

NORTH DAKOTA LEGISLATIVE MANAGEMENT

Minutes of the

GOVERNMENT SERVICES COMMITTEE

Wednesday, July 13, 2011
Roughrider Room, State Capitol
Bismarck, North Dakota

Representative Jeff Delzer, Chairman, called the meeting to order at 10:00 a.m.

Members present: Representatives Jeff Delzer, Glen Froseth, Ed Gruchalla, Lisa Meier, Todd Porter, David S. Rust, Blair Thoreson, Don Vigasaa, Alon Wieland; Senators Lonnie J. Laffen, Gary A. Lee, Donald Schaible

Members absent: Representatives Duane DeKrey, Matthew M. Klein, Curtiss Kreun, Bob Martinson, Phillip Mueller, Vicky Steiner; Senator David O'Connell

Others present: See [Appendix A](#)

Mr. Allen H. Knudson, Legislative Budget Analyst and Auditor, reviewed the [Supplementary Rules of Operation and Procedure of the North Dakota Legislative Management](#).

EXPANSION OF COMMITTEE DUTIES

Chairman Delzer distributed a letter from Representative Al Carlson, Chairman, Legislative Management, regarding additional duties assigned to the Government Services Committee ([Appendix B](#)). At the request of Chairman Delzer, the legislative budget analyst and auditor reviewed the following additional committee duties:

1. Monitor the status of state revenues and expenditures for the 2011-13 biennium.
2. Receive input from major state agencies regarding the status of their budgets and changes in federal funds.
3. Receive information from state agencies regarding estimated cost-to-continue items for the 2013-15 biennium.
4. Receive the July 2012 revised 2011-13 biennium and the preliminary 2013-15 biennium general fund revenue forecasts.
5. Review projected revenues, expenditures, and fund balances of major state funds.
6. Identify and prioritize potential one-time funding items for the 2013-15 biennium.
7. Discuss possible legislative initiatives affecting the budget, including initiatives to return excess revenues to taxpayers.
8. Identify key budget issues for the 2013 legislative session.
9. Determine, in consultation with the Office of Management and Budget, a sustainable level of spending for the 2013-15 biennium.

10. As appropriate, make recommendations to the Legislative Management.

STUDY OF OPTIONS FOR RELOCATING THE HIGHWAY PATROL TRAINING ACADEMY

At the request of Chairman Delzer, the Legislative Council staff presented a memorandum entitled [Study of Options for Relocating the Highway Patrol Training Academy - Background Memorandum](#) relating to the committee's assigned study to review options for relocating the Highway Patrol training academy. The Legislative Council staff said the Highway Patrol training academy was established in Bismarck after receiving an appropriation from the Legislative Assembly in 1969. The Legislative Assembly appropriated \$165,000 for the construction of the facility with funding from a one-time fee of 50 cents assessed to each motor vehicle driver's license that was issued during a two-year period. The facility was built in 1971 and consisted of two classrooms, dormitory rooms containing 40 beds, and a dining hall. The Legislative Assembly in 1995 approved \$1.2 million of funding for an addition to the facility, which was completed in August 1997. The funding was from proceeds of short-term financing provided by the State Building Authority and repaid through a one-time assessment of an additional \$2 fee on motor vehicle registrations for passenger vehicles, trucks weighing 12,000 pounds or less, and house cars. The addition included space for a multipurpose room, four dormitory rooms, two classrooms, and an administrative office.

The Highway Patrol training academy is located on the south edge of the campus of Bismarck State College. The Highway Patrol utilizes a parking lot adjacent to the Bismarck Community Bowl and Aquatics Center for an emergency vehicle operations course. The Highway Patrol does not operate a shooting range.

