



# MINUTES

## Legislative Procedure Committee

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**2004 Interim**  
**Tuesday, December 7, 2004**

**LCR 1**  
**State Capitol Building**  
**Pierre, South Dakota**

The Legislature's Legislative Procedure Committee was called to order by Co-Chair Representative Matthew Michels at 8:45 a.m. (CT) on Tuesday, December 7, 2004, in LCR 1 of the State Capitol in Pierre.

A quorum was determined with the following members answering the roll call: Senators Eric H. Bogue, John Koskan, and Garry A. Moore; and Representatives Matthew Michels (Co-Chair), Mel Olson, J.E. "Jim" Putnam, and Hal Wick. Senators Arnold M. Brown (Co-Chair), Mike Jaspers, Ed Olson, and Paul N. Symens; and Representatives Quinten L. Burg, Christopher W. Madsen, and Bill Peterson were excused.

Lieutenant Governor Dennis Daugaard, Senators Gary D. Hanson and Lee Schoenbeck; and Representatives Thomas J. Deadrick, Margaret V. Gillespie, Dale Hargens, and Larry Rhoden were also present. Ms. Patricia Adam, Secretary of the Senate, and Ms. Karen Gerdes, Chief Clerk of the House of Representatives, were also in attendance.

Legislative Research Council (LRC) committee staff were James Fry, LRC Director, and Yolonda J. Soyer, Administrative Assistant.

**(NOTE:** For sake of continuity, the following minutes are not necessarily in chronological order. Also, all referenced documents are on file with the Master Minutes.)

**(Clarification:** Voice votes that prevail with all members present voting "aye" will carry the disposition language "prevailed unanimously." Voice votes that prevail with a majority of all members present voting "aye" will carry the disposition language "prevailed." Voice votes that prevail without all members present voting "aye" will list those members casting "nay" votes if so requested by the dissenting voter.)

### **Approval of Minutes**

**REPRESENTATIVE WICK MOVED, SECONDED BY REPRESENTATIVE MEL OLSON, THAT THE MINUTES OF THE DECEMBER 2, 2003, MEETING BE APPROVED AS PRINTED AND MAILED. MOTION PREVAILED UNANIMOUSLY ON A VOICE VOTE.**

### **Approval of Agenda**

Chair Michels asked if there were changes or additions to the agenda. There being none, the agenda was approved as presented.

### **2005 Session Calendar** **(Documents #1 and #2)**

Mr. Fry explained that the calendar proposals (Plan A—**Document #1** and Plan B—**Document #2**) place the 39<sup>th</sup> Legislative Day on a Friday. This practice is in keeping with avoiding scheduling the

second-to-the-last day on a Saturday. Plan A provides for Saturday sessions on January 22 and February 26. Mr. Fry noted that Plan B has Saturday sessions scheduled for February 5 and February 26; the second Saturday is near the end of the legislative session. The Director further explained that staff did not draft a calendar using a four-day work week because the 2005 Session is the longer, forty-day session. Upon a question from Chair Michels, Mr. Fry responded that it is better for LRC drafting staff to have a full weekend to work following the deadline for submitting bill drafts and prior to the deadline for introducing individual bills and resolutions. Such a timeframe allows staff time to draft the bills in a timely manner and to get the bills to the sponsors.

Senator Koskan proposed a calendar that would not use any Saturdays as legislative days but would use a partial week, March 7-8, for example. He felt that the Legislature's productivity would be enhanced under such a proposal.

Representative Mel Olson observed that the activity appears to fill the time available. He further stated that he felt a shorter calendar using Saturday sessions tends to focus one's attention. He was concerned about a week with legislative days on only Monday and Tuesday. Senator Moore expressed concern with Senator Koskan's proposal and extending the session over a longer period of time. Mr. Fry and Chair Michels explained how the 90-day requirement impacts the calendar; i.e., laws are effective on July 1 or ninety days after their enactment, whichever is later. (Some laws, however, contain a specific effective date; those carrying an emergency clause are effective immediately.)

Senator Bogue stated that he had no problem with extending the session into the week of March 7, but he would prefer to use more than just two days of the week. He expressed concern that tempers get short as the session progresses and that perhaps a six-day work week would be better closer to the beginning of the session rather than near the end of the session. He suggested that the second Saturday be February 19 rather than February 26.

Representative Mel Olson suggested that one of the Saturday sessions be February 19. He also stated his opinion that a Saturday in January would be a productive legislative day. Senator Moore suggested that the Saturday sessions be January 29 and February 19. He felt that the third Saturday in January would be more productive than the earlier Saturday proposed in Plan A.

**REPRESENTATIVE MEL OLSON MOVED, SECONDED BY SENATOR KOSKAN, THAT THE LEGISLATIVE PROCEDURE COMMITTEE RECOMMEND SATURDAY SESSIONS FOR JANUARY 22 AND FEBRUARY 19; THAT FRIDAY, MARCH 4, BE THE 39<sup>TH</sup> LEGISLATIVE DAY; AND THAT TUESDAY, MARCH 22, BE THE 40<sup>TH</sup> LEGISLATIVE DAY.**

Discussion ensued on the motion. Representative Mel Olson expressed concern with working on Saturday, January 29. He did not feel that it was reasonable to expect the LRC staff to work around the clock to get all the bills drafted. Mr. Fry explained that setting Saturday, January 22, as a legislative day creates a bigger problem from a drafting standpoint. **Mr. Reuben Bezpaletz**, Chief Analyst for Research and Legal Services, LRC, stated that Saturday, January 22, is the most critical Saturday for the LRC drafting staff. He explained how the three-day rule for unlimited bill introduction affects the drafting process.

