



# **MINUTES**

## **State Government Efficiency Review Committee**

**Wednesday, November 13, 2019**

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### **MEMBERS PRESENT**

Senator Roby Smith, Co-chairperson  
Senator Waylon Brown  
Senator Claire Celsi  
Senator Craig Johnson

Representative Bobby Kaufmann, Co-chairperson  
Representative Jane Bloomingdale  
Representative Karin Derry  
Representative Vicki Lensing  
Representative Ray Sorensen

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## State Government Efficiency Review Committee

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### I. Procedural Business

**Call to order.** Temporary Co-Chairperson Representative Bobby Kaufmann called the November 13, 2019, meeting of the State Government Efficiency Review Committee to order at 9:35 a.m. in Room 103 of the State Capitol.

**Committee business.** Upon motion by Senator Brown, the committee elected Senator Roby Smith and Representative Bobby Kaufmann as Co-chairpersons of the committee by voice vote. By voice vote, the committee also adopted the proposed rules for the state government efficiency review committee.

**Adjournment.** The meeting was adjourned at 2:24 p.m.

### II. Office of the Chief Information Officer (OCIO)

Ms. Annette Dunn, Chief Information Officer, provided an update on government technology services including major technology enhancements since 2015 to reduce costs and risks and improve service levels. Major technology enhancements include utilizing cloud services, contracting with third-party vendors to provide desktop support and website services, and establishing a new security operations center. Ms. Dunn noted that a new cybersecurity strategy was issued in 2019 to address information security concerns. Goals of the strategy include increasing identification of threats, providing additional tools for prevention of threats, reducing exposure and risk, improving collaboration with state agencies, training and increasing awareness, exploring funding strategies including pursuit of federal and other sources of outside funding, establishing analytics and metrics, enhancing communication, and developing a cybersecurity workforce. OCIO has recently conducted a survey of state agency technology enhancements and upgrades and Ms. Dunn noted that computer systems statewide are in need of upgrades to meet citizen demands, comply with legal requirements, and keep up with system requirements. In response to the survey, OCIO is working on establishing strategic plans to assist in prioritizing technology needs. Ms. Dunn further identified emerging and ongoing issues of the OCIO relating to technology. Ms. Dunn noted that the Hoover Data Center has been subject to several natural disasters in recent years and that following an analysis of the Center by a third-party vendor and OCIO, the recommendation from both is to move the services provided by the Center to a third-party vendor. Ms. Dunn explained that the OCIO is funded through fees charged to state agencies for services, as well as through the IOWAccess Revolving Fund and the state broadband fund. Ms. Dunn explained how fees are established and noted that charging users for information technology services maximizes access to federal matching funds, allows for cost comparisons of providing information technology services internally or through private markets, and helps control costs by showing agencies the information technology services they are consuming. Ms. Dunn commented that while all state agencies use the OCIO, not all state agencies utilize the OCIO for all technology services and that the office also serves some counties, schools, and cities. An additional issue for the OCIO, related in part to the existing legacy systems, includes recruiting and retaining new information technology employees. Ms. Dunn also noted that existing employee pay is not competitive with the private sector.

In response to committee questions, Ms. Dunn expressed an interest in creating a single Internet portal for the payment of all government fees. Ms. Dunn also noted that the OCIO is utilizing more rigorous redundancy checks to address any redundancy concerns related to the use of cloud services and commented that cloud service providers have an inherent interest in preventing ransomware attacks and insuring the viability of cloud services. Ms. Dunn also noted that interest in broadband grants from the state broadband fund exceeds existing resources.



### III. Questionnaire Review

Co-chairperson Smith briefly explained a questionnaire on the structure and operations of state government that was sent to all departments and agencies of the state, including certain boards, councils, and commissions.

