

# NORTH DAKOTA LEGISLATIVE COUNCIL

## Minutes of the

### GOVERNMENT PERFORMANCE AND ACCOUNTABILITY COMMITTEE

Thursday, August 26, 2004  
Harvest Room, State Capitol  
Bismarck, North Dakota

Representative Al Carlson, Chairman, called the meeting to order at 9:00 a.m.

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

**Members absent:** Representative Dave Weiler; Senator Michael A. Every

**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 the second draft of a bill draft [50060.0200] providing for a government performance and accountability system. The Legislative Council staff said the bill draft:

1. Creates a government performance and accountability system to be established and maintained by the Office of Management and Budget (OMB) subject to the input and review of the Government Performance and Accountability Committee. The system is to focus on results and outcomes of major agency activities.
2. Establishes a statutory Government Performance and Accountability Committee consisting of legislators, citizens, and representatives of the Governor and the State Auditor. The committee is to monitor state government performance and accountability by reviewing state agency missions, goals, objectives, strategic plans, and performance measurement indicators.
3. Provides that OMB implement the system over two bienniums and that initially agencies prepare and present biennial goals and objectives and related performance measurement indicators and targets for major programs of the agency for the next biennium. Within two years of approval by the Legislative Assembly or the Government Performance and Accountability Committee

of an agency's performance measurement indicators, the agency must establish and maintain a five-year strategic plan to guide its operations and activities.

4. Requires each agency to prepare an annual performance report summarizing its goals and objectives and including comparisons of actual performance data to approved performance targets, explanations of any major variances from performance targets, and multiyear trends in performance.
5. Provides that the State Auditor, as part of each agency's biennial audit, review select agency performance measurement results.
6. Allows for rewards and reviews for agencies based on their performance.
7. Includes provisions requiring the legislative and judicial branches to participate in the system.
8. Includes appropriations totaling \$404,859 from the general fund for the 2005-07 biennium for administering the government performance and accountability system. The appropriation includes \$200,000 and one full-time equivalent (FTE) position for OMB, \$89,668 and one FTE position for the State Auditor, and \$115,191 and one FTE position for the Legislative Council.

Representative Svedjan said the bill draft provides that state agencies and OMB develop agency performance measures and present the measures to the Government Performance and Accountability Committee for review and potential changes. He suggested the committee consider involving legislators in the initial development of the measures.

Citizen Member Traynor suggested that language be added to the bill draft stating the committee's intent that the system be "simple and user friendly."

The Legislative Council staff said the provisions of the bill draft providing that OMB and the agencies develop the proposed measures prior to review by the Government Performance and Accountability Committee is based on committee testimony received from other states earlier in the interim. The Legislative Council staff said the testimony suggested that agency personnel initially develop the performance measures because agency personnel are the most

knowledgeable regarding their programs and activities.

Executive Branch Member Sharp said the Legislative Council fiscal staff is familiar with agency programs and activities and could provide the legislative input into the initial development of the performance measures along with OMB and agency personnel.

Representative Carlson said legislative interests should be included as part of the development of the performance measures. He expressed support for involving, to a greater extent, the Legislative Council fiscal staff in the development of the performance measures.

Senator Christmann expressed concern with the provision of the bill draft allowing OMB or the Government Performance and Accountability Committee to make revisions to proposed performance measures of elected officials. He said elected officials' goals and objectives may be different from the Governor's and suggested that it may not be appropriate to allow the Governor to change other elected officials' goals.

The legislative budget analyst and auditor said it is unlikely that agencies, including elected officials, would establish performance measures for new programs prior to the Legislative Assembly approving the funding for the program.

Citizen Member Traynor said the bill draft allows the Government Performance and Accountability Committee to approve agency performance measure targets. He suggested that it may be more appropriate for agency management to set performance targets without the involvement of OMB or the committee.

Representative Svedjan suggested removing language referring to performance targets from the bill draft and refer only to performance measures.

