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## LEGISLATIVE PROCEDURE AND ARRANGEMENTS COMMITTEE

Wednesday, October 21, 2020  
Roughrider Room, State Capitol  
Bismarck, North Dakota

Senator Rich Wardner, Chairman, called the meeting to order at 8:30 a.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:** John Bjornson and Kyle W. Forster, Legislative Council, Bismarck  
See [appendix](#) for additional persons present.

**It was moved by Senator Klein, seconded by Representative Pollert, and carried on a voice vote that the minutes of the September 16, 2020, meeting be approved as distributed.**

### MEDICAL INFORMATION REGARDING COVID-19

Chairman Wardner called on Dr. Joshua Wynne, Vice President for Health Affairs and Dean of the School of Medicine and Health Sciences, University of North Dakota, for a presentation regarding medical information about the Coronavirus (COVID-19) pandemic. Dr. Wynne said the opinions he shares about arrangements for the legislative session are his own, and he is not appearing as a representative of any organization.

In response to questions from Senator Heckaman, Dr. Wynne said the Legislative Assembly needs to protect any vulnerable, high-risk member of the Legislative Assembly, its staff, or the public. He recommended having clear protocols and, at a minimum, following the State Department of Health guidelines for COVID-19. He said because testing has been demonstrated to be successful in reducing the spread of COVID-19, he would recommend testing twice per week. He said even though testing is helpful, it is not perfect. He said an individual can test negative even if the individual has the virus, and then the individual can become infectious a few days later.

In response to questions from Representative Boschee, Dr. Wynne said herd immunity is the concept of having enough people protected against the virus for the virus to be unable to attack those who are not protected. He said, for COVID-19 herd immunity, it is estimated approximately two-thirds of individuals need to be protected from the virus. He said there are two paths to reach herd immunity--widespread vaccination and letting the virus take its course. He said letting the virus take its course in North Dakota, based on the state's demonstrated mortality to date, would require 6,000 to 10,000 more deaths in the state. He said up to one-third of the population outside long-term care facilities may be high risk. He said vaccines likely will be available in the 1<sup>st</sup> quarter of 2021, and widespread vaccination should be available in the 2<sup>nd</sup> or 3<sup>rd</sup> quarter of 2021. He said herd immunity due to infection is a long way off. He said researchers believe immunity may last 90 days after contact with the virus, but this issue still is being researched. He said reinfection with the virus is possible. He said real-world data show masks are at least moderately effective in preventing exposure of others and protecting the wearer from exposure. He said laboratory tests clearly demonstrate masks work. He said epidemiological studies of populations with a universal masking requirement showed masks are the factor resulting in less disease in the populations. He said the mask wearer probably protects others more than the wearer.

In response to questions from Senator Larsen, Dr. Wynne said a researcher found people getting sick in long-term care facilities were getting sick from staff and found staff were not consistently wearing masks correctly and practicing hand hygiene. He said seemingly healthy younger people in North Dakota have died from COVID-19, and the big problem with letting the disease take its course to reach herd immunity is the difficulty of isolating those at higher risk from the virus. He said letting the disease take its course among young people would cause many people to get very sick and die.

Senator Larsen said people wearing masks get COVID-19, but homeless people and drug addicts do not. He said the Legislative Assembly should not emphasize wearing masks and testing. He said the Legislative Assembly does not make people get tested for the flu or other viruses and should not make rules based on incorrect opinions.

In response to questions from Senator Heckaman, Mr. John Bjornson, Director, Legislative Council, said the Governor can require masks in areas not under the control of the Legislative Assembly.

In response to questions from Senator Larsen, Mr. Bjornson said people in the Capitol have acquired COVID-19.

Representative Hanson said staff and lobbyists have expressed concern about COVID-19 risks during the session. She said not only members are taking risks by participating in the session during the pandemic. She said family members of individuals working in the Capitol might be at risk, and appropriate precautions would help reduce risks and concerns.

Representative Pollert said there is no doubt protocols have to be put in place. He said because House members cannot socially distance on the floor, office areas will be important. He said if there are multiple positive cases during the session, the session may need to be paused temporarily which could extend the session and negatively impact farmers and others.