The Highway Patrol's appropriation includes a line item for the operations of the training academy. The source of funding appropriated to the training academy is from the general fund and the highway tax distribution fund. The following table lists

appropriations made by the Legislative Assembly specifically for the training academy since the 2007-09 biennium:

2011-13 biennium	\$1,602,488
2009-11 biennium	\$1,496,942
2007-09 biennium	\$1,401,289 ¹

¹The 2007 Legislative Assembly also authorized the Highway Patrol to transfer \$100,000 of the \$150,000 provided for automated external defibrillators to the training academy to provide additional law enforcement and emergency services training.

The Legislative Council staff presented the following proposed study plan for consideration by the committee:

1. Receive and review information regarding the current location of the training academy, including the ability of the current location to meet the training needs of law enforcement agencies in the state.
2. Receive and review information regarding the feasibility and desirability of relocating the training academy or emergency vehicle operations course, including potential locations to relocate the facilities.
3. Receive and review information regarding the feasibility and desirability of constructing a shooting range for the training academy, including potential locations to construct the range.
4. Receive information from the Highway Patrol, Attorney General, local police departments, local sheriff's offices, and other law enforcement agencies regarding the training needs of law enforcement agencies.
5. Receive testimony from other interested persons regarding the committee's study of options for relocating the training academy or portions of the academy.
6. Develop recommendations and any bill drafts necessary to implement the recommendations.
7. Prepare a final report for submission to the Legislative Management.

Chairman Delzer announced that without objection, the committee will adopt the proposed study plan.

Colonel James J. Prochniak, Superintendent, Highway Patrol, presented information regarding the operations of the Highway Patrol training academy ([Appendix C](#)). He said the Highway Patrol training academy has a staff of six which includes a training director, field training coordinator, operations coordinator, administrative assistant, and two cooks. He said the Highway Patrol training academy provides basic and advanced training for all law enforcement agencies with no charges to the agencies for tuition, room, or board. He presented the following schedule detailing basic training provided by the Highway Patrol training academy:

Highway Patrol Training Academy - Basic Training Graduates for 2008, 2009, and 2010		
Type of Agency Served	Number of Agencies Utilizing the Training Academy	Number of Basic Training Graduates
Police department	29	112
Sheriff's department	35	87
State agency	9	51
Total	73	250

Colonel Prochniak said the training academy is also utilized by other state agencies and law enforcement agencies for various training activities.

Colonel Prochniak said the Highway Patrol uses a private indoor shooting range for training purposes. He said an older outdoor range owned by the Department of Corrections and Rehabilitation is also used but has limitations regarding when the range may be used and the types of weapons that may be used.

Colonel Prochniak said the Highway Patrol presented a proposal to the Legislative Assembly in 2011 to relocate the training academy and emergency vehicle operations course to a new location in Bismarck. He said the proposal provided for the construction of an emergency vehicle operations course and indoor shooting range during the 2011-13 biennium and for the construction of a training academy building in a future biennium.

In response to a question from Representative Delzer, the Legislative Council staff said the 2011-13 executive budget recommendation included funding of \$4,090,000 for the construction of the emergency vehicle operations course and indoor weapons range. Of the total funding, \$3,558,300 was from the general fund, and \$531,700 was from the highway tax distribution fund. The Legislative Assembly did not approve the funding.

In response to a question from Representative Rust, Colonel Prochniak said the proposed location for the new Highway Patrol training academy is east of Bismarck, near the city landfill, and encompasses 27 acres. He said the city of Bismarck owns the land where the training academy would be located.

In response to a question from Representative Delzer, Colonel Prochniak said the total estimated cost of the proposed training academy complex, including the training academy building, is \$23.9 million.

In response to a question from Representative Wieland, Colonel Prochniak said the city of Bismarck would donate the land to the Highway Patrol for the training academy.

In response to a question from Representative Delzer, Colonel Prochniak said the Highway Patrol training academy normally provides three 11-week basic law enforcement training courses per year. He said a Highway Patrol trooper training course is a 26-week course.

In response to a question from Representative Porter, Colonel Prochniak said representatives of Bismarck State College have expressed interest in

using the existing training academy building if the training academy is relocated. He said the current insured value of the building is approximately \$2.5 million.

