

# NORTH DAKOTA LEGISLATIVE MANAGEMENT

## Minutes of the

### GOVERNMENT SERVICES COMMITTEE

Wednesday, December 14, 2011  
Roughrider Room, State Capitol  
Bismarck, North Dakota

Representative Jeff Delzer, Chairman, called the meeting to order at 9:00 a.m.

**Members present:** Representatives Jeff Delzer, Duane DeKrey, Glen Froseth, Ed Gruchalla, Matthew M. Klein, Curtiss Kreun, Bob Martinson, Lisa Meier, Phillip Mueller, Todd Porter, David S. Rust, Vicky Steiner, Blair Thoreson, Don Vigasaa, Alon Wieland; Senators Ron Carlisle, Lonnie J. Laffen, Gary A. Lee, Donald Schaible

**Member absent:** Senator David O'Connell

**Others present:** Allen H. Knudson, Legislative Budget Analyst and Auditor, Roxanne Woeste, Legislative Council, Bismarck

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

Chairman Delzer welcomed Senator Ron Carlisle who was appointed to the committee by the chairman of the Legislative Management.

**It was moved by Representative Klein, seconded by Representative Porter, and carried on a voice vote that the minutes of the July 13, 2011, meeting be approved as distributed.**

#### STATE BUDGET INFORMATION

##### State Budget Actions During the

##### November 2011 Special Legislative Session

Chairman Delzer called on Ms. Roxanne Woeste, Assistant Legislative Budget Analyst and Auditor, Legislative Council, to provide an overview of the [62<sup>nd</sup> Legislative Assembly State Budget Actions Supplement Report for the 2011-13 Biennium](#). Ms. Woeste said the report provides information regarding additional appropriations and revenue changes for the 2011-13 biennium made by the Legislative Assembly during the November 2011 special legislative session.

In response to a question from Representative Delzer, Ms. Woeste said the maximum balance of the budget stabilization fund is limited to an amount equal to 9.5 percent of total general fund appropriations made by the most recently adjourned Legislative Assembly. She said due to additional general fund appropriations made during the November 2011 special legislative session, the maximum balance allowed in the fund has increased from \$386,351,110 to \$402,485,214. She said based on estimated interest income, the balance of the fund is expected to be \$398,851,110 at the end of the 2011-13 biennium.

#### State Budget and Fiscal Trends

Chairman Delzer called on Mr. Allen H. Knudson, Legislative Budget Analyst and Auditor, Legislative Council, to present a report on state [Budget and Fiscal Trends](#). Mr. Knudson said the report provides a historical perspective of information relating to state revenues, state appropriations, and other fiscal information.

In response to a question from Representative Delzer, Mr. Knudson said the permanent oil tax trust fund was closed at the end of the 2009-11 biennium, and the remaining balance in the fund was transferred to the general fund.

In response to a question from Representative Mueller, Mr. Knudson said the personal income growth rate in North Dakota has been increasing faster than in other states.

In response to a question from Representative Delzer, Mr. Knudson said he would provide the committee with information regarding the number of clients served by the Department of Human Services' Medicaid program for recent years.

In response to a question from Representative Wieland, Mr. Knudson said the North Dakota University System currently has 2,246 full-time equivalent (FTE) positions supported by the general fund. He said he would provide information to the committee regarding the total number of University System employees.

Representative Froseth said elementary and secondary schools in areas affected by oil and gas development are experiencing rapid growth in student enrollment. He said the enrollment growth is expected to happen prior to the 2013 legislative session, and legislators need to be aware of the challenges facing the school districts.

Representative Rust said the Legislative Assembly in 2011 provided \$5 million for rapid enrollment grants for school districts during the 2011-13 biennium. He said approximately \$2.5 million of grant funding is estimated to be provided to school districts during the 2011-12 school year.

#### Estimated State Revenue Sources and Distributions

The Legislative Council staff presented a memorandum entitled [Revenue Sources and Distributions for Major State Funds for the 2011-13 Biennium](#). The Legislative Council staff said the

memorandum provides an overview of estimated major state revenue collections during the 2011-13 biennium, including how the revenue collections are allocated to political subdivisions and appropriated to state agencies. The memorandum also provides information regarding major state funds, including the estimated balance of the funds at the end of the 2011-13 biennium.

In response to a question from Representative Froseth, the Legislative Council staff said the balance of the common schools trust fund, excluding the value of land and mineral rights held by the fund, is approximately \$1.2 billion.

