

# NORTH DAKOTA LEGISLATIVE MANAGEMENT

Minutes of the

## LEGISLATIVE MANAGEMENT

Thursday, October 4, 2012  
Roughrider Room, State Capitol  
Bismarck, North Dakota

Representative Al Carlson, Chairman, called the meeting to order at 10:20 a.m.

**Members present:** Representatives Al Carlson, Chuck Damschen, David Drovdal, Jerry Kelsh, Shirley Meyer, Kenton Onstad, Dan Ruby, Don Vigesaa, Robin Weisz; Senators Robert Erbele, Joan Heckaman, David Hogue, Ray Holmberg, Gary A. Lee, Larry Robinson, Ryan M. Taylor

**Member absent:** Senator Rich Wardner

**Others present:** Pam Sharp, Office of Management and Budget

Allen H. Knudson, Jason J. Steckler, Becky Keller; Legislative Council, Bismarck

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

**It was moved by Senator Robinson, seconded by Representative Drovdal, and carried on a voice vote that the minutes of the May 1, 2012, meeting be approved as distributed.**

### OPENING REMARKS

Chairman Carlson said the purpose of the meeting is to fulfill the Legislative Council's statutory responsibility to coordinate the determination of the estimated fiscal impact of initiated measures. He said North Dakota Century Code Section 16.1-01-17 requires the Legislative Management to hold hearings, receive public testimony, and gather information on the estimated fiscal impact of initiated measures. He said this law resulted from the passage of an amendment to the state constitution in 2004 which permits the Legislative Assembly to provide by law a procedure through which the Legislative Council may establish an appropriate method for determining the fiscal impact of an initiated measure and for making the information regarding the fiscal impact of a measure available to the public.

Chairman Carlson said the Secretary of State has notified the Legislative Council office that three initiated measures qualify for the general election ballot--an initiated constitutional measure relating to farming and ranching, an initiated statutory measure prohibiting smoking in a public place, and an initiated statutory measure relating to preventing animal cruelty.

Chairman Carlson said the procedure for obtaining fiscal information basically tracks that followed during legislative sessions--the Legislative Council staff requested the state agencies that appear to have either the best information on the impact of a measure or the primary responsibility for compiling and maintaining relevant information to present their determinations at this meeting. He emphasized the only purpose of

holding this meeting is to meet the Council's statutory responsibility to obtain fiscal information on each measure, and the Legislative Management is not holding this meeting to hear testimony on the merits of any measure.

### INITIATED MEASURE RELATING TO PRACTICES OF FARMING AND RANCHING

This initiated measure ([Appendix B](#)) would create a new Section 29 to Article XI of the Constitution of North Dakota. This section would provide the right of farmers and ranchers to engage in modern farming and ranching practices is forever guaranteed in this state. The section would provide that no law may be enacted which abridges the right of farmers and ranchers to employ agricultural technology, modern livestock production, and ranching practices. This measure is initiated constitutional measure No. 3 on the general election ballot.

Chairman Carlson recognized Ms. Pam Sharp, Director, Office of Management and Budget. Ms. Sharp reviewed the fiscal impact statement ([Appendix C](#)) the Office of Management and Budget (OMB) provided to the Legislative Council. She said OMB is unable to determine the fiscal impact of measure No. 3.

**It was moved by Senator Robinson, seconded by Representative Drovdal, and carried on a roll call vote to accept the statement of OMB which concluded OMB is unable to determine the fiscal impact of measure No. 3, if any.** Representatives Carlson, Damschen, Drovdal, Kelsh, Meyer, Onstad, Ruby, Vigesaa, and Weisz and Senators Erbele, Heckaman, Hogue, Holmberg, Lee, Robinson, and Taylor voted "aye." No negative votes were cast.

### INITIATED MEASURE PROHIBITING SMOKING IN PUBLIC PLACES AND PLACES OF EMPLOYMENT

This initiated measure ([Appendix D](#)) would prohibit smoking, including the use of electronic cigarettes, in public places and places of employment in the state, including hotel rooms, bars, and gaming facilities. The measure would require the owner, operator, manager, or other person in control of a public place or place of employment in which smoking is prohibited to post smoking prohibited signs and require such persons to enforce the smoking prohibitions. The measure would require state's attorneys to enforce the smoking

prohibitions. This measure is initiated statutory measure No. 4 on the general election ballot.

Chairman Carlson recognized Ms. Sharp. Ms. Sharp reviewed the fiscal impact statement ([Appendix C](#)) OMB provided to the Legislative Council. She said OMB is unable to determine the fiscal impact of measure No. 4. She said, however, there are provisions in measure No. 4 which may have a fiscal impact.