In response to a question from Representative Delzer, Colonel Prochniak said the new Highway Patrol training academy facility is proposed to be in Bismarck due to the central location of the city and because the existing training academy is located in the city.

In response to a question from Representative Froseth, Colonel Prochniak said Lake Region State College offers a degree in law enforcement. He said students enrolled in the course pay tuition and fees. He said the training offered by the Highway Patrol training academy is for law enforcement officers that are already employed by a law enforcement agency.

Dr. Larry Skogen, President, Bismarck State College, provided comments to the committee regarding the Highway Patrol training academy. He said Bismarck State College has expanded substantially since the academy was originally built. He said the college could utilize the existing training academy facility space if the training academy relocated. He expressed concern regarding the safety of students due to the location of the Highway Patrol emergency vehicle operations course on campus.

Mr. Bill Wocken, Administrator, City of Bismarck, provided comments regarding the proposed location for the new Highway Patrol training academy. He said the city of Bismarck has adopted a long-range plan that provides for the construction of a training academy at the proposed location. He said the city of Bismarck would provide the land to the Highway Patrol at no cost.

Chairman Delzer asked the Highway Patrol to provide information at a future meeting regarding the maintenance costs of the existing training academy facility and the estimated maintenance costs for the proposed training academy facility.

Representative Porter suggested the committee receive information regarding existing law enforcement and fire department training facilities operated by political subdivisions, the cost of constructing an interchange on Interstate 94 near the proposed Highway Patrol training academy facility, and the feasibility and desirability of requiring law enforcement agencies to pay a fee to access training offered by the academy. He also suggested the committee receive information regarding options to relocate the Highway Patrol's Bismarck district office to the proposed training academy location.

Representative Delzer said the committee should receive information on existing state facilities in all parts of the state that could be converted or made available for use as a training academy.

STUDY OF THE USE OF STATE-OWNED AIRPLANES

At the request of Chairman Delzer, the Legislative Council staff presented a memorandum entitled [Study of the Use of State Airplanes - Background Memorandum](#) relating to the committee's assigned study to review the use of aircraft owned by state agencies, including the feasibility and desirability of placing all state aircraft under the control of State Fleet Services. The Legislative Council staff said excluding the North Dakota University System, five state agencies own a total of eight airplanes. The table below details the ownership of airplanes by state agencies, including the purpose of ownership:

Agency	Aircraft	Purpose
Department of Transportation	1998 Beechcraft-Raytheon King Air	Passenger transportation
Department of Transportation	1977 Piper Cheyenne	Passenger transportation
Department of Transportation	1975 Cessna Skymaster	Engineering photography
Aeronautics Commission	1980 Cessna Skymaster	Airport inspections and construction
Game and Fish Department	2006 American Champion Scout	Wildlife surveys
Game and Fish Department	2006 Cessna 182	Enforcement
Highway Patrol	2007 Cessna 206	Enforcement
Attorney General	1965 Beechcraft Baron	Enforcement

The University of North Dakota (UND) owns 72 aircraft and the UND Aerospace Foundation owns an additional 56 aircraft which are used primarily for flight training purposes and occasionally for passenger transportation. North Dakota State University (NDSU) does not own any aircraft but leases a King Air B200 airplane from the NDSU Development Foundation for passenger transportation purposes.

The Legislative Council staff said North Dakota Century Code Section 24-02-03.3 requires the Department of Transportation to operate a central vehicle management system (State Fleet Services) to regulate the operation, maintenance, and management of all motor vehicles owned or leased by the state. Each state agency that utilizes a vehicle from State Fleet Services pays a fee to State Fleet Services for the cost of the vehicle, including operating costs. The fee is based on the estimated costs of acquiring and maintaining the vehicle.