### IV. Department of Public Health (DPH)

Mr. Gerd Clabaugh, Director, DPH, discussed the licensing and regulatory functions of DPH and noted that DPH has 24 professional licensure boards within its purview. Of the 24 boards, 19 boards, providing regulatory and licensure functions for 39 professions, are administered within the Bureau of Professional Licensure at DPH. Currently, there are roughly 200,000 active licenses under DPH. Mr. Clabaugh stated that DPH boards have focused on efficiencies and sharing resources whenever possible. Four DPH staff serve as executive officers of all 19 professional licensure boards and some staffing is shared with other agencies, including the Department of Inspections and Appeals. Since 2017, DPH has eliminated six full-time equivalent positions and the Iowa Plumbing and Mechanical Systems Board has seen a reduction in staff. Boards have also used teleconference options to reduce costs. Mr. Clabaugh noted that since 2007, most licensing programs are funded through a fee-based system instead of by an appropriation. However, fees often go many years without increasing, resulting in some boards being underfunded, and there are inconsistencies in the Iowa Code regarding fee retention by boards. Of the 19 boards, fees received by 12 to 13 of the boards are insufficient to fund the costs of those boards. In 2013, DPH submitted a report to the General Assembly examining boards and commissions and professional licensure. The report made several board-specific recommendations including maintaining physician assistants separate from the Board of Medicine and combining the Board of Athletic Training and Board of Physical and Occupational Therapy, the Board of Barbering and Board of Cosmetology Arts and Sciences, the Board of Hearing Aid Specialists, and the Board of Speech Pathology and Audiology. Concerning licensing, the report recommended considering a moratorium on new licenses and evaluation of endorsement and license portability as well as licensing compacts. Concerning fees, Mr. Clabaugh suggested support for fee retention flexibility and establishing a process for regular fee adjustments to match costs. Other efficiency suggestions for streamlining the licensing process and providing greater licensing portability include adopting provisions for endorsements and adopting licensing compacts. In response to questions from the committee, several representatives from boards within the purview of DPH noted that most delays in issuing licenses results from background check requirements often found in licensure compacts. Concerning the licensing of plumbers, Mr. Ken Sharp, Division Director, DPH, noted that while some delays have occurred when those seeking renewals of licenses wait until the deadline to renew, a move to an automated renewal process in 2020 may ameliorate some of these delays. In response to a committee question, it was noted that if the plumbers board was eliminated, any licensing function would likely be done, if at all, by local jurisdictions.

### V. Division of Banking

Mr. Rodney Reed, Bureau Chief, Professional Licensing Bureau, Iowa Division of Banking, spoke regarding the licensing functions of the division. Boards under the Professional Licensing Bureau share 11 full-time equivalent staff positions and are self-supporting, with costs funded by fees. Mr. Reed stated that the boards use one of two different computer systems for licensing. Mr. Reed noted that if consolidation of some boards is desired, the Architecture, Interior Design, and Landscape Architecture boards could be combined, saving about \$7,000 in non-general fund money based largely on the elimination of some positions.



### **VI. Division of Labor**

Mr. Rod Roberts, Commissioner, Iowa Division of Labor, spoke on the history and functions of the division. He stated that the division regulates a wide variety of industries and individuals primarily concerned with protecting the safety, health, and economic security of Iowans. Mr. Roberts then outlined the occupational safety and health consultation and investigation functions of the division, its labor violation investigation functions, and the division's collaboration with the Department of Public Health on the registration of contractors. Concerning boards, Mr. Roberts stated that the division has had difficulty filling one position on the Boiler and Pressure Vessel Safety Board reserved for manufacturers. Mr. Roberts stated that the division had improved its check-cashing process by eliminating waste. He also stated that the division was working on increasing the availability of online payments but that no software currently existed that would serve the division's needs. Mr. Roberts also described the division's role in overseeing certain professional athletic events, noting some current challenges in replacing an individual who had been overseeing this aspect of the division's responsibilities on a contract basis.