**Oil Tax-Related Information**

The Legislative Council staff presented a memorandum entitled [Oil Tax-Related Information for the 2011-13 Biennium](#). The Legislative Council staff said the oil extraction tax rate is 6.5 percent, and the gross production tax rate on oil is 5 percent. Oil extraction tax collections are allocated to the foundation aid stabilization fund, common schools trust fund, resources trust fund, legacy fund, and any remaining collections are considered the state share. Oil and gas gross production tax collections are allocated to political subdivisions in oil-producing counties, the oil and gas impact grant fund, the legacy fund, and any remaining collections are considered the state share. The state share of oil and gas tax collections are allocated among various state funds, including the oil and gas research fund, general fund, property tax relief sustainability fund, strategic investment and improvements fund, and state disaster relief fund.

In response to a question from Representative Delzer, the Legislative Council staff said if the strategic investment and improvements fund reaches a balance of \$300 million, 25 percent of any additional deposits designated for the fund are instead deposited in the legacy fund.

In response to a question from Representative Klein regarding oil extraction tax exemptions for oil recovery projects, Representative Delzer said secondary oil recovery projects use water flooding and tertiary recovery projects use other recovery methods, including carbon dioxide displacement.

**Status of Major State Funds**

Ms. Pam Sharp, Director, Office of Management and Budget, presented information ([Appendix B](#)) regarding the status of major state funds, state appropriations, and estimated cost-to-continue items during the 2013-15 biennium. She presented the following information on the status of the state general fund for the 2011-13 biennium:

Unobligated general fund balance - July 1, 2011		\$996,832,711
Add		
General fund collections through October 2011	\$981,851,236	
Forecasted general fund revenue for the remainder of the 2011-13 biennium	2,640,703,279	
Total estimated general fund revenue for the 2011-13 biennium		\$3,622,554,515
Balance obligated for authorized carryover from the 2009-11 biennium		106,945,443
Total estimated available		\$4,726,332,669
Less		
2011-13 biennium ongoing general fund appropriations (regular session)	(\$3,532,895,032)	
2011-13 biennium one-time general fund appropriations (regular session)	(533,958,760)	
2011-13 biennium general fund appropriations (November 2011 special session)	(169,832,668)	
Balance obligated for authorized carryover from the 2009-11 biennium	(106,945,443)	
2011-13 emergency appropriations utilized in the 2009-11 biennium	519,254	
Total appropriations		(4,343,112,649)
Estimated general fund balance - June 30, 2013		\$383,220,020 <sup>1</sup>

<sup>1</sup>Pursuant to North Dakota Century Code Section 54-27.2-02, any end-of-biennium balance in excess of \$65 million must be transferred to the budget stabilization fund, up to a maximum amount equal to 9.5 percent of general fund appropriations.

In response to a question from Representative Mueller, Ms. Sharp said most unexpended general fund appropriations are cancelled at the end of a biennium. However, she said, some agencies are allowed to carryover certain unexpended appropriations to spend in a future biennium.

Ms. Sharp presented the following information regarding the balance of selected special funds as of November 30, 2011:

Budget stabilization fund	\$386,351,110
Legacy fund	\$100,000,000
Foundation aid stabilization fund	\$162,016,311

**Status of Oil Production**

Ms. Sharp presented the following information regarding the estimated and actual oil production levels and oil prices in the state from July through October 2011:

	Estimated Daily Average Production (Barrels)	Actual Daily Average Production (Barrels)	Estimated Average Price Per Barrel	Actual Average Price Per Barrel
July 2011	390,000	425,000	\$72.00	\$91.79
August 2011	390,000	444,100	\$72.00	\$80.71
September 2011	392,000	463,887	\$72.00	\$83.50
October 2011	392,000	488,066	\$72.00	\$79.83

**Estimated General Fund Cost-to-Continue Items for the 2013-15 Biennium**

Ms. Sharp presented the following schedule detailing estimated general fund cost-to-continue items for the 2013-15 biennium:

Heritage Center expansion project - Funding for utilities and staff provided for only one year during the 2011-13 biennium	\$450,000
State school aid payments - Delayed implementation of middle school factor and replacing excess 2009-11 biennium funding continued into the 2011-13 biennium	29,300,000
Penitentiary expansion project - Staffing, maintenance, and inmate costs	1,500,000
Industrial Commission - Costs related to new employees that started at various times during the 2011-13 biennium	230,000
Highway Patrol - Costs related to new trooper positions authorized during the November 2011 special legislative session	260,000
Human services - Federal medical assistance percentage continuation	57,600,000
Human services - Cost to continue second-year provider increases	8,000,000
Human services - Costs related to positions authorized during the November 2011 special legislative session for implementation of the federal Affordable Care Act	150,000
Higher education - Cost to continue second-year salary increases	8,600,000
Higher education - Costs related to adding new medical and allied health students	2,000,000
Higher education - Cost to continue the North Dakota academic and career and technical education scholarship programs	500,000
State employees - Cost to continue second-year salary increases	18,500,000
<b>Total</b>	<b>\$127,090,000</b>

In response to a question from Representative Delzer, Ms. Sharp said the Industrial Commission and Highway Patrol cost-to-continue items relate to positions that were only authorized for a portion of the 2011-13 biennium. She said additional funding is needed for the entire 2013-15 biennium.