The Legislative Council staff presented the following study plan for consideration by the committee:

1. Receive and review information regarding which state agencies own or lease airplanes, the reasons why the agencies own or lease airplanes, and the frequency of use of the airplanes.

2. Receive information regarding the number of staff employed by state agencies for the purpose of operating airplanes.
3. Receive and review information regarding State Fleet Services, including the feasibility and desirability of placing state-owned aircraft under the control of State Fleet Services.
4. Receive testimony from other interested persons regarding the committee's study of the use of state-owned airplanes.
5. Develop recommendations and any bill drafts necessary to implement the recommendations.
6. Prepare a final report for submission to the Legislative Management.

Chairman Delzer announced that without objection, the committee will adopt the proposed study plan.

Department of Transportation Aircraft

Mr. Francis Ziegler, Director, Department of Transportation, presented information regarding aircraft owned by the department and the operations of State Fleet Services ([Appendix D](#)). He said the department provides air transportation service to several state agencies, including the Governor's office. He said the department has four permanent employees to provide air service which includes three pilots and a maintenance manager. He said the department also has a temporary employee to provide aircraft scheduling services and several temporary part-time pilots available as needed.

Mr. Ziegler presented the following schedule regarding aircraft owned by the Department of Transportation:

Aircraft	Passenger Capacity	Flight Hours		
		2008	2009	2010
1975 Cessna Skymaster	1 pilot, 1 passenger (also contains photography equipment)	142	191	403
1977 Piper Cheyenne	2 pilots, 5 passengers	190	110	133
1998 Beechcraft-Raytheon King Air	2 pilots, 7 passengers	288	216	242

Mr. Zeigler said the Department of Transportation charges other agencies a fee for providing air transportation services. He said the fees are used to recover costs relating to the operation of the aircraft and are not used to generate a profit. He presented the following schedule detailing the current rates charged to other agencies for air service:

Aircraft	Rate Per Hour
1975 Cessna Skymaster	\$413
1977 Piper Cheyenne	\$923
1998 Beechcraft-Raytheon King Air	\$995

Representative Porter suggested the committee receive detailed information regarding the costs included in the hourly fees charged by the Department of Transportation for air service. He said all costs for the aircraft should be reviewed, including pilot training and funding reserves for engine replacement and aircraft maintenance. Chairman Delzer asked the Department of Transportation to provide the information at a future meeting.

In response to a question from Senator Laffen, Mr. Ziegler said he would provide the committee with information at a future meeting regarding the total cost of operating each airplane for the past two years.

In response to a question from Representative Delzer, Mr. Ziegler said the Department of Transportation employs a part-time temporary employee to schedule airplane service and to coordinate flights among agencies. He said he would provide additional information to the committee at a future meeting regarding the position.

State Fleet Services

Mr. Ziegler said State Fleet Services is responsible for all state-owned vehicles, including the purchase and maintenance of the vehicles. He said vehicles that are due for replacement or are no longer needed are sold at public auction. He presented the following information regarding the number of vehicles operated by State Fleet Services:

Vehicle Type	Number of Vehicles (as of July 2010)
Sedans and passenger vehicles	1,365
Pickups and other utility vehicles	1,321
Trucks and other heavy vehicles	573
Total	3,259

Mr. Ziegler said approximately 420 vehicles are located at 10 motor pool locations throughout the state that may be reserved for daily use by any state agency. He said the remaining vehicles are assigned to a specific agency based on the needs of the agency.

Mr. Ziegler said each agency is charged a per mile or per hour fee for the use of a State Fleet Services vehicle. He said the fee is used to pay the operating and replacement costs of the vehicle.

Committee Discussion

Representative Porter said the feasibility of operating certain airplanes should be reviewed. He said replacement parts for older aircraft may be difficult to obtain. He said it may be more efficient to operate newer airplanes but reduce the total number of airplanes owned by the state.

Representative Froseth suggested the committee receive information regarding the cost of using commercial air service in the state. He said it may be more economical for state agencies to utilize

commercial air service rather than owning and operating an aircraft.