### **VII. Department of Public Safety (DPS)**

Mr. Kevin Winker, Director, Investigative Operations; Mr. Chandler Collins, Policy Advisor; and Mr. Don Wood, State Fire Marshal, discussed the functions of the Department of Public Safety. Mr. Winker stated that the department's system for maintaining criminal records and responding to records requests is 17 years old and is outdated, which has caused significant delays in responding to investigation requests. Mr. Winker also stated that the system made it difficult to comply with uniform crime reporting requirements. With respect to efficiency, Mr. Winker suggested that a centralized licensing website would streamline the licensing process, that fees should be revisited more regularly to reflect costs, and that building code responsibilities should be consolidated to one or two boards, as such functions are currently managed by six boards in three departments.

### **VIII. Department of Administrative Services (DAS)**

Mr. Jim Kurtenbach, Director, Department of Administrative Services, gave an update on the functioning of the department. Mr. Kurtenbach gave a brief history of the department, including the organizational structure of the department and the manner of funding activities of the department. Mr. Kurtenbach noted that the top three items of concern for chief administrative officers in all states and for Iowa are human resources, primarily relating to being able to hire sufficient staff, facility management relating to the need to update aging facilities, and technology. He stated that consolidating human resources functions allowed the department to charge lower rates to state agencies and to refund about \$250,000 annually to the General Fund. In response to questions regarding concerns over recent employment discrimination claims, Mr. Kurtenbach noted that the department is increasing training as well as meeting with department directors with the goal of reducing claims. He further noted that significant new funding would be needed to remediate or replace current state buildings that are in need of improvements, commenting that possible funding strategies could include increased appropriations, bonding, and public/private partnerships. The scope of the building and maintenance issue is significant, with Mr. Kurtenbach noting that the major maintenance list has identified around \$300 million in projects. Concerning the former state penitentiary in Fort Madison, Mr. Kurtenbach commented that a request for proposals has been made to ascertain options regarding future options for the historical building.



## **IX. Office of the Ombudsman**

Ms. Kristie Hirschman, Ombudsman, discussed investigations undertaken by the Office of the Ombudsman regarding the Iowa Public Information Board and the Professional Licensing Bureau. Ms. Hirschman stated that the office's investigation concluded the Iowa Public Information Board twice violated open meeting laws and resisted subpoenas from the office for records relating to closed meetings. With respect to the office's investigation of the Professional Licensing Bureau, Ms. Hirschman shared her conclusions that professional licensing boards ignored conflicts of interest when issuing disciplinary decisions, board members disparaged licensees and complainants, performed weak investigations, dismissed complaints without explanation, and rarely acted in a transparent manner. Ms. Hirschman suggested Iowa Code changes that would require boards to be more transparent and subject their dismissals of complaints to judicial review.

## **X. Department of Management (DOM)**

Mr. Dave Roederer, Director, Department of Management, discussed the functions of the department. Mr. Roederer addressed the department's role in certifying budgets for state agencies and local governments, and complying with the Accountable Government Act and Taxpayer Transparency Act by posting information on a website designed for containing such information. He also described the department's usage of process improvement methods and training events to eliminate waste and increase efficiency in the department and other state agencies. Mr. Roederer noted the efforts of the Office of Lean Enterprise, detailing several Lean events finding efficiencies for the Iowa Utility Board, Iowa Economic Development Authority, Department of Natural Resources, and Iowa Public Employees' Retirement System. One recent effort involved box storage with the State Records Center, resulting in a reduction of boxes stored from over 70,000 to 7,837 and an annual savings of \$247,223. Mr. Roederer also discussed Iowa's data transparency program. He stated that the department's usage of electronic budget certification worked fairly efficiently. He expressed concerns regarding the number of requests for fiscal notes received by state agencies, stating that the agencies have difficulty prioritizing requests and completing them in a timely manner.

## **XI. Committee Discussion**

The committee reviewed comments submitted by the public to the Internet site of the General Assembly and discussed the potential for bills being submitted by the committee addressing issues raised during the committee meeting.