Chairman Delzer asked Ms. Sharp to provide additional information regarding the cost to continue the North Dakota academic and career and technical education scholarship programs.

**STUDY OF OPTIONS FOR RELOCATING THE HIGHWAY PATROL TRAINING ACADEMY**

The Legislative Council staff distributed a letter ([Appendix C](#)) received from the city of Bismarck regarding land owned by the city that may be used for a new Highway Patrol training academy location.

Colonel James Prochniak, Superintendent, Highway Patrol, presented information ([Appendix D](#)) regarding expenses related to the current training academy facility and other state facilities that may potentially be used for training purposes. He presented the following schedule detailing the estimated 2011-13 biennium maintenance and operating expenses of the current training academy facility:

Data processing and telephone expenses	\$32,000
Utilities	90,000
Equipment rentals and leases	6,000
Repairs	24,000
Service contracts	46,000
Snow removal	4,000
Insurance	2,000
Office and professional supplies	4,000
Computer software	2,000
Food supplies	106,000
Building, grounds, and maintenance supplies	24,000
Laundry and dry cleaning	16,000
Miscellaneous supplies	8,000
Equipment under \$5,000	26,000
<b>Total</b>	<b>\$390,000</b>

Colonel Prochniak said the total program budget for the training academy is \$1,602,488 which includes the program maintenance and operating costs as well as staff salaries, vehicle costs, and other training costs.

Colonel Prochniak said the Highway Patrol reviewed options for utilizing the midway parking lot at the State Fairgrounds in Minot as an emergency vehicle operations training course. He said structures located around the parking lot may present a hazard while training, and additional funding would be required to transport students to Minot for training.

Colonel Prochniak said the School for the Deaf facility in Devils Lake was also reviewed as a potential option for a training academy location. However, he said, the facility would need to be retrofitted for training purposes, and the facility is located in a residential area which would limit options for vehicle and weapons training. He said it is beneficial to have the training facility in Bismarck due to the central location in the state and the ability to coordinate training with other state agencies.

In response to a question from Representative Klein, Colonel Prochniak said fees are generally not charged to entities that utilize the training academy. He said funding for most training offered at the academy is included in the Highway Patrol budget.

In response to a question from Representative Wieland, Colonel Prochniak said other state and local

law enforcement agencies also provide instructors for courses offered at the training academy.

In response to a question from Representative Kreun, Colonel Prochniak said the Highway Patrol training academy offers different levels of training for law enforcement. He said the training academy offers courses to allow students to receive their initial certification in law enforcement as well as courses for continuing education requirements.

Representative Kreun said many counties and cities have law enforcement and fire training facilities, and it may be beneficial for the state and political subdivisions to combine resources for training.

Chairman Delzer asked the Legislative Council staff to compile a list of law enforcement and fire training facilities operated by counties and cities. He said a future meeting agenda will also include information on National Guard training facilities.

Representative Porter said options should be reviewed to locate other offices at the proposed training academy facility, including the Highway Patrol's Bismarck district office and the Attorney General's Bureau of Criminal Investigation office. He said the cost of constructing an interchange on Interstate Highway 94 near the proposed training academy location should be reviewed.

Chairman Delzer asked the Legislative Council staff to contact the Department of Transportation to determine an estimate of the cost of constructing an interchange on Interstate Highway 94 near the proposed training academy location.

Representative Porter said the construction of a new training academy facility should be completed in one phase rather than in multiple phases. He said it is important to have a master plan developed and that all costs are known prior to beginning construction on a facility.

In response to a question from Representative Klein, Chairman Delzer asked the Legislative Council staff to provide information at a future meeting regarding the status of the School for the Deaf future services plan.

Mr. Parrell D. Grossman, City Commissioner, city of Bismarck, presented testimony ([Appendix E](#)) regarding the proposal to relocate the Highway Patrol training academy. He said the city of Bismarck supports the construction of a new Highway Patrol training academy facility. He said the changing needs of western North Dakota require better-trained law enforcement and public safety personnel. He said a new training facility would provide enhanced opportunities to meet the training needs of public safety personnel in the region.

