



LEGISLATIVE PROCEDURE AND ARRANGEMENTS COMMITTEE

Wednesday, September 16, 2020
Roughrider Room, State Capitol
Bismarck, North Dakota

Senator Rich Wardner, Chairman, called the meeting to order at 1:00 p.m.

Members present: Senators Rich Wardner, John Grabinger, Joan Heckaman, Jerry Klein, Oley Larsen; Representatives Josh Boschee, Karla Rose Hanson, Lawrence R. Klemin, Scott Louser, Chet Pollert

Members absent: None

Others present: Senator Ray Holmberg, Grand Forks, member of the Legislative Management
Senator Dick Dever, Bismarck, and Representative Glenn Bosch, Bismarck
John Bjornson, Kyle W. Forster, Allen H. Knudson Legislative Council, Bismarck
Renaë Doan, Administrative Assistant to the Senate Majority Leader

It was moved by Representative Pollert, seconded by Representative Klemin, and carried on a voice vote that the minutes of the June 24, 2020, meeting be approved as distributed.

LEGISLATIVE LEADERS' COMMENTS REGARDING ARRANGEMENTS DURING THE COVID-19 PANDEMIC

Chairman Wardner said the committee needs to assume the legislative session will be conducted in person. He said some legislators may not want to be present physically due to the Coronavirus (COVID-19), and those individuals should be able to participate remotely in committee meetings, floor sessions, and votes. He said lobbyists and the public should be able to testify by video conferencing if they do not want to be at the Capitol. He said the Legislative Council set up information technology systems to make remote participation possible. He said committees may need to meet in different rooms from those used in past sessions to accommodate social distancing.

Representative Pollert said he met with Chairman Wardner, Senator Heckaman, and Representative Boschee about session arrangements due to COVID-19. He said individuals with underlying conditions must be able to represent their districts remotely. He said rooms on other floors of the Capitol likely will be available for committees to meet with social distancing.

Senator Heckaman said the more time legislators can be together, the better. She said some people will not want to meet in person, and the Legislative Assembly can accommodate them. She said she would like more discussion about public participation and testimony during the session.

Representative Boschee said he agrees with the comments by Chairman Wardner, Representative Pollert, and Senator Heckaman. He said the Legislative Assembly works best when everyone is together. He said there needs to be a conversation about how masks fit within the dress code in the legislative chambers. He said science-driven decisions about health precautions should be considered.

PRINTING SERVICES

Chairman Wardner called on Ms. Claire Ness, Counsel, Legislative Council, for a presentation regarding printing services. Ms. Ness said, pursuant to North Dakota Century Code Section 46-02-05, the Office of Management and Budget (OMB) issued the request for bids for legislative printing services for the biennium twice and received no bids. She said Section 46-02-05 does not anticipate this scenario, but the legislative branch needs printing services. She said Central Duplicating, a division of OMB, informed the Legislative Council it can provide the printing services.

In response to a question from Senator Heckaman, Mr. John Bjornson, Director, Legislative Council, said the Legislative Council does not have a cost estimate from Central Duplicating yet, but the cost likely would be less than the Legislative Assembly usually pays for printing. He said costs may be reduced if the journals are printed on a regular-sized paper.

In response to a question from Representative Klemin, Mr. Bjornson said the Legislative Council would have the same kind of agreement with Central Duplicating as with a private printer. He said in previous sessions, the Legislative Assembly essentially agreed to pay the private printer an unknown amount because the printing costs were based on volumes and other factors unknown at the beginning of the session.

It was moved by Representative Boschee, seconded by Senator Klein, and carried on a roll call vote that the committee approve Central Duplicating as the printing services provider for the biennium, and request the Legislative Council explore having Central Duplicating print the journals on regular-sized paper. Senators Wardner, Grabinger, Heckaman, Klein, and Larsen and Representatives Boschee, Hanson, Klemin, Louser, and Pollert voted "aye." No negative votes were cast.