Captain Dave Kleppe, Support Services Commander, Highway Patrol, said the Highway Patrol operates a 2007 Cessna Model 206 airplane. He said the airplane has specialized equipment, including a thermal imaging system and software to assist in conducting ground searches.

Mr. Larry Taborsky, Director, North Dakota Aeronautics Commission, said the commission has a 1980 Cessna Skymaster airplane that is used to travel to airports in the state to inspect operations. He said the Department of Transportation occasionally uses the commission's airplane when needed.

In response to a question from Representative Delzer, Representative Porter said the Legislative Assembly in 2011 authorized the Aeronautics Commission to replace its airplane.

Chairman Delzer said the committee would receive information at future meetings regarding airplanes owned by other state agencies, including maintenance costs, hours of service, the per hour operating cost of the airplane, specialized equipment for the airplane, and the justification for the agency to own the airplane.

The committee recessed for lunch at 12:00 noon and reconvened at 1:00 p.m.

OTHER COMMITTEE RESPONSIBILITIES

At the request of Chairman Delzer, the Legislative Council staff reviewed a memorandum entitled [Other Responsibilities of the Government Services Committee - Background Memorandum](#). The Legislative Council staff said the Government Services Committee was assigned the responsibility to review agreements proposed by state agencies with the state of South Dakota. Section 54-40-01 provides that an agency, department, or institution may enter an agreement with the state of South Dakota to form a bistrate authority to jointly exercise any function that the entity is authorized to perform by law. Any proposed agreement must be submitted to the Legislative Assembly or, if the Legislative Assembly is not in session, to the Legislative Management, or a committee designated by the Legislative Management, for approval or rejection. The agreement may not become effective until approved by the Legislative Assembly or the Legislative Management.

STATE BUDGET INFORMATION

At the request of Chairman Delzer, the Legislative Council staff presented an overview of the Legislative Council report entitled [62nd Legislative Assembly State Budget Actions for the 2011-13 Biennium](#). The report provides information on legislative changes to the executive budget, full-time equivalent positions, ongoing and one-time general fund appropriations, federal fiscal stimulus funding, major programs, and

related legislation for each state agency. The report also includes an analysis of major special funds and statistical information.

Chairman Delzer asked the Legislative Council staff to provide information to the committee regarding total costs associated with state employee salaries and fringe benefits.

Ms. Sheila Peterson, Director of Fiscal Management, Office of Management and Budget, presented information regarding the status of the general fund and other state budget information ([Appendix E](#)). She presented the following information on the status of the general fund for the 2009-11 biennium based on revenue collections through May 2011:

Unobligated general fund balance - July 1, 2009		\$361,843,514
Add		
General fund collections through May 31, 2011	\$3,045,520,450	
Forecasted general fund revenue for the remainder of the 2009-11 biennium (based on the April 2011 legislative forecast)	142,356,064	
Transfer estimated balance from permanent oil tax trust fund	676,723,993	
Total estimated general fund revenue for the 2009-11 biennium		\$3,864,600,507
Balance obligated for authorized carryover from the 2007-09 biennium		76,383,530
Estimated total available		\$4,302,827,551
Less		
2009-11 biennium general fund ongoing appropriations	(\$2,970,380,754)	
2009-11 biennium general fund one-time appropriations	(278,984,727)	
Contingent appropriation for centers of excellence (2009 SB 2018)	(5,000,000)	
Contingent appropriation for school district transportation (2009 HB 1013)	(5,000,000)	
Balance obligated for authorized carryover from the 2007-09 biennium	(76,383,530)	
Recommended supplemental appropriations	(37,230,168) ¹	
Total appropriations and estimated deficiency requests		(\$3,372,979,179)
Estimated transfer to the budget stabilization fund		(\$61,414,562) ²
Add		
Estimated unspent authority		20,103,000
Estimated general fund balance - June 30, 2011		\$888,536,810

¹ Recommended supplemental (deficiency) appropriations include:	
State Treasurer	(\$35,000,000)
Tax Department	(1,810,000)
Industrial Commission	(150,000)
Department of Public Instruction	(211,264)
Valley City State University	(58,904)
	(\$37,230,168)
² This estimated transfer is based on the maximum balance allowed in the budget stabilization fund as a percentage of 2011-13 legislative general fund appropriations.	

