sessions and likely will not have time to be involved in investigating complaints. She said victims must be made to feel they are being heard. She said the policy should have more detail with respect to complaints involving third parties such as members of the media and lobbyists. In addition to the policy, she said, work must be done on providing training and education.

Chairman Carlson said training and education sessions must be mandatory. He said a plan must be developed for education.

Senator Holmberg said the policy provides flexibility in the reporting process.

Senator Heckaman said it is important the policy not be able to be used for political purposes. She said the minority leaders should be added as contact persons. In addition, she said, the policy should be more specific with respect to the resolution of complaints.

Senator Wardner said he would want the minority leader in the Senate involved in the process. He said there should be other individuals involved in the review of complaints and in investigating complaints.

Chairman Carlson said committee members should send comments for revisions to the policy to the Legislative Council staff so that a revised policy can be considered at the next meeting of the committee.

USE OF LEGISLATIVE CHAMBERS

The Legislative Council staff said at a previous meeting the committee authorized the use of either the Senate or House Chambers for a young elected leaders mock legislative session to be held early in 2018. He said an organizer of the event informed the Legislative Council the event was planned to be rescheduled for October 2018. He said the organizer requested permission to use the Senate or House Chambers for the Dakota Alliance Youth and Government program for Thursday and Friday, October 18-19, 2018.

It was moved by Representative Hogan, seconded by Senator Holmberg, and carried on a roll call vote that the the committee approve the request to use the Senate or House Chambers and committee rooms for the Dakota Alliance Youth and Government program on Thursday and Friday, October 18-19, 2018. Representatives Carlson, Bellew, and Hogan and Senators Heckaman, Holmberg, Klein, Oehlke, and Wardner voted "aye." No negative votes were cast.

No further business appearing, Chairman Carlson adjourned the meeting at 2:07 p.m.

John Bjornson
Legal Division Director

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