MEDIA ROOM

Chairman Wardner called on Ms. Ness for a presentation of a bill draft [\[21.0192.01000\]](#) concerning the Capitol media room. Ms. Ness said pursuant to the committee's previous discussions regarding the media room, she received proposed bill language from the North Dakota Newspaper Association (NDNA) and North Dakota Broadcasters Association (NDBA) regarding the media room in the Capitol. She said the language is incorporated in the bill draft provided to committee members. She said the bill draft would put the NDNA and NDBA jointly in charge of the room.

Mr. Bjornson said the current media room statute gives responsibility for the room to the statehouse correspondent for the Associated Press (AP). He said the AP no longer wishes to have that responsibility. He said the statute is not intended to provide free office space for nonstatehouse correspondents. He said he hopes the NDNA and NDBA will continue the practice of limiting the room to statehouse correspondents, and it will be up to the associations to determine who constitutes media.

It was moved by Representative Pollert, seconded by Senator Klein, and carried on a roll call vote that the bill draft regarding the media room [\[21.0192.01000\]](#) be approved as distributed. Senators Wardner, Grabinger, Heckaman, Klein, and Larsen and Representatives Boschee, Hanson, Klemin, Louser, and Pollert voted "aye." No negative votes were cast.

PHOTOGRAPHY SERVICES

Chairman Wardner called on Ms. Ness for a presentation of bids for photography services for the 67th Legislative Assembly. Ms. Ness said the Legislative Council sent the invitation to bid on photography services for the 67th Legislative Assembly to approximately 300 photographers. She said 4 bids that comply with the requirements of the invitation to bid were received. She said the conforming bids were Lostwood Media, Stanley, \$4,000 and \$23 for each additional 11x14 frame; Aizzah Nelson, Dickinson, \$4,500 and \$15 for each additional 11x14 frame; Dakota College at Bottineau Photography, \$4,598 and \$35 for each additional 11x14 frame; and Owolabi Banjoko, Fargo, \$6,500.

It was moved by Senator Klein, seconded by Senator Larsen, and carried on a roll call vote that the committee accept the proposal by Lostwood Media to provide photography services for the 67th Legislative Assembly. Senators Wardner, Grabinger, Heckaman, Klein, and Larsen and Representatives Boschee, Hanson, Klemin, Louser, and Pollert voted "aye." No negative votes were cast.

AVAILABLE SPACE FOR THE LEGISLATIVE SESSION

Chairman Wardner called on Mr. Bjornson for a presentation regarding available space for the legislative session. Mr. Bjornson said Mr. John Boyle, Director, Facility Management Division, Office of Management and Budget, helped identify space in the Capitol which has been left open by the executive branch during the past several months. He said Mr. Boyle told him unused space should be available to the Legislative Assembly during the session. He said the Brynhild Haugland, Coteau, and Pioneer Rooms could be used for large House of Representatives committees and the Senate Appropriations Committee to provide for social distancing. He said there also is space in the State Department of Health area of the judicial wing of the Capitol and two large areas on the top floor of the judicial wing which would accommodate committees. He said there is room on the 15th floor of the Capitol that may be large enough for a committee. He said the Roughrider and Harvest Rooms could be used for Senate committees. He said additional tables, sound systems, and live streaming equipment would be needed for the new areas. He said the Legislative Council can request Coronavirus Aid, Relief, and Economic Security (CARES) Act funds from the Emergency Commission for the new items. He said the Legislative Council was assured by vendors the upgrades can be made on time for the start of the session.

Representative Pollert said discussions regarding legislative space for the session have been occurring for a while. He said the voting boards in the chambers can show video of remote participants. He said legislators will have to trust in the cordiality of each other to honor social distancing and allow mask wearing. He said guests probably will not be allowed on the chamber floors. He said legislative leaders have discussed ways to prevent the spread of COVID-19 such as rotating individuals allowed on the chamber floors or installing plexiglass dividers between legislators, but those measures have not been adopted.

Representative Louser said he hopes the discussion regarding legislative space continues beyond the next session. He said the rooms in the horseshoe area on the main floor of the Capitol are not large enough for most committee hearings even during typical sessions.

Chairman Wardner said he agrees with Representative Louser, and the discussion will continue.

