



LEGISLATIVE PROCEDURE AND ARRANGEMENTS COMMITTEE

Thursday, July 11, 2024
Brynild Haugland Room, State Capitol
Bismarck, North Dakota

Senator Jerry Klein, Chairman, called the meeting to order at 9:00 a.m.

Members present: Senators Jerry Klein, Kathy Hogan, David Hogue, Merrill Piepkorn*, Kristin Roers, Ronald Sorvaag; Representatives Glenn Bosch, Josh Boschee, Zachary Ista, Dennis Johnson, Mike Lefor, Emily O'Brien

Member absent: Representative Austen Schauer

Others present: Senator Brad Bekkedahl, Williston, member of the Legislative Management
Russ Hanson, Bismarck

John Bjornson, Cody Malloy, and Lori Ziegler, Legislative Council, Bismarck

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

**Attended remotely*

It was moved by Senator Hogan, seconded by Representative Ista, and carried on a voice vote that the minutes of the March 20, 2024, meeting be approved as distributed.

TERM LIMITS STUDY

Ms. Emily Thompson, Legal Division Director, Legislative Council, presented a memorandum entitled [Legislative Council Proposed Staff Expansion - Position Descriptions and Compensation](#), regarding position descriptions, costs, and space needs relating to the proposed Legislative Council staff expansion. She noted:

- The proposed staff expansion would be delivered over 2 bienniums.
- For the 2025-27 biennium, 25 staff are proposed to be added, including an attorney, six policy analysts, two legislative editors, a human resources specialist, a fiscal analyst, four program evaluators, a website platform administrator, a cybersecurity specialist, two application support specialists, an assistant information technology manager, an information technology specialist, a legislative information technology developer, a front desk specialist, an administrative specialist, and a communications specialist.
- For the 2027-29 biennium, 25 staff are proposed to be added, including an attorney, four policy analysts, a policy director, a legislative editor, a human resources manager, a fiscal analyst, a program evaluator, a program evaluation director, two accounting specialists, an information technology specialist, three legislative information technology developers, a business analyst, two server administrators, an information technology trainer, two administrative specialists, a communications specialist - graphic designer, and a webmaster.
- The estimated cost to add 25 staff members in 2025 is approximately \$6 million.
- The estimated cost to add 25 additional staff members in 2027 is approximately \$6 million.

In response to questions from committee members, Ms. Thompson noted:

- The addition of a policy director is not proposed to be added until 2027 because the legal director would assume supervision responsibility for the first six policy analysts on boarded in 2025.
- If the four additional policy analysts proposed for 2027 are added, for a total of 10 policy analysts, a policy director position is proposed to manage those 10 policy analysts.

- There is potential to have the policy analysts staff standing committees during the legislative session once the Legislative Council has 10 policy analysts on staff.

Mr. John Bjornson, Director, Legislative Council, noted adding the first six policy analysts under the legal division director provides an opportunity for one of the six policy analysts to grow into the position of policy director.

In response to a question from a committee member, Mr. Bjornson noted:

- The proposed program evaluator positions would fall under the supervision of Mr. Allen H. Knudson, Legislative Budget Analyst and Auditor, Legislative Council.
- Though Mr. Knudson's position has the word "auditor" in the title, the legislative branch has never undertaken an auditing function.
- A natural place to begin the work proposed under the program evaluator positions would be in the Legislative Audit and Fiscal Review Committee, which could designate entities or programs it wishes to see evaluated.
- Further work of the program evaluators could be refined as those positions are on boarded.

Ms. Thompson noted the legislative branch in Montana has a robust team of evaluation and audit staff, with 23 individuals employed in its financial compliance audit section, 12 individuals employed in its performance audit section, and 5 individuals employed in its information systems audit section. She noted the legislative branch has statutory authority to conduct similar audits and evaluations through the Legislative Audit and Fiscal Review Committee; however, the Legislative Council does not have adequate staff to conduct those evaluations.

Committee members expressed strong support for adding program evaluator positions, noting program evaluation is a function the legislative branch lacks, and one that should become a routine practice.