In response to a question from Representative Delzer, Mr. Grossman said the city of Bismarck has agreed to donate 25 acres of land with an estimated value of \$2 million for the proposed training facility. He said the city commission has not discussed providing any additional funding or other resources for the project.

Chairman Delzer said the committee's study directive includes only a review of options for relocating the Highway Patrol training academy. He said the chairman of the Legislative Management would need to approve expanding the study to include a review of options for fire and other emergency services training facilities.

The committee recessed for lunch at 11:45 a.m. and reconvened at 12:45 p.m.

## STUDY OF THE USE OF STATE-OWNED AIRPLANES

### Department of Transportation

Mr. Francis Ziegler, Director, Department of Transportation, provided information ([Appendix F](#)) regarding airplanes used by the department. He said state agencies pay an hourly fee plus pilot costs for using a Department of Transportation airplane. He said the hourly fee is based on historical operating costs, depreciation, and reserves relating to high-cost maintenance items, such as engine repairs.

Mr. Ziegler presented the following schedule detailing the operating and maintenance costs of each department airplane:

Department of Transportation Airplane Operating Costs			
	Fiscal Year 2009	Fiscal Year 2010	Fiscal Year 2011
1998 Beechcraft King Air	\$233,697	\$165,124	\$238,405
1977 Piper Cheyenne	\$199,938	\$161,664	\$231,264
1975 Cessna Skymaster	\$44,285	\$60,070	\$155,153

Mr. Ziegler said aircraft costs can vary significantly between years due to higher usage during statewide disasters and for special projects.

In response to a question from Representative Delzer, Mr. Ziegler said the aircraft operating and maintenance costs do not include salary expenses of pilots or other staff.

Mr. Ziegler said during the past year the Department of Transportation had 11 temporary employees for flight scheduling and aircraft operations duties. He said the total cost of the temporary employees was \$80,070.

In response to a question from Representative Delzer, Mr. Ziegler said charter air transportation service is occasionally used when department aircraft or pilots are not available.

In response to a question from Representative Porter, Mr. Shannon Sauer, Director, Financial Management Division, Department of Transportation, said the hourly rate charged to state agencies for using a department plane does not include costs related to pilot flight hours. Mr. Sauer said salaries related to support personnel are included in the hourly rate, but pilot flight hours are charged separately.

In response to a question from Representative Porter, Mr. Sauer said he would provide the committee with additional detail regarding costs associated with the department airplanes.

**Game and Fish Department**

Mr. Terry Steinwand, Director, Game and Fish Department, provided information ([Appendix G](#)) regarding airplanes owned by the department. He said the department owns a 2006 American Champion Scout plane which is used for research purposes, such as big game surveys. He said the department also owns a 2006 Cessna 182 which is used for law enforcement purposes.

Mr. Steinwand presented a schedule with the following information regarding flight hours and operating costs of the department airplanes:

Game and Fish Department Airplane Operating Costs and Flight Hours			
	Fiscal Year 2009	Fiscal Year 2010	Fiscal Year 2011
2006 American Champion Scout			
Flight hours	437.5	418.6	533.5
Per hour operating costs	\$126.12	\$118.16	\$147.77
2006 Cessna 182			
Flight hours	192.3	219.6	216.3
Per hour operating costs	\$148.21	\$158.12	\$251.16

In response to a question from Representative Porter, Mr. Steinwand said the operating costs of both airplanes increased in fiscal year 2011 due to a propeller and engine replacement on the American Champion Scout airplane and due to avionics upgrades on the Cessna 182.

In response to a question from Representative Kreun, Mr. Steinwand said the Cessna 182 airplane is also used to assist other law enforcement agencies in search and rescue missions. He said the department generally does not get reimbursed for costs associated with the search and rescue missions.

In response to a question from Representative Porter, Mr. Steinwand said the department leases a hangar at the Bismarck airport to house the airplanes. He said the department paid \$10,957 to lease the hangar in fiscal year 2011.

Chairman Delzer asked the Legislative Council staff to provide information regarding hangars utilized by state agencies to house aircraft.

**Attorney General's Office**

Mr. Dallas Carlson, Director, Bureau of Criminal Investigation, Attorney General's office, presented information ([Appendix H](#)) regarding the airplane owned by the office. He said the Attorney General's office obtained a 1965 Beechcraft Baron at no cost through a federal Department of Defense program. He said the airplane is used for transporting evidence, transporting law enforcement agents and emergency personnel, surveillance, and for other various purposes. He said the cost to operate the airplane is \$425 per hour, and the plane has been used 125 hours during the past three years.