In response to questions from Representative Klemin, Mr. Bjornson said he and Mr. Boyle discussed using additional empty spaces in the Capitol for legislators' work spaces. He said there are four areas with potential space for about 90 legislators. He said air ionizers will be installed in the Capitol, and he spoke with Mr. Boyle about putting locks on the outer doors of the legislators' areas.

Representative Devlin said the Prairie Room is not compliant with the Americans with Disabilities Act and does not have seating for the public. He said he has concerns about keeping the Legislative Council staff safe if the Prairie Room is used by legislators or committees. He said he would prefer to have the Legislative Council use the Prairie Room to prevent health risks for the staff. He said if the staff become ill, the session would be shut down.

Representative Boschee said some positive developments may come out of legislators sharing space such as boosting collegiality and bipartisanship. He said the four leaders had a very good conversation about this issue.

In response to questions from Senator Heckaman, Mr. Bjornson said the Legislative Council is in frequent contact with representatives of other states, the National Conference of State Legislatures, and the Council of State Governments about safety and health measures other states are taking.

In response to a question from Senator Heckaman, Chairman Wardner said the Legislative Management meeting in November will proceed as normal. He said legislators who have health concerns can watch the proceedings remotely. He said presenters and committee members should be able to participate remotely.

Representative Pollert said the Legislative Management members will be socially distanced in the chambers. He said socially distanced seating in the gallery likely will be identified.

Chairman Wardner said the committee will not adjourn sine die after the meeting. He said the committee can meet again if necessary to address COVID-19 issues or other matters, or the committee can hold a short, remote meeting to adjourn sine die.

Representative Pollert said audio and video systems are not going to be installed in the legislators' work spaces, although all committee rooms and the chambers will have the systems.

Representative Hanson said the committee may want to establish metrics or thresholds for deciding when the session will need to be held entirely remotely. She said there may need to be substitute staff for the session in case legislative employees become ill.

In response to a question from Representative Hanson, Mr. Bjornson said committee clerks will not be clustered like they have been in the past because there will be more space for them to work. He said he discussed legislative arrangements with the State Health Officer and will continue to do so. He said it is difficult to find legislative employees, but the Legislative Council will cross-train employees. He said an outbreak among legislative employees probably would include the Legislative Council staff, and there would need to be additional discussions if that happens.

Chairman Wardner said committee clerks will have different responsibilities than they had in the past. He said clerks may not take extensive minutes and write reports but will run audio-visual systems or information technology systems. He said if there is a COVID-19 outbreak among legislators, employees, or staff, the Legislative Assembly could recess temporarily.

Representative Louser said local university students may want internships and could be trained as backup employees.

Senator Dick Dever, Bismarck, said the Legislative Assembly should do whatever it can to accommodate the public during the session. He said the Heritage Center meeting rooms and public space in the governor's residence may be available for committees. He said the Legislative Council should assure potential legislative employees the tasks will be easier than they may seem, and explain exactly what they will need to do.

ORGANIZATIONAL SESSION

Chairman Wardner called on Ms. Ness for a presentation regarding the [organizational session agenda](#) including the computer training schedule for legislators. Ms. Ness said the organizational session agenda is essentially the same as it has been for other organizational sessions and includes the computer training schedule for legislators.

In response to a question from Representative Pollert, Ms. Ness said social media etiquette will be included in the presentation on ethics during the organizational session.

Representative Klemin said he would like to provide a presentation to new legislators regarding the Uniform Laws Commission.

In response to a question from Representative Hanson, Mr. Kyle W. Forster, Information Technology Manager, Legislative Council, said computer training can be done remotely, but the equipment needs to be distributed and set up in person. He said the setup could be done in an isolated area if needed.

Representative Louser said there should be more topics covered by computer training, such as training on submitting bill requests online and getting sponsors online. He said computer training should be mandatory.

Mr. Forster said the Legislative Council plans to start creating training videos legislators can access online. He said there also will need to be targeted training outside the organizational session.

It was moved by Senator Heckaman, seconded by Representative Pollert, and carried on a roll call vote that the tentative agenda for the legislative organizational session [21.9403.01000] be approved with the addition of a presentation by Representative Klemin regarding the Uniform Laws Commission, subject to changes by the Legislative Council due to the COVID-19 pandemic. Senators Wardner, Grabinger, Heckaman, Klein, and Larsen and Representatives Boschee, Hanson, Klemin, Louser, and Pollert voted "aye." No negative votes were cast.