Ms. Peterson presented the following information on the status of the permanent oil tax trust fund for the 2009-11 biennium:

Beginning permanent oil tax trust fund balance - July 1, 2009	\$489,727,017
Add	
Revenue collections through fiscal year 2010	429,798,186
Revenue collections fiscal year 2011 through May 31, 2011	395,425,554
Forecasted revenues for the remainder of fiscal year 2011	143,607,494 ¹
Total estimated funds available for the 2009-11 biennium	\$1,458,558,251
Less expenditures and transfers	
Transfer to the general fund (2009 HB 1015)	(\$140,000,000)
Transfer to the general fund for mill levy reduction grants program (2009 SB 2199)	(295,000,000)
Transfer to the property tax relief sustainability fund (2009 SB 2199 and 2011 SB 2023)	(299,233,000)
Transfer to the state disaster relief fund (2011 SB 2369)	(22,000,000)
Appropriations (2009 HB Nos. 1015, 1305, and 1394 and SB Nos. 2003 and 2020)	(16,175,100)
Appropriation authority continued from previous biennium	(9,426,158)
Transfer remaining balance to the general fund	(676,723,993)
Estimated permanent oil tax trust fund balance - June 30, 2011	\$0
¹ This estimate assumes June 2011 and July 2011 revenues equal \$71.8 million per month, the same as the amount collected in May 2011.	

Ms. Peterson presented information on general fund revenue collections for May 2011 and the 2009-11 biennium to date. She said general fund revenues collected biennium to date are 8.4 percent more than the 2009 legislative forecast. She said interest income has exceeded estimates by \$6.1 million, or 25.3 percent. She said biennium to date motor vehicle excise tax collections have also exceeded estimates by \$35.2 million, or 42.7 percent.

Ms. Peterson presented information regarding general fund revenue estimates for the 2011-13 biennium. She said the legislative forecast estimates \$2.8 billion of revenue will be deposited in the general fund, and major revenue sources include sales and use tax (\$1.4 billion) and individual income tax (\$545 million). She said \$619 million will be transferred from other funds to the general fund, including a transfer of \$305 million from the strategic investment and improvements fund and a transfer of \$295 million from the property tax relief sustainability fund.

Ms. Peterson provided an overview of the executive budget process. She said the Office of Management and Budget (OMB) releases budget instructions and guidelines to agencies at the beginning of each even-numbered year. She said state agencies develop budgets which are submitted to OMB for review. She said the executive revenue forecast is completed in November, and budget recommendations are finalized for presentation at the organizational session of the Legislative Assembly.

In response to a question from Senator Lee, Representative Delzer said the Legislative Assembly in 2011 did not provide for a 2011-13 biennium transfer to the general fund from the profits of the Bank of North Dakota.

In response to a question from Representative Delzer, Ms. Peterson said she would provide information to the committee at a future meeting regarding any projected variances in oil and gas production tax and oil extraction tax collections for the 2011-13 biennium.

In response to a question from Representative Froseth, Representative Delzer said the Legislative Assembly in 2011 eliminated the permanent oil tax trust fund. He said the elimination of the fund does not affect the distribution of oil and gas production taxes to political subdivisions.

COMMITTEE DISCUSSION AND STAFF DIRECTIVES

Chairman Delzer announced that the next committee meeting will be in late 2011.

The meeting was adjourned at 2:00 p.m. subject to the call of the chair.

Brady A. Larson
Fiscal Analyst

ATTACH:5