In response to a question from a committee member, Mr. Bjornson noted the Legislative Council contracts for a number of services with the Information Technology Department (ITD) but has not always been a priority for receiving service. He noted increasing the number of information technology staff employed by the Legislative Council would allow services being outsourced to ITD to be completed in house more quickly and at a lower cost.

Committee members noted:

- There are currently 700 unfilled positions in state government.
- The legislative branch has continuously approved additional positions for the executive branch, including policy positions, which might be better placed with the policymaking branch of government.
- Beginning in August, the Legislative Council will have no unfilled positions and staff are working evenings, weekends, and during their vacations.
- The staff size of the Legislative Council must be allowed to grow to meet the demands of increasing workloads.
- New positions, such as a communications specialist, will help keep the public informed of important legislation and work being conducted by the legislative branch.

Committee members questioned whether an intent statement related to the 2027 proposed staff expansion should be included in the motion to expand staff so there is awareness that the 50-member, \$12 million proposed staff expansion was packaged as a 5-year plan.

It was moved by Senator Sorvaag, seconded by Representative Bosch, and carried on a roll call vote that the proposed 25 Legislative Council staff positions, at an estimated cost of \$6 million for the 2025-27 biennium, be recommended to the Legislative Management for inclusion in the legislative branch budget bill for the 2025 legislative session. Senators Klein, Hogan, Hogue, Piepkorn, Roers, and Sorvaag and Representatives Bosch, Boschee, Ista, Johnson, Lefor, and O'Brien voted "aye." No negative votes were cast.

Ms. Thompson presented a memorandum entitled [Legislative Council Office Space](#), illustrating the number of occupied and vacant offices within the Legislative Council's office area. She noted there are only three vacant office spaces remaining in the Legislative Council's office area. Additional office space will be needed if the Legislative Council is granted the proposed 25 additional staff for the 2025-27 biennium.

Ms. Thompson presented a memorandum entitled [Legislative Document Drafting Statistics](#), relating to the number of bill drafts, resolution drafts, amendments, and memorandums prepared by the Legislative Council staff over the past seven legislative sessions. She noted:

- The documents referenced in the memorandum primarily were prepared by the Legislative Council's seven attorneys and seven fiscal analysts.
- For the 2023 legislative session, staff drafted 1,407 bill drafts, 108 resolution drafts, 1,471 amendments, and 158 memorandums, for a combined total of 3,144 documents.
- Over the past 7 years, the largest increase per document type has been in the number of bill drafts prepared for members of the House of Representatives.
- During the 2023 legislative session, Senators requested an average of 11 bill drafts each and Representatives requested an average of 9 bill drafts each.
- Both Senators and Representatives requested an average of 10 amendments each during the 2023 legislative session.
- During the 2023 legislative session, the largest number of bill drafts requested by a single Representative was 34 and the largest number of bill drafts requested by a single Senator was 42.
- The drafting statistics contained in the memorandum do not include any bill drafts, memorandums, or amendments drafted for interim or standing committees.

In response to a question from a committee member, Ms. Thompson noted:

- The practice for Legislative Council staff in regard to duplicative bill requests is to ask whether a legislator would like his or her name shared if another legislator is interested in a similar topic.
- In recent years, there have been fewer legislators willing to share their names with other legislators in regard to bills being drafted on similar topics.
- In Montana, there is a requirement that the short description of every bill draft requested, and the name of the requester, is made publicly available at the time the bill draft request is received.
- During the 2023 legislative session, there were multiple bills drafted on similar topics. Popular topics included bills relating to gender and sex and bills related to minors and parental rights.
- During the 2021 legislative session, there were a several bills introduced relating to vaccines and firearms and dangerous weapons. Two or more bills that were nearly identical or very closely related were introduced on 27 different topics during the 2021 legislative session.

Committee members expressed interest in receiving information regarding the number of bill drafts requested for the 2025 legislative session, broken down by general topic area.

In response to a question from a committee member, Mr. Bjornson noted:

- There are no confidentiality provisions that would prohibit the Legislative Council staff from assembling this topical bill count list for the committee.
- A much larger volume of bill draft requests have been received this session as compared to the same time last session.
- The Legislative Council has reached bill draft counts it did not see until 4 months later in the interim leading up to the 2023 legislative session.