LEGISLATIVE EMPLOYEE HIRING AND TRAINING SCHEDULE

Chairman Wardner called on Ms. Ness for a presentation regarding the [training schedule for legislative employees](#). Ms. Ness said the proposed training schedule is very similar to the training schedule for the 2019 legislative session, except the secretarial service training has been changed to reflect the other employees, including pages and legislative assistants, who will take over those responsibilities. She said additional cross-training of employees will be provided.

It was moved by Senator Heckaman, seconded by Senator Klein, and carried on a roll call vote that the training schedule for legislative employees be approved, subject to changes by the Legislative Council in response to the COVID-19 pandemic. Senators Wardner, Grabinger, Heckaman, Klein, and Larsen and Representatives Boschee, Hanson, Klemin, Louser, and Pollert voted "aye." No negative votes were cast.

It was moved by Representative Pollert, seconded by Senator Klein, and carried on a roll call vote that Senator Dever and Representative Bosch be authorized to begin the process to recruit and hire employees for the 67th Legislative Assembly. Senators Wardner, Grabinger, Heckaman, Klein, and Larsen and Representatives Boschee, Hanson, Klemin, Louser, and Pollert voted "aye." No negative votes were cast.

LEGISLATIVE COMPENSATION

Chairman Wardner called on Mr. Allen H. Knudson, Legislative Budget Analyst and Auditor, Legislative Council, for a presentation of four memorandums entitled [Legislative Compensation Adjustment Process](#), [Legislative Compensation and Expenses](#), [Legislative Compensation Increases Compared to Inflation and State Employee Salary Increases - 1981 Through 2020](#), and [Legislative Compensation Levels in Other States](#).

Senator Klein said he is a member of the Legislative Compensation Commission and supports giving legislators the same adjustments state employees receive.

Senator Grabinger said it would be hard to explain to constituents why legislators get a larger raise than state employees.

It was moved by Senator Klein, seconded by Senator Grabinger, and approved on a roll call vote that the committee support the inclusion in the appropriation bill for the legislative branch of the statutory changes and funding for legislative compensation adjustments of 1 percent for the 1st year and 2 percent for the 2nd year for the 2021-23 biennium, to be adjusted during the 2021 legislative session to the appropriate level as compared to state employee salary adjustments. Senators Wardner, Grabinger, Heckaman, Klein, and Larsen and Representatives Boschee, Hanson, Klemin, Louser, and Pollert voted "aye." No negative votes were cast.

INFORMATION TECHNOLOGY UPDATES, PUBLIC TESTIMONY, AND COMMITTEE PROCEDURES

Chairman Wardner called on Mr. Forster for a presentation regarding computer replacement, committee room technology upgrades, chamber video upgrade, voting boards, remote voting, online testimony, legislator requests, and computer training.

Mr. Forster said computer replacement is going slowly due to the pandemic. He said nine of the committee rooms have new technology installed for remote meetings. He said the system for the Brynhild Haugland Room will be portable. He said the new technology for the legislative chambers should be installed by the end of the month. He said the voting boards will provide live streaming and run two remote meetings in each chamber. He said employees can toggle the boards between vote tallies and remote meetings. He said work on the remote voting application is in progress. He said legislators will log into the remote voting system with multi-factor authentication from their state-issued laptops. He said legislators participating remotely will see information about the order and bill number in the remote voting system. He said the Legislative Council is developing a website for the public to provide written, online testimony that would be available to legislators in LAWS and to the public on the legislative branch website. He said the Legislative Council also is working on an online bill request system and a sponsor signature system for legislators. He said the Legislative Council is planning to provide training videos for legislators, and legislators will be able to access some training remotely.

In response to questions from Representative Boschee, Mr. Forster said having a second monitor for each legislator would allow legislators to watch remote meetings on one monitor. He said the Legislative Council has not included a scheduling feature in the online bill draft submission application, but a legislator can include a message to the drafter in the request.