Executive Branch Member Smith said it is important for agencies to identify performance targets in order to provide for a comparison of an agency's actual performance to a performance target. He said, as an example, he would anticipate a Department of Corrections and Rehabilitation performance measure to be inmate recidivism and a performance measure target to be to reduce inmate recidivism to 10 percent.

Executive Branch Member Sharp said it is important for the performance measures identified to be measurable in order to be useful by the Office of Management and Budget and the Legislative Assembly.

Representative Carlson said it is important for the system to be simple, understandable, and measurable to provide results that are useful to the Legislative Assembly.

Ms. Doris Ott, State Librarian, presented performance information submitted as part of the State Library 2005-07 biennium budget request. Ms. Ott distributed various planning documents of the State Library, including the *North Dakota State Library*

*Services and Technology Act Five-Year Plan*, the *Library Vision 2010* plan, and the *North Dakota State Library Long Range Plan 2003-2008*. Copies of the documents are on file in the Legislative Council office.

Ms. Ott said the State Library receives substantial input from the public and other library personnel from across the state in the development of these plans.

Citizen Member Hedahl asked how the State Library uses its long-range plan. Ms. Ott said the plan is used everyday and as part of employee performance evaluations.

Ms. Cathie Forsch, Tax Department, presented performance information submitted as part of the Tax Department 2005-07 biennium budget request. Ms. Forsch discussed the process used in developing the Tax Department's mission, vision, and guiding principles. She said the Tax Department reviews each process within the department, including analyzing time involved, evaluating process activities that do not add value, and studying how to improve the process. Ms. Forsch said the department is working on developing outcome measures for its processes.

Ms. Forsch discussed the Tax Department's performance measure that identifies the cost per \$1,000 of revenue collected by the department. Ms. Forsch said the measure indicates that the cost per \$1,000 of tax revenue collected by the Tax Department has been reduced from \$9.20 in 1996 to \$7.58 in 2004. A copy of the report is on file in the Legislative Council office.

Representative Svedjan asked whether the Tax Department sets a goal for future years' costs. Ms. Forsch said the Tax Department has not yet set those goals but does set more specific internal targets for activities within a program.

Ms. Teresa Larsen, Executive Director, Protection and Advocacy Project, presented performance information submitted as part of the Protection and Advocacy Project 2005-07 biennium budget request. Ms. Larsen discussed the Protection and Advocacy Project annual strategic planning process, which includes focus group meetings and the development of agency benchmarks and performance data. Ms. Larsen provided examples of performance measures, including measures that identify whether the agency is achieving resolution to a client's identified problems and the satisfaction level of clients of the services received.

Dr. Robert L. Potts, Chancellor, North Dakota University System, provided testimony regarding the proposed bill draft. Dr. Potts reviewed the planning and accountability requirements for the University System included in North Dakota Century Code Section 15-10-14.2. He said this law requires the State Board of Higher Education to develop a strategic plan, including prioritized goals and objectives and to provide an annual performance and accountability report that is made available to the Legislative

Assembly and the Legislative Council Higher Education Committee. He said currently the University System has 39 measures, 26 of which are required by the Legislative Assembly and 13 by the State Board of Higher Education. Dr. Potts said the University System has a very effective performance and accountability system in place; therefore, he asked the committee to consider amending the proposed bill draft to exempt the University System from the provisions of the bill draft. A copy of the report is on file in the Legislative Council office.

Representative Svedjan asked what concern the University System had with the proposed bill draft. Dr. Potts said the bill draft would create a duplicative but separate process for the University System accountability reporting.

Dr. Potts said since the University System has been through the process of developing strategic plans and performance and accountability measures, University System personnel could be a resource for state agency personnel as the state agencies begin developing strategic plans and performance measures.

Executive Branch Member Sharp reported on performance information submitted by state agencies as part of their 2005-07 biennium budget requests. She said as of August 23, 2004, 48 state agency budgets were submitted, 18 of which include performance measures. She said the performance information included in 12 of the 18 budget requests would meet committee expectations; however, the other 6 would require substantial revisions.