**REPRESENTATIVE MEL OLSON WITHDREW HIS MOTION, WITH THE CONSENT OF SENATOR KOSKAN.**

**SENATOR KOSKAN MOVED, SECONDED BY REPRESENTATIVE WICK, THAT THE LEGISLATIVE PROCEDURE COMMITTEE RECOMMEND THE FOLLOWING CALENDAR FOR THE 2005 (80<sup>TH</sup>) LEGISLATIVE SESSION: January 11-14; January 18-21; January 24-28; January 31-February 5; February 7-11; February 14-19; February 22-25; February 28-March 4;**

**and March 22. MOTION PREVAILED ON A ROLL CALL WITH 7 VOTING AYE AND 7 EXCUSED.** Voting **AYE:** Bogue, Koskan, Moore, Mel Olson, Putnam, Wick, and Michels. **EXCUSED:** Jaspers, Ed Olson, Symens, Burg, Madsen, Bill Peterson, and Arnold Brown.

(**NOTE:** The 2005 Legislative Session calendar is available at the South Dakota Legislature's home page on the Internet: <http://legis.state.sd.us> or upon request from the Legislative Research Council.)

### **Legislator Compensation and Per Diem Payments**

**Ms. Carol Huber**, LRC Finance Officer, distributed a schedule of when legislators will be compensated during the 2005 Legislative Session (**Document #3**). She explained that per diem is now going to be paid on the state payroll system. Per diem cannot be paid at the same time that salary is paid. The entire amount of the per diem will be paid on the first day of session. Ms. Huber further explained that both per diem and salary payments are direct deposits. Upon a question from the Chair, she explained that the state payroll system will not allow payroll and travel checks to run at the same time. A legislator may opt to have per diem and payroll checks deposited into two different accounts; however, both must be direct deposits. Mr. Fry explained that staff determined that paying all the per diem at the beginning of the session would be the best arrangement under the new payroll system. In response to an inquiry from Representative Wick, Ms. Huber stated that as of today, all 105 legislators are participating in the direct deposit program.

### **Discussion of Renaming the Position of Index Clerk**

**Ms. Patricia Adam**, Secretary of the Senate, and **Ms. Karen Gerdes**, Chief Clerk of the House of Representatives, explained that the current title "Index Clerk" does not accurately reflect the duties of this position. This position's main responsibility is preparation of the daily calendar. They recommended that this position title be changed to "Third Assistant."

**REPRESENTATIVE PUTNAM MOVED, SECONDED BY REPRESENTATIVE MEL OLSON, THAT THE LEGISLATIVE PROCEDURE COMMITTEE CHANGE THE POSITION TITLE OF "INDEX CLERK" TO "THIRD ASSISTANT." MOTION PREVAILED UNANIMOUSLY ON A VOICE VOTE.**

### **Other Business**

Mr. Fry reported that the Constitutional Revision Commission has requested an afternoon during the first or second week of session to afford all legislators the opportunity to offer input to the group. He also explained that the Executive Board of the Legislative Research Council discussed providing an opportunity, during the first two weeks of session, for all legislators to attend the budget presentations of the Department of Corrections, Department of Education, and Department of Social Services. Chair Michels explained that he requested that all of the Legislature's major meeting rooms be reserved in his name to secure space for legislative forums such as the budget presentations of these three large departments. Representative Putnam further explained that the Special Committee on Appropriations agrees that these meetings should be open to the public as well and that an opportunity for "Q and A" should be provided. Legislators could be brought together as a whole to hear these budget presentations. The budget hearing dates have not been finalized, but these meetings will occur sometime during the first two weeks of the session. Chair Michels asked that Mr. Fry work with Senator Apa, Senate Appropriations Committee Chair, and Representative Putnam, House Appropriations Committee Chair, to accomplish this goal.

It was the consensus that it would be better to have the Constitutional Revision Commission forum the second week of session.

Mr. Fry reported that Supreme Court Chief Justice David Gilbertson will deliver his State of the Judiciary Message on Wednesday, January 12, 2005.

Senator Moore expressed concern about getting the budget earlier and requested that every attempt be made to deliver this information to the Legislature two or three days prior to the end of the session. He acknowledged the difficulty of the budget process, but he reiterated his request that all legislators receive the budget request at least two or three days before the end of the session, if at all possible.

Representative Putnam pledged his commitment to honor Senator Moore's request. He further stated that the Appropriations Committee would like to have the budget "put to bed" earlier. Representative Mel Olson suggested that any bill appropriating money should ultimately be referred to the Appropriations Committee. He explained that some of the standing committees do refer such bills, but some committees do not. He stated: "I always thought it was odd that we [other committees] were spending money when the Appropriations Committee was also spending money."

Chair Michels said that the Legislative Procedure Committee will meet on January 11, 2005, and that notice of such meeting will be included in the LRC *Update*. Also, the 2005 Legislative Session calendar, as recommended by the committee, will be available at the Legislature's Web site by the end of the business day.

**REPRESENTATIVE WICK MOVED, SECONDED BY SENATOR KOSKAN, THAT THE LEGISLATIVE PROCEDURE COMMITTEE ADJOURN. MOTION PREVAILED UNANIMOUSLY ON A VOICE VOTE.**

The committee adjourned at 9:30 a.m.