In response to questions from Representative Klemin, Mr. Forster said external cameras are essentially the same as the cameras in the laptops. He said the poor views of legislators in remote meetings result from the positions of the laptops, not the functioning of the cameras. He said orders for external cameras are extremely backlogged.

Representative Klemin said each policy committee can schedule its meetings in advance and submit the schedule to the public immediately.

Representative Louser said online submission of testimony should end when the hearing on the relevant bill closes.

Representative Hanson said she agrees with Representative Louser, but if someone presents oral testimony during the hearing, the person should be permitted to provide a written copy of the testimony after the hearing.

Chairman Wardner said he agrees with Representatives Louser and Hanson. He said members of the public could email or otherwise contact legislators, even if they miss the deadline to provide written testimony.

It was moved by Senator Heckaman, seconded by Senator Larsen, and approved on a roll call vote that the 67th Legislative Assembly allow submission of online, written testimony from the public. Senators Wardner, Grabinger, Heckaman, Klein, and Larsen and Representatives Boschee, Hanson, Klemin, Louser, and Pollert voted "aye." No negative votes were cast.

In response to a question from Senator Heckaman, Mr. Bjornson said a dollar amount required to install cameras and provide live streaming capability in additional meeting rooms is being determined. He said he expects it will be around \$1 million and could come from CARES Act funds returned to the Emergency Commission.

It was moved by Representative Pollert, seconded by Senator Klein, and carried on a roll call vote that, due to public health considerations arising from the COVID-19 pandemic, the Legislative Council submit to the Emergency Commission a request for funding to place cameras and provide live streaming capability in additional meeting rooms being considered for use during legislative sessions and hearings to allow for

social distancing. Senators Wardner, Grabinger, Heckaman, and Klein and Representatives Boschee, Hanson, Klemin, Louser, and Pollert voted "aye." Senator Larsen voted "nay."

Representative Pollert said having remote testimony will put a lot of pressure on chairmen. He said there will have to be ground rules for the chairmen to follow to run their committees.

Mr. Bjornson said the Legislative Council will set up the technological processes, and legislators will need to determine the rules for chairmen to follow.

Mr. Forster said citizen remote testimony will be provided via Zoom webinar, which will allow video testimony and testimony via a phone call. He said one or more staff persons in each committee room will need to manage the members of the public who registered in advance to provide testimony and who joined the webinar. He said each chairman will need to decide when and how long to accept testimony on each bill and whether to show video of the people testifying.

In response to a question from Senator Holmberg, Chairman Wardner said legislators need to communicate to constituents that only a certain number of people will be allowed in each committee room.

It was moved by Representative Hanson, seconded by Senator Grabinger, and carried on a roll call vote that the Legislative Assembly accept online and telephonic testimony during the legislative session using processes made available by the Legislative Council. Senators Wardner, Grabinger, Heckaman, Klein, and Larsen and Representatives Boschee, Hanson, Klemin, Louser, and Pollert voted "aye." No negative votes were cast.

In response to a question from Representative Louser, Mr. Bjornson said committee discussions and votes would be live streamed. He said committee work constitutes an open meeting.

Representative Pollert said testimony would not be allowed during committee work unless the chairman decides to allow it, which is consistent with past practice.

Representative Louser said there should not be live streaming of Appropriations Committee meetings.

Chairman Wardner said, except for the House Appropriations Committee, there should be at least two employees in each committee to manage testimony and other duties.

Mr. Forster said the Legislative Council anticipates a clerk will operate the camera, index videos, and document votes, while a second person will manage the Zoom webinar for remote testimony. He said, except for the Appropriations Committees, there will be an intern in each committee room. He said clerks can review their indexing and documents for accuracy after hearings and meetings.

Mr. Bjornson said there is not a legal reason for committee meeting minutes to be as detailed as they have been in the past, especially in light of the new ability to index and archive video footage. He said a form will be created for the clerks to complete, and the new format can reduce clerks' workload significantly.

In response to a question from Representative Boschee, Mr. Forster said he is not aware of a way to print closed captioning as a transcript of a hearing.

In response to a question from Representative Hanson, Chairman Wardner said the public will be able to view committee work as well as hearings.