Committee members expressed support for more transparency regarding the topics on which bill drafts have been requested.

Ms. Thompson distributed the [Legislative Organizational Session](#) agenda for December 2022, to solicit feedback from committee members regarding requests for additional training or resources for new and returning legislators for the upcoming organizational session in December 2024. She noted items requested at previous meetings to be included during the organizational session included guidance on the use of legislator photographs, National Conference of State Legislatures training resources, and a copy of a Legislative Council staff guide.

Chairman Klein encouraged committee members to bring forward any requests for additional organizational session resources at the committee's next meeting.

RENOVATION AND REPLACEMENT UPDATES

Ms. Thompson presented updated cost information ([Appendix B](#)) provided by Michael J. Burns, President, Michael J. Burns Architects, Ltd., regarding the cost of various options for legislative chamber accessibility improvements. She noted accessibility options include raising the area in front of the rostrum by 5 inches and adding ramps to the far left and right sides of the chambers, or demolishing the entire floor in both chambers to create a 2 percent slope.

Committee members noted the importance of making the chambers accessible to all individuals and requested the Legislative Council staff provide additional cost information regarding the cost to include a ramp on only one side of each chamber.

In response to a question from a committee member, Mr. Bjornson noted temporary ramps are used in the chambers for accessibility purposes, but the temporary ramps would not accommodate a President or Speaker who needed to access the rostrum.

Mr. Bjornson provided an update regarding the estimated cost to replace carpet in the Legislative Council office areas. He noted two estimates were received for replacement carpet; one estimate for \$100,000 and one estimate for \$63,000. He noted the carpet in the Legislative Council office area is roughly 15 years old.

It was moved by Representative Lefor, seconded by Representative O'Brien, and passed on a roll call vote that the Legislative Council staff be approved to move forward with replacing the carpet in the Legislative Council office areas. Senators Klein, Hogue, Piepkorn, Roers, and Sorvaag and Representatives Bosch, Boschee, Ista, Johnson, Lefor, and O'Brien voted "aye." No negative votes were cast.

Ms. Lori Ziegler, Legislative Administrative Officer, Legislative Council, presented a summary of the [2024 Legislative Chamber Chair Bids](#) received for the replacement of 168 legislative chamber chairs and samples of each chair. She noted all but one of the five sample chairs displayed are available in both a fabric or leather look.

Committee members questioned whether the sample chairs would fit under the desks in the legislative chambers and briefly recessed to view the chairs under the chamber desks. It was determined both the current and proposed replacement chairs are not able to pull fully under the desks in the chambers due to the older model of desks in the chambers.

Committee members discussed whether the chairs should be ordered in fabric or a leather look and whether the chairs should remain in red and blue or be ordered in a neutral color for both chambers. Some committee members expressed a preference for a leather look over fabric.

It was moved by Representative Johnson, seconded by Representative Bosch, and carried on a roll call vote that the Legislative Council be requested to purchase the Nightingale EC3 335D Series chair as the replacement chairs for the legislative chambers. Senators Hogue and Roers and Representatives Bosch, Boschee, Ista, Johnson, Lefor, and O'Brien voted "aye." Senators Klein, Piepkorn, and Sorvaag voted "nay."

It was moved by Senator Hogue, seconded by Representative Ista, and carried on a voice vote that the replacement chairs for the Senate be ordered in red and the replacement chairs for the House be ordered in blue.

It was moved by Representative Bosch, seconded by Senator Roers, and carried on a roll call vote that the committee accept the lowest bid of \$729 per chair on the Nightingale EC3 335D submitted by InterOffice. Senators Klein, Hogue, Piepkorn, Roers, and Sorvaag and Representatives Bosch, Boschee, Ista, Johnson, Lefor, and O'Brien voted "aye." No negative votes were cast.

Ms. Zeigler noted the last time chamber chairs were replaced, legislators were allowed to purchase their chair for \$25. She noted a legislator wishing to purchase more than one chair was required to make that purchase through state surplus.

Committee members noted the chamber chairs being replaced should be allocated first to committee rooms in need of additional or replacement chairs.