Executive Branch Member Sharp distributed copies of the State Library, Tax Department, and Protection and Advocacy Project performance measures as included in the budget requests and provided examples of other state agencies' performance measures, including those submitted by the Highway Patrol, Game and Fish Department, Department of Commerce, and Parks and Recreation Department.

Senator Christmann asked whether OMB, prior to finalizing budget requests, will assist those agencies that need improvements in their performance measures. Executive Branch Member Sharp said because the process is voluntary for this biennium, OMB plans to accept the information as submitted by the agencies.

The committee further discussed the bill draft.

Representative Carlson suggested reducing the legislative members on the Government Performance and Accountability Committee from up to six members from each chamber to up to four members from each chamber, no more than three of which may be from the same political party from each chamber. Representative Carlson suggested making representatives of the Governor and the State Auditor permanent members of the committee and providing that the citizen members on the committee serve for a term of six years.

Senator Christmann suggested the director of OMB be named as a member of the committee rather than the Governor or the Governor's designee because of the direct involvement of OMB in the government performance and accountability system.

Representative Svedjan suggested the Legislative Council fiscal staff be identified in the bill draft as having a role in the process of performance measure development. The legislative budget analyst and auditor said provisions can be added in the bill draft identifying the Legislative Council staff services to be provided in assisting the committee. Representative Svedjan said that in addition to providing staff services to the committee, the Legislative Council fiscal staff should be involved in the development of performance measures.

Representative Carlson said more legislative input is needed into the budget development process prior to the legislative session.

Senator Holmberg suggested the University System be included in the government performance and accountability system but that its involvement be in accordance with North Dakota Century Code Section 15-10-14.2, which already provides for performance and accountability measures for the University System. He suggested that the University System report this information to the Government Performance and Accountability Committee, as requested.

Senator Christmann suggested that OMB and the Government Performance and Accountability Committee not be allowed to change performance measures proposed by elected officials. Representative Carlson asked that the Legislative Council staff consider options for allowing elected officials to suggest performance measure changes to the Legislative Assembly if an elected official does not agree with the changes made by OMB or the Government Performance and Accountability Committee.

Citizen Member Traynor suggested that agencies be required to prepare a "three- to five-year" strategic plan.

Representative Svedjan suggested the provisions requiring agencies to prepare proposed biennial goals and objectives and related performance measurement indicators be changed from as "requested" by OMB to as "identified" by OMB.

Executive Branch Member Smith said the bill draft requires the State Auditor to review select agency performance measures as part of agency biennial audits. He said the State Auditor will review select measures, but a comprehensive review of all agency measures will not be done. He said if all agency measures were to be reviewed, additional resources would be necessary.

Citizen Member Traynor suggested changing reference in the bill draft from rewards and reviews for performance to incentives and reviews. He suggested the incentive of providing additional

funding for an agency be limited to only one-time salary adjustments or other one-time purposes.

Representative Svedjan expressed concern with reference in the bill draft to performance targets and anticipated performance. He suggested the Legislative Council staff review these terms in the bill draft and provide for consistency.

Chairman Carlson directed the Legislative Council staff to prepare a new version of the proposed bill draft, reflecting the committee's suggested changes.

Chairman Carlson asked Executive Branch Member Sharp to identify for the committee's next meeting potential agencies that would be selected during the 2005-07 biennium for implementation of the system, if approved.

Citizen Member Traynor suggested that provisions be included in the bill draft providing for an evaluation of the system to determine whether it is achieving its goals. The legislative budget analyst and auditor suggested adding, as a duty of the Government Performance and Accountability Committee, an

assessment of the effectiveness of the system and to report any recommendations to the Legislative Council.

Chairman Carlson announced the next committee meeting is tentatively scheduled for Monday, October 4, 2004, in Bismarck.

The committee adjourned subject to the call of the chair at 1:00 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

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