### **OFFICES, MEETING SPACE, AND INFORMATION TECHNOLOGY UPDATES**

Chairman Wardner called on Mr. Bjornson to provide information about offices and meeting space for the legislative session. Mr. Bjornson said the Legislative Council has worked with the executive branch agencies to find additional space for the session, and some space is available due to the agencies' policies for working remotely during the pandemic. He said the space will need to be reconfigured, and the information technology staff will need to install the necessary equipment for remote participation in the rooms.

Chairman Wardner called on Mr. Kyle W. Forster, Information Technology Manager, Legislative Council, for a presentation regarding information technology changes for the session. Mr. Forster said the new voting boards are installed and ready, and the new chamber cameras are ready for testing. He said the Coteau and Sheyenne River Rooms are being finalized this week, the Pioneer Room is scheduled to be completed in November, testing of the live streaming equipment is ongoing, and the legislator request system is being tested. He said training for members of the Legislative Assembly will be recorded and available online. He said the public will be able to testify remotely or, if a hearing room is too small to accommodate everyone who wishes to testify, from an overflow room.

### **COVID-19 TESTING**

Chairman Wardner said COVID-19 testing will be done twice per week during the session.

In response to a question from Senator Heckaman, Mr. Bjornson said he consulted with the State Department of Health regarding testing and other best practices and talked with the Highway Patrol regarding placing temperature scanners at the entrances.

Senator Larsen said it is insane to think he would have to test and to quarantine for 14 days if he tests positive. He said he wonders whether he will be forced to receive the vaccine once it is available.

Chairman Wardner said members who test positive cannot be present physically but can participate in committees and floor sessions remotely.

Senator Klein said if a committee is wearing masks and someone on the committee tests positive, only the person who tests positive would need to participate remotely under the current State Department of Health guidance.

Representative Pollert said the rules adopted for the session will dictate whether and where masking is required and other protocols.

Senator Klein said Mr. Bjornson can impose a rule that legislators must wear masks if they want to meet with the Legislative Council staff. He said staff needs to be kept safe.

Senator Larsen said the Constitution of North Dakota requires the members of the Legislative Assembly to be present physically at the Capitol. He said he has a fever so he bypassed the temperature scan at the entrance.

Senator Heckaman said she is concerned Senator Larsen put everyone else at risk.

**LEGISLATIVE RULES**

**It was moved by Senator Grabinger, seconded by Representative Boschee, and carried on a roll call vote that Joint Rule 805 [21.9460.01000] requiring mask wearing and COVID-19 testing be recommended.** Senators Wardner, Grabinger, Heckaman, and Klein and Representatives Boschee, Hanson, Klemin, and Pollert voted "aye." Senator Larsen and Representative Louser voted "nay."

Representative Boschee said while members may not like wearing masks, doing so is the best thing the Legislative Assembly can do for continuity of government and the protection of members, staff, and others. He said members have to comply with rules of decorum like wearing a tie and suit coat, and wearing masks is a similar requirement. He said there should be consistency among the branches of government.

Senator Klein said he does not like wearing masks but will support the joint rule with a mask requirement because it will help the Legislative Assembly get its work done.

Senator Larsen said the committee should not take the actions being discussed because only 412 people in North Dakota have died from COVID-19. He said Dr. Wynne's comments were merely opinions. He said it is not the business of the government to tell individuals what to do.

**It was moved by Senator Heckaman, seconded by Representative Pollert, and carried on a roll call vote that the organizational session agenda be revised so the rules committees meet and the rules be adopted on the 1<sup>st</sup> day of the organizational session.** 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 Senator Larsen, seconded by Representative Louser, and failed on a roll call vote that security measures be removed from the entrances to the Capitol.** Senator Larsen and Representative Louser voted "aye." Senators Wardner, Grabinger, Heckaman, and Klein and Representatives Boschee, Hanson, Klemin, and Pollert voted "nay."

**It was moved by Representative Pollert, seconded by Representative Boschee, and carried on a voice vote that the Chairman and the Legislative Council staff be requested to prepare a report and to present the report and recommended bill draft and rules to the Legislative Management, and that the committee be adjourned sine die.**

No further business appearing, Chairman Wardner adjourned the committee sine die at 11:30 a.m.

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Claire Ness  
Counsel

ATTACH:1