## **XII. Materials Filed with the Legislative Services Agency**

Materials were distributed at or in connection with the meeting and are filed with the Legislative Services Agency. The materials may be accessed from the "Committee Documents" link on the committee's Internet site: [www.legis.iowa.gov/committees/meetings/documents?committee=578&ga=ALL](http://www.legis.iowa.gov/committees/meetings/documents?committee=578&ga=ALL)

1. DAS — Committee Presentation
2. DOM — Committee Handout
3. DPH — Committee Presentation
4. DPS — Committee Handout
5. Division of Banking — Committee Handout
6. Labor Services Division — Committee Presentation



## State Government Efficiency Review Committee

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7. OCIO — Committee Presentation
8. Office of Ombudsman — Ombudsman Investigation of Iowa Public Information Board
9. Office of Ombudsman — Ombudsman Special Report on Iowa Professional Licensing Boards

## MINUTES

### Election Contest Committee

January 24, 2019

All members present

#### I. Procedural Business

Call to order. Chairperson Steven Holt called the January 24, 2019, meeting of the Election Contest Committee to order at 2:00 p.m. in Room 103 of the State Capitol.

Committee business. Upon motion by Chairperson Holt, the committee approved the minutes from the January 16, 2019 meeting of the Committee. Following a motion by Chairperson Holt and discussion by the committee, the proposed contested election committee report submitted by Chairperson Holt was approved by a 3-2 vote of the committee.

Adjournment. The meeting was adjourned at 2:36 p.m.

#### II. OPENING REMARKS - MOTION

Chairperson Holt noted that the purpose of the meeting is to vote on a report of the committee concerning the election contest. Chairperson Holt then moved for adoption of the proposed contested election committee report. Chairperson Holt read from the proposed report which stated that the relief sought by the contestant is not supported by Iowa law, that there exists no legal authority to open and count the twenty-nine ballots in question and thus no right to recanvass or recertify the election, and that the committee recommends the House dismiss the election contest and agree with the official certification showing the incumbent, Michael Bergan, to be duly elected to the Office of State Representative from House District 55. Representative Wolfe objected to the proposed report, and moved to substitute a minority report of the election contest committee which report was distributed to members of the committee.

#### III. CONSIDERATION OF MINORITY REPORT OF THE ELECTION CONTEST COMMITTEE.

Representative Wolfe. Representative Wolfe read excerpts from the minority report, noting that voting is a fundamental right guaranteed by both the United States and Iowa Constitutions and that each state representative took an oath to support the United States and Iowa Constitutions, including the right to vote. Representative Wolfe further noted, as stated in the minority report, that the majority report failed to mention or give consideration to the fundamental right to vote but instead relied on flawed legal reasoning to deny that right to 29 citizens. Representative Wolfe further commented from the minority report that the majority report ignores the equal protection violation that occurred in this election contest as Fayette and Winneshiek county handled ballots received after election day dissimilarly and violates the due process rights afforded all Iowans and the contestant by not allowing for witnesses to testify before the committee. Representative Wolfe concluded, in reading from the

minority report, that the majority report is contrary to the rule of law and that members of the House of Representative should do their sworn duty and count every vote.

Committee vote. The committee failed to approve the motion to substitute the minority report for the proposed contested election committee report with two aye votes and three nay votes. Representative Wolfe and Representative Meyer voted in favor of the substitution, with Chairperson Holt, Representative Jacobsen, and Representative Windschitl voting against the substitution.