In response to a question from Representative Wieland, Mr. Carlson said the Beechcraft Baron airplane has two engines and can transport four passengers.

**Highway Patrol**

Colonel Prochniak presented information ([Appendix I](#)) regarding the airplane owned by the Highway Patrol. He said the Highway Patrol owns a 2007 Cessna 206 which is primarily used for search and rescue operations, assisting in criminal apprehension, traffic-related duties, and AMBER Alert functions. He said the airplane has forward looking infrared (FLIR) equipment to assist in search missions.

Colonel Prochniak presented the following schedule detailing the expenses and flight hours of the Highway Patrol airplane:

Highway Patrol Airplane Expenses and Flight Hours			
	Fiscal Year 2009	Fiscal Year 2010	Fiscal Year 2011
Operating costs, maintenance costs, and hangar lease costs	\$20,834	\$19,644	\$20,596
Ice protection equipment			38,404
Collision avoidance system	33,073		
Navigation equipment	11,342		
Search and rescue equipment	1,557		
Total expenses	\$66,806	\$19,644	\$59,000
Flight hours	236	143	156

In response to a question from Representative Porter, Colonel Prochniak said the operating costs of the airplane do not include the salaries of the Highway Patrol troopers who also serve as pilots.

In response to a question from Representative Delzer, Colonel Prochniak said the plane was purchased primarily with federal asset forfeiture funding. He said the FLIR system was purchased with federal homeland security funding. He said approximately \$35,000 of state funding was used in the purchase of the airplane.

In response to a question from Senator Carlisle, Colonel Prochniak said the Highway Patrol troopers who also serve as pilots receive the same salary as other troopers.

In response to a question from Representative Froseth, Colonel Prochniak said other state and local law enforcement and emergency services agencies may request assistance from the Highway Patrol in search and rescue missions. He said the Highway Patrol is generally not reimbursed for aircraft operating costs incurred in the missions.

**North Dakota Aeronautics Commission**

Mr. Larry Taborsky, Director, North Dakota Aeronautics Commission, presented information ([Appendix J](#)) regarding the airplane owned by the commission. He said the commission purchased a 2008 Cessna 206 airplane in September 2011. He

said the airplane is used primarily for airport safety inspections and passenger transportation. He said the airplane was purchased to replace a 1980 Cessna Skymaster.

Mr. Taborsky said the Cessna 206 airplane is estimated to be used 200 hours each year and the estimated cost per flight hour is \$221. He said the hourly operating cost of the Cessna Skymaster was approximately \$430.

In response to a question from Representative Delzer, Mr. Taborsky said the North Dakota Aeronautics Commission leases hangar space to house the commission airplane. He said the commission contracts with private entities for maintenance work on the airplane.

Representative Porter said it is important for the committee to receive cost information that is comparable among the agencies for the operating and maintenance costs of airplanes.

Chairman Delzer said the committee will request more detailed information from each agency regarding airplane operating costs for the past three years. He also said information will be requested regarding maintenance and support staff costs related to the airplanes.

#### **University of North Dakota and North Dakota State University**

The Legislative Council staff presented a memorandum entitled [Aircraft Operated by the University of North Dakota and North Dakota State University](#). The Legislative Council staff said the University of North Dakota (UND) School of Aviation owns 72 aircraft and the UND Aerospace Foundation owns an additional 56 aircraft which are primarily used for flight training. Other departments and offices at UND are charged an hourly fee for the use of an airplane.

The Legislative Council staff said North Dakota State University (NDSU) does not own any airplanes but leases a KingAir B200 airplane from the NDSU Development Foundation. The lease continues until July 2017, and NDSU can purchase the aircraft for \$1 at the end of the lease.

Representative Steiner suggested the committee receive additional information from NDSU regarding the justification and need for leasing an airplane.

Representative Froseth suggested the committee receive additional information from NDSU regarding the cost to use charter air services rather than leasing an airplane.

Senator Laffen suggested the committee receive additional information regarding the airplane costs at each institution, including commercial air travel utilized by officials at each institution.

Representative Gruchalla suggested the committee receive additional information regarding the 1981-82 interim Legislative Audit and Fiscal Review Committee study on the establishment of a state aircraft pool and the actions by the Legislative Assembly in 1983 regarding the study.

#### **COMMITTEE DISCUSSION AND STAFF DIRECTIVES**

Chairman Delzer announced the next meeting of the committee is tentatively scheduled for March 2012.

No further business appearing, Chairman Delzer adjourned the meeting at 2:30 p.m.

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Brady A. Larson  
Fiscal Analyst

ATTACH:10