Ms. Ziegler noted she would count of the number of chamber chairs that are in good, working condition and the number of chairs needed in committee rooms for presentation to the committee at its next meeting.

Mr. Cody Malloy, Information Technology Manager, Legislative Council, provided an update from the Computer Replacement Workgroup on laptop and tablet replacements. He noted:

- The Computer Replacement Workgroup met on May 21, 2024, and unanimously approved the replacement of legislator's laptops and tablets with the most recent version of those devices.
- In terms of purchasing the old equipment being replaced, this committee set the purchase price for legislators at \$200 per device the last time equipment was replaced in 2020.
- The current market rate for items comparable to the tablets being replaced is \$400 to \$500 and the market rate for items comparable to the laptops being replaced is \$270 to \$280.
- The operating system on tablets available for purchase by legislators remains in place, whereas the Windows operating system on laptops is removed before sale because that is a separate license.
- If a legislator declines to purchase the equipment being replaced, the equipment goes to state surplus for purchase. Any revenue generated from the sale of surplus equipment is credited to the general fund.

In response to a question from a committee member, Mr. Bjornson noted the computer use policy legislators sign every 2 years allows a legislator the option of purchasing the equipment at the end of its life cycle if the legislator has paid the \$10 per month computer use fee. He noted the policy allows a legislator to buy the legislator's device, not other legislator's or multiple devices.

A committee member noted the computer use fee paid by a legislator before purchasing the equipment should be taken into account when setting the price for the equipment being purchased.

It was moved by Senator Sorvaag, seconded by Senator Roers, and carried on a roll call vote that the cost for a legislator to purchase a laptop or tablet being replaced be set at \$250 per device and a legislator may purchase only one of each device if the computer use fee was paid by the legislator. Senators Klein, Hogue, Piepkorn, Roers, and Sorvaag and Representatives Bosch, Boschee, Johnson, Lefor, and O'Brien voted "aye." Representative Ista voted "nay."

USE OF LEGISLATIVE SPACE

Ms. Thompson presented a request ([Appendix C](#)) for the use of the legislative chambers. She noted the North Dakota Supreme Court requested to use the House Chambers on September 25, 2024, from 1:00 p.m. to 5:00 p.m. for the ceremony admitting new lawyers to the Bar of North Dakota.

It was moved by Representative Lefor, seconded by Senator Sorvaag, and carried on a roll call vote that the North Dakota Supreme Court's request to use the House Chambers for the new lawyer bar admission ceremony on September 25, 2024, be approved. Senators Klein, Hogue, Piepkorn, Roers, and Sorvaag and Representatives Bosch, Boschee, Ista, Johnson, Lefor, and O'Brien voted "aye." No negative votes were cast.

Mr. Russ Hanson, appearing as a registered lobbyist, requested the committee's continued consideration of whether there is legislative space available for use by lobbyists during the legislative session.

In response to a question from Chairman Klein, Mr. Bjornson noted all available legislative space is being used to capacity, especially in light of the proposed staff expansion and questions as to whether the new Governor will be asking executive branch staff to return to the Capitol, rather than continue working remotely.

LEGISLATIVE SESSION ARRANGEMENTS

Ms. Thompson presented information regarding the State of the State address, the Tribal-State Relationship Message, and the State of the Judiciary address. She noted all three addresses were given during the 1st day of the last regular session in a joint session, with the Tribal-State Relationship Message being delivered at 10:00 a.m., the State of the Judiciary address being delivered at 11:00 a.m., and the State of the State address being delivered at 1:00 p.m.

In response to a question from a committee member, Ms. Thompson noted the State of the State address must be delivered during the legislative session, so the Legislative Assembly must gavel in to receive the address.

It was moved by Senator Piepkorn, seconded by Representative Ista, and carried on a roll call vote that the Legislative Council be requested to contact the Governor with respect to scheduling the State of the State address at 1:00 p.m. on the 1st legislative day (January 7, 2025), contact the Chief Justice to make plans for the State of the Judiciary address at 11:00 a.m. on the 1st legislative day, and to invite a representative of the Indian tribes to address the Legislative Assembly at 10:00 a.m. on the 1st legislative

day. Senators Klein, Hogue, Piepkorn, Roers, and Sorvaag and Representatives Bosch, Boschee, Ista, Lefor, and O'Brien voted "aye." No negative votes were cast.