Ms. Sharp said Section 2 of the measure allows owners or managers of facilities to apply to local health departments or districts and rebut the 20 feet no smoking zone near entrances, and this may result in local health departments or districts incurring costs. She said OMB cannot quantify those costs.

Ms. Sharp said Section 3 requires proprietors to post signs and that may cause additional costs. She said OMB cannot quantify those costs.

Ms. Sharp said Section 4 authorizes state's attorneys to ask the Attorney General to adopt rules. She said this may require expenditures, but OMB cannot quantify those costs.

Chairman Carlson recognized Ms. Jeanne Prom, Center for Tobacco Prevention and Control Policy. Ms. Prom said local health units have been very helpful in providing signage for local no smoking ordinances.

**It was moved by Senator Heckaman, seconded by Senator Robinson, and carried on a roll call vote to accept the statement of OMB which concluded OMB is unable to determine the fiscal impact of measure No. 4, if any.** Representatives Carlson, Damschen, Drovdal, Kelsh, Meyer, Onstad, Vigesaa, and Weisz and Senators Erbele, Heckaman, Hogue, Holmberg, Lee, Robinson, and Taylor voted "aye." Representative Ruby voted "nay."

### INITIATED MEASURE RELATING TO PREVENTION OF ANIMAL CRUELTY

This initiated measure ([Appendix E](#)) would provide that it is a Class C felony to maliciously and intentionally burn, poison, crush, suffocate, impale, drown, blind, skin, beat to death, drag to death, exsanguinate, disembowel, or dismember any living dog, cat, or horse. The measure would provide that the prohibitions would not apply to licensed or permitted hunting, trapping, and fishing, testing or treatments performed by or under the supervision of licensed veterinarians, lawful medical or scientific research, lawful activities undertaken to protect a person's life or property from a serious threat caused by a dog, cat, or horse, or any other lawful activity exempt from the statutory definition of "cruelty" or "torture." This measure is initiated statutory measure No. 5 on the general election ballot.

Chairman Carlson recognized Ms. Sharp. Ms. Sharp reviewed the fiscal impact statement ([Appendix C](#)) OMB provided to the Legislative Council. She said OMB is unable to determine the fiscal impact of measure No. 5. She said costs would depend on the number of Class C felonies charged and the number of defendants incarcerated.

In response to a question from Representative Ruby, Ms. Sharp said she does not know how many misdemeanor charges of animal cruelty have been brought in the past few years. Senator Robinson said he had attended a meeting on this measure and information provided indicated very few misdemeanor cases of animal cruelty were brought in the past few years.

**It was moved by Senator Robinson, seconded by Representative Damschen, and carried on a roll call vote to accept the statement of OMB which concluded OMB is unable to determine the fiscal impact of measure No. 5, if any.** Representatives Carlson, Damschen, Drovdal, Kelsh, Meyer, Onstad, Ruby, Vigesaa, and Weisz and Senators Erbele, Heckaman, Hogue, Holmberg, Lee, Robinson, and Taylor voted "aye." No negative votes were cast.

**It was moved by Senator Robinson, seconded by Senator Lee, and carried on a roll call vote to forward the fiscal impact statements provided on measures Nos. 3 and 4 to the Secretary of State as provided by Section 16.1-01-17.** Representatives Carlson, Damschen, Drovdal, Kelsh, Meyer, Onstad, Ruby, Vigesaa, and Weisz and Senators Erbele, Heckaman, Hogue, Holmberg, Lee, Robinson, and Taylor voted "aye." No negative votes were cast.

### ADMINISTRATIVE MATTERS

At the request of Chairman Carlson, the Director explained the procedures followed in expense reimbursement of legislators who attend the final Legislative Management meeting at which reports are received from interim committees.

### LEGISLATIVE COUNSEL EMPLOYMENT

Representative Kelsh inquired as to the status of the response to the request for information on the costs of the University of North Dakota (UND) mascot case. The Director said the information the Legislative Council staff has obtained indicates the Secretary of State incurred approximately \$12,000 in legal costs, the Attorney General incurred approximately \$9,500 in costs, and the Legislative Council incurred approximately \$34,000 in legal costs. He said the Legislative Council has requested information from the North Dakota University System and UND and is waiting to receive that information.

No further business appearing, Chairman Carlson adjourned the meeting at 10:58 a.m.

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Jay E. Buringrud  
Legal Services Division Director

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Jim W. Smith  
Director

ATTACH:5