Mr. Forster said committee hearing agendas will be available on the legislative branch website, and the agendas may include an item identified as committee work. He said the public will be able to see the status of the committee proceedings online.

In response to a question from Representative Louser, Chairman Wardner said all committee meetings will be live streamed, including committee work. He said the online agenda may not be able to identify in advance exactly which bills will be addressed during committee work because that information may not be known. He said this is consistent with past practice when committees did not always know in advance which bills would be addressed during committee work.

Representative Klemin said he does not think legal interns should have to do nonlegal work if they are receiving law school credit.

Chairman Wardner said he envisions having two clerks in each room, and the legal intern in each room would be the third employee for the committee.

Chairman Wardner said he would like someone to make a motion that clerks will not do written reports of committee hearings and meetings.

Senator Klein said he does not want to eliminate written reports by clerks.

Senator Heckaman said she agrees with Senator Klein.

Chairman Wardner said the two legislators authorized to hire legislative employees should hire individuals based on an understanding committees will use electronic testimony, live streaming, and truncated minutes and let potential employees know they also may have to do some written records if a chairman requires it.

It was moved by Senator Klein and seconded by Senator Heckaman that clerks will write truncated minutes except as directed by committee chairmen. Chairman Wardner said the motion was not necessary. Senator Klein, with the consent of Senator Heckaman, withdrew the motion.

LEGISLATIVE RULES

Chairman Wardner called on Ms. Ness to present draft legislative rule amendments [[21.9354.01000](#) and [21.9387.01000](#)]. Ms. Ness said the draft rules amendments are intended to provide the Legislative Assembly flexibility to conduct the legislative session partially or completely remotely. She said the draft rules amendments allow for remote attendance, participation, and voting, and reduce the requirements for physically handling fiscal notes.

In response to a question from Senator Larsen, Chairman Wardner said legislators who become ill or need to quarantine during the upcoming legislative session can participate remotely if the rules amendments are adopted.

In response to questions from Representative Klemin, Ms. Ness said the Senate Rule 305 and House Rule 305 may be amended further to reflect the practice of using speak buttons to ask presiding officers for permission to speak while maintaining the option to stand or otherwise signal the presiding officer if the speak buttons are not working. She said the draft amendments to Senate Rule 321 and House Rule 321 would give members participating remotely the same privilege as members participating in person. She said a member participating remotely may experience technical difficulties with the remote voting system and, under the amendment, could have another member cast the remote participant's vote by following the procedure described in the rules. She said this method of casting votes has been allowed for legislators in previous sessions, and the amendment extends the option to remote participants. She said it does not change the process for legislators who are present physically in the chambers.

In response to a question from Representative Pollert, Ms. Ness said any legislator present is required to vote, but legislators do not have to vote if they are not present. She said the draft amendments change the definition of "present" to include remote participants.

Senator Larsen said he opposes the public health restriction on guests in the amendments to Senate Rule 361 and House Rule 361.

In response to a question by Representative Louser, Representative Pollert said absent members will need to be excused in the same manner as in the past.

It was moved by Representative Pollert, seconded by Representative Boschee, and carried on a roll call vote that all the draft amendments to the legislative rules be approved with an amendment to revise Senate Rule 305 and House Rule 305 to reflect the use of speak buttons as the primary method for members physically present to request permission to speak, and recommended to the Legislative Management. Senators Wardner, Grabinger, Heckaman, and Klein and Representatives Boschee, Hanson, Klemin, Louser, and Pollert voted "aye." Senator Larsen voted "nay."

PUBLIC TESTIMONY

Senator Heckaman said a letter ([appendix](#)) from the North Dakota Disabilities Advocacy Consortium regarding requested improvements to legislative hearings and meetings was sent to all members and linked to the online agenda.

FINAL COMMITTEE REPORT

It was moved by Senator Klein, seconded by Senator Larsen, and carried on a voice vote that the Chairman and the Legislative Council staff be requested to prepare a report and the bill drafts recommended by the committee and to present the report and recommended bill drafts to the Legislative Management.

No further business appearing, Chairman Wardner adjourned the meeting at 4:00 p.m.

Claire Ness
Counsel

ATTACH:1