Ms. Thompson provided information regarding the reports to the Legislative Assembly. She noted:

- North Dakota Century Code Sections 4.1-36-04 and 4.1-44-04 require a report of 14 agricultural commodity promotion groups be provided to the Agriculture Committee of each house and the biennial report of the Agriculture Commissioner on the status of the pesticide container disposal program be provided to a joint hearing of the Senate and House Agriculture Committees.
- Section 54-60-03 requires the Commissioner of the Department of Commerce to give a report on the department's goals, objectives, activities, measurable results, and commerce benchmarks to a standing committee of each house.
- The standing committee receiving the report generally has been the Industry, Business and Labor Committee.
- These reports must be given between the 1st and 10th legislative days of the session.

It was moved by Senator Hogue, seconded by Senator Sorvaag, and carried on a roll call vote that Thursday, January 16, 2025, be designated as the day for a joint hearing by the Senate and House Agriculture Committees to receive the report of the agriculture commodity promotion groups under Section 4.1-44-04 and to receive the report of the Agriculture Commissioner on the status of the pesticide container disposal program under Section 4.1-36-04; and Wednesday, January 15, 2025, be designated as the day the Commissioner of the Department of Commerce reports to the Industry and Business Committees. Senators Klein, Hogue, Piepkorn, Roers, and Sorvaag and Representatives Bosch, Boschee, Ista, Lefor, and O'Brien voted "aye." No negative votes were cast.

Ms. Thompson presented a memorandum entitled [Legislative Assembly Employee Positions and Compensation](#). She noted:

- The memorandum provides information regarding the number of Legislative Assembly employee positions proposed and hired for the 2023 legislative session and the number of Legislative Assembly positions proposed for the 2025 legislative session.
- As compared to last session, one additional quality assurance clerk is proposed for each house; and two additional procedural assistant appropriations committee clerks, and three additional technological appropriations committee clerks are proposed for the Senate, to account for the formation of Senate Appropriation Committee divisions, which occurred during the 2023 legislative session.
- The proposal does not include a parking lot attendant, which also was not proposed leading up to the 2023 legislative session, but ultimately was filled after the legislative session commenced.
- The proposed compensation level increases reflect the application of the 6 percent and 4 percent increases received by state employees in 2025 and 2026.

Committee members expressed interest in adding a parking lot attendant position for the 2025 legislative session and noted trying to have the assistant sergeant-at-arms cover parking lot duties during down times last session did not work well.

In response to questions by committee members, Ms. Thompson noted:

- The committee previously approved up to 32 interns, with a stipend of \$3,500 per month, to fill various Legislative Assembly staff positions for the upcoming session.
- Despite Legislative Council's diligent outreach efforts, only one application has been received and the deadline for submitting applications closes on September 2, 2024.
- The low application volume may be due in part to the unwillingness of universities to provide much credit for this internship.
- Historically, returning Legislative Assembly staff have been entitled to an additional \$1 per day for previous sessions worked, up to a maximum additional compensation amount of \$10 per day.
- If the committee wishes to adjust the levels of additional compensation, this can be done in the motion to direct the Legislative Council staff to prepare the concurrent resolution for the payment of Legislative Assembly staff.

It was moved by Representative Bosch, seconded by Senator Hogue, and carried on a roll call vote that the committee recommend the proposed 41 Senate employee positions and 45 House of Representative employee positions, at the compensation levels presented to the committee, as well as the addition of a parking lot attendant position, applying the same compensation level increase as applied to the other Legislative Assembly staff positions. Senators Klein, Hogue, Piepkorn, Roers, and Sorvaag and Representatives Bosch, Boschee, Ista, Lefor, and O'Brien voted "aye." No negative votes were cast.