#### IV. CONSIDERATION OF PROPOSED CONTESTED ELECTION COMMITTEE REPORT:

Representative Wolfe. Representative Wolfe stated that the key legal authority in this election contest is Article II, section 1 of the Iowa Constitution that guarantees every citizen the right of suffrage, the right to vote. Representative Wolfe noted, though, that narrowly tailored restrictions on this right are allowed, and Iowa Code section 53.17 establishes the manner of determining whether a voter has complied with the requirement that an absentee ballot must be mailed one day before the election in order to be counted. The Code section authorizes the examination of an intelligent mail barcode in determining whether an absentee ballot was timely mailed and in this case, the 29 absentee ballots were indisputably mailed on time as the United State Postal Service(USPS) was able to confirm that the absentee ballots had a traceable barcode which indicated when the ballots were mailed. Interpreting administrative rules describing the Intelligent Mail barcode Tracing system provided by the USPS as being the only barcode that can be used to determine whether an absentee ballot is timely mailed is incorrect. Administrative rules should not limit rights established by the Constitution and unduly narrow procedures established by statute to govern these constitutional rights. The law should be interpreted to allow all voters the same right to have their votes count, regardless of whether the county agree to use the Intelligent Mail barcode Tracing system. Equal protection and the constitutional right to vote requires that if a barcode on a ballot reliably ascertains the date of mailing, that ballot, if mailed on time, should be counted. In this case, all 29 absentee ballots should be opened and counted.

Representative Meyer. Iowa Code section 57.5 provides the committee, and the Iowa House, with the clear authority to open and count every ballot in this contested election, including the 29 absentee ballots. The Code section provides that any party to a contested election shall have the right, in open session, to have the ballots opened and all errors in counting or refusing to count ballots corrected. No evidence or witnesses were presented to the election committee, only attorney arguments. Equal protection concerns exist in this contest as Fayette County counted similarly situated ballots that Winneshiek county failed to count. The right to vote is fundamental and the election committee should have been predisposed to count every ballot and to not rely on a narrow interpretation of intelligent mail barcode to disenfranchise 29 voters in Winneshiek county.

Chairperson Holt. Chairperson Holt noted that the goal of the election committee was to provide a fair process that focused on the facts and the rule of law. In this contest, the contestant made three requests, to count the 29 absentee ballots, to recanvass the ballots, and to recertify the results of the election. All fundamental rights, including the right to vote, can be subject to lawful parameters designed to protect that right. For absentee ballots, Iowa Code section 53.17 establishes lawful

parameters for determining whether an absentee ballot received after election day can be counted. In this case, the 29 absentee ballots were not received by election day, did not contain a postmark, and did not contain an intelligent mail barcode as provided by law. In this case, the barcodes on the 29 absentee ballots were not intelligent mail barcodes. Legislative debate was clear that the intelligent mail barcode authorized by Iowa code section 53.17 is the barcode affixed pursuant to the Intelligent Mail barcode Tracing system offered by the USPS. The use of this system is optional under Iowa law and the system requires the mailer to subscribe to the system and affix the barcode. In this case, Winneshiek county did not subscribe to and utilize the Intelligent Mail barcode Tracing system. Mail barcodes other than those utilizing the Intelligent Mail barcode Tracing system are sprayed on by the USPS and are used inconsistently by the USPS, making reliance on these barcodes unreliable. No more evidence is needed to determine the meaning of intelligent mail barcode in the Iowa code as it relates to this election contest. Chairperson Holt stated that the proposed election committee report reflects the facts of this election contest and concluded his remarks by reading the proposed contested election committee report.

Committee vote. The committee voted to adopt the proposed contested election committee report as the report of the election contest committee with three aye votes and two nay votes. Chairperson Holt, Representative Jacobsen, and Representative Windschitl voted in favor of the proposed report, with Representative Meyer and Representative Wolfe voting against the proposed report.

#### V. CONCLUDING REMARKS.

Representative Holt stated that the adopted report would be submitted for consideration by the Iowa House of Representatives next week. Representative Wolfe requested that, pursuant to House rule 55, the minority report be noted in the House journal.

#### VI. MATERIALS FILED WITH THE LEGISLATIVE SERVICES AGENCY

Proposed Contested Election Committee Report

Minority Report of the election contest committee

Contested Election Committee Report - adopted