LEGISLATIVE RULE CHANGES

Ms. Thompson presented proposed legislative rule amendments [[25.9275.01000](#)] regarding moving to printing legislative documents on demand and the elimination of the document subscription program. She noted:

- At its previous meeting, the committee decided to move to on demand printing of legislative documents, rather than printing a set number of documents in advance.
- The proposed amendments to House and Senate Rule 204 remove the requirement that a paper copy of the previous day's journal be placed on each member's desk. These journals are available online and a member may still request a paper copy if the member so chooses.
- The rule amendment also removes the requirement for two extra copies of every journal to be delivered to the Secretary of State on the off chance a public official might request those copies.
- The amendments to Joint Rule 603 reflect the decision made by the committee at its previous meeting to move to printing on demand. However, each member still has the option of requesting paper copies of any legislative document.

It was moved by Senator Sorvaag, seconded by Senator Roers, and carried on a roll call vote that the proposed amendments [[25.9275.01000](#)] to House and Senate Rule 204 and Joint Rule 603, regarding moving to printing of legislative documents on demand and the elimination of the document subscription program, be approved as distributed and recommended to the Legislative Management. Senators Klein, Hogue, Piepkorn, Roers, and Sorvaag and Representatives Bosch, Boschee, Ista, Lefor, and O'Brien voted "aye." No negative votes were cast.

POLICY AGAINST WORKPLACE HARASSMENT

Ms. Thompson reviewed the [Legislative Assembly Policy Against Workplace Harassment](#) and corresponding [checklist](#) as well as a newly prepared [Workplace Harassment Complaint Form](#). She noted:

- This committee serves as the Legislative Ethics Committee and is responsible for reviewing policies like the workplace harassment policy.
- Considering the number of complaints filed recently with the Ethics Commission, the Legislative Council staff reviewed the workplace harassment policy to see if there were areas that could benefit from clarification or review.
- The first area identified for improvement relates to the complaint reporting process. The Legislative Council staff created a standardized form to place on the legislative branch's website which an individual may use to file a complaint of workplace harassment. This form also assists the designated contact individuals in asking pertinent intake questions if an individual chooses to report a complaint verbally, rather than in writing.
- The second area identified for review and possible modification relates to the turnaround time associated with actions that need to occur once a complaint is filed. Currently, the policy requires the contact person to complete an intake checklist and refer the complaint to a five-member panel, comprised of one member selected by the House Majority Leader, one member selected by the House Minority Leader, one member selected by the Senate Majority Leader, one member selected by the Senate Minority Leader, and one member selected by the other four appointed panel members. The panel members must be selected, and the first meeting of the panel held, within 48 hours of the contact person receiving the complaint. This is a tight time frame in which to assemble the necessary parties and coordinate the first meeting of the panel.
- The third area identified for review and possible modification relates to the document retention requirements associated with the policy. Currently, the policy requires the contact person to create a securely stored file in which to place the records relating to the complaint. With the turnover anticipated due to term limits, it might be better to house the secure file of complaint documents in a single repository in the Legislative Council's permanent files.
- The fourth area identified for review and possible clarification relates to the open nature of complaint records. The policy could be drafted in a way to make it more apparent to a reader that the records related

to the complaint will become a public record, at the latest, within 75 days of the date the complaint is filed. Whether any adjustments should be made to the open nature of these records is a policy decision for the committee.

- Lastly, the policy does not provide a vetting process to determine whether the conduct alleged in the complaint falls within the scope of the conduct covered by the harassment policy. The policy does not contain any summary dismissal provisions for a complaint falling outside the scope of the policy.

Committee members:

- Questioned how to treat complaints deemed frivolous for purposes of open records requests and whether the open nature of these complaints dissuades some individuals from coming forward with a complaint of harassment.
- Advocated for the incorporation of an alternative dispute resolution process in the policy.
- Discussed the option of including a summary dismissal process for complaints that fall outside of the scope of the policy.
- Highlighted distinctions between what an appropriate turnaround time is after receiving a complaint when legislators are convened for a legislative session as opposed to when they are not in session.
- Expressed a desire for clarification of the protected classes and prohibited conduct under the policy and a determination of whether the definitions in the policy align with definitions in the Human Resource Management Services policy.

The Legislative Council staff was requested to assemble the requested edits to the policy and checklist for the committee's review at its next meeting.

No further business appearing, Chairman Klein adjourned the meeting at 1:36 p.m.

Emily Thompson
Legal Division Director

ATTACH:3