

NORTH DAKOTA LEGISLATIVE MANAGEMENT

Minutes of the

ENERGY DEVELOPMENT AND TRANSMISSION COMMITTEE

Thursday, October 31, 2013
Roughrider Room, State Capitol
Bismarck, North Dakota

Senator Rich Wardner, Chairman, called the meeting to order at 10:00 a.m.

Members present: Senators Rich Wardner, John Andrist, Kelly M. Armstrong, David Hogue, Philip M. Murphy, Connie Triplett; Representatives Tracy Boe, Ben W. Hanson, Todd Porter, Peter F. Silbernagel

Members absent: Representatives Chuck Damschen, Mike Schatz

Others present: Senator Dwight Cook, member of the Legislative Management, was also in attendance. See [Appendix A](#) for additional persons present.

It was moved by Senator Andrist, seconded by Senator Armstrong, and carried on a voice vote that the minutes of the October 14-15, 2013, meeting be approved.

THE LOUIS BERGER GROUP, INC., PROPOSAL

Mr. Lawrence Pesesky, Senior Vice President, and Ms. Holly Bender, Ph.D., Senior Economist, The Louis Berger Group, Inc., gave a presentation ([Appendix B](#)) on the proposal ([Appendix C](#)) for assistance in the study of likely changes to oil industry practices, productions, impacts, and tax policy in the foreseeable future in North Dakota.

In response to a question from Senator Wardner, Ms. Bender said the kickoff meeting would be with the whole committee and would be in person.

Senator Wardner said the study is about sustaining oil activity through forecasting price and production. He said the committee will review the effect of price and production on tax revenues and the use of those revenues for different purposes.

In response to a question from Senator Wardner, Mr. Pesesky said forecasting is about uncertainty. He said to make it more certain, a study needs to get down to the base facts and factors. He said forecasting focuses on what is most likely but also includes reasonable ranges. He said the study would allow for assessing different scenarios through modeling.

In response to a question from Senator Wardner, Mr. Pesesky said the study would look at the competitiveness of this state's tax policies with other state tax policies. Ms. Bender said the study would include the latest technology for secondary and tertiary development in the model.

In response to a question from Senator Triplett, Mr. Pesesky said the study would result in a computer model that would be transferred to the committee so that it could be used in the future with different inputs. He said the computer model would allow the alteration of different drivers and would allow a person to see the relationships with other drivers with changes. Ms. Bender said the tax structure of North Dakota would be in the model with economic and market factors. She said this would provide information useful in addressing tax incentives.

In response to a question from Senator Triplett, Ms. Bender said the study would result in a 20-year forecast, although she would like to go further. She said the length of the forecast is up for discussion.

In response to a question from Senator Andrist, Ms. Bender said there is uncertainty as to tertiary production in oil shale development.

In response to a question from Representative Porter, Ms. Bender said the tax structure is a factor in encouraging industry development of an oil shale play. She said the study would include the decision factors used by the oil industry to continue development. She said these decision factors would be obtained through interviews with the oil industry.

In response to a question from Representative Porter, Mr. Pesesky said the study would need to get to the base level to find the driving behavior for the oil industry. He said technology and price are drivers. He said the additional study for an additional cost would address pricing.

In response to a question from Representative Hanson, Mr. Pesesky said the contract would be a firm fixed-price contract.

In response to a question from Senator Triplett, Mr. Pesesky said after the study is completed, The Louis Berger Group would not update the model. Ms. Bender said The Louis Berger Group would provide information on the data used in the model so that updates in the data could be inputted into the model.

In response to a question from Senator Murphy, Ms. Bender said the study would include a SharePoint site for the project.

KLJ PROPOSAL

Mr. Niles Hushka, President and CEO, KLJ, provided testimony on the company. He said the company has hands in every component of development in western North Dakota. He said his company receives 80 percent of its business from the Bakken. He said there are five factors that will alter the Bakken:

- Fracking technology.
- The use of liquid natural gas infill.
- Automation of field operations.
- Water management.
- Infrastructure.

In response to a question from Senator Wardner, Mr. Hushka said Johnson Corners in McKenzie County is starting to look like a hub. He said there are a number of pipelines and storage options at that location. Because oil can be managed at that location and does not have to commit to any particular end use immediately, it appears to be growing into a hub at which oil is market-priced.

In response to a question from Representative Porter, Mr. Hushka said a hub has an index price when there is a stable commodity. He said there is a stable commodity in this state with one million barrels per day of sustainable oil. He said Bakken oil will soon trade on its own index, and it prices out well with other petroleum products.

Ms. Sandi Tabor, KLJ, provided testimony on environmental policy considerations in the study. She said her company knows the oil industry at every level and knows the assumptions that need to be put into the model. She said KLJ can provide the best information, including information from key regulatory agencies. She said KLJ will work with the Energy and Environmental Research Center and North Dakota State University. She said KLJ has an existing model for forecasting from the *Power Forecast 2012*. She said because there is already a model, KLJ can focus on getting good data.

Mr. Mike Wamboldt, Project Manager, KLJ, gave a presentation ([Appendix D](#)) based on a proposal ([Appendix E](#)) for an analysis of oil industry practices, production, impacts, and tax policy.

In response to a question from Senator Wardner, Mr. Hushka said his company has 800 employees that mainly work in the Bakken. He said his company already does a lot of forecasting as to the future of the Bakken.

In response to a question from Senator Cook, Mr. Hushka said the study will provide information on infrastructure needs and an economic forecast. He said tax policy will be left to the Legislative Assembly.

In response to a question from Representative Porter, Mr. Hushka said his company would testify on the data used and conclusions in the study if relevant to a bill during the next legislative session.

In response to a question from Representative Silbernagel, Mr. Hushka said there will be a summary of this state's tax law in comparison to other states and regions in the United States in the report.

In response to a question from Senator Wardner, Mr. Hushka said his company wants the Bakken to develop. He said the infrastructure investments have made the Bakken a low-cost center for oil and gas. He said his company benefits from the Bakken and so does the state of North Dakota.

In response to a question from Senator Triplett, Mr. Hushka said lost life and safety are intangibles and need to be made tangible to be included within the study. He said safety concerns affect the pace of development. He said the oil industry is sensitive to safety because of the lost time.

In response to a question from Senator Triplett, Mr. Hushka said the study will result in an executive summary and a report. He said the data for the report and summary will be maintained at the company's office. He said most people will want the executive summary.

In response to a question from Senator Triplett, Mr. Hushka said although there may be a conflict of interest with his company and the state, he said the information used is public information and will be used to develop North Dakota.

In response to a question from Senator Triplett, Mr. Hushka said the *Power Forecast 2012* can be used by the state, but it takes a large server. He said some of the information in the study is frozen because it is proprietary. He said 95 percent of the information is publicly accessible and provides the most accurate information on the Bakken.

In response to a question from Senator Murphy, Mr. Hushka said sometimes common knowledge is not correct. He said the study will include verification through contacts with different industries to validate the model. He said the study will be validated at multiple levels.

COMMITTEE DISCUSSION ON PROPOSALS

Senator Triplett said she wished there was the option of having both of the groups work together. She said each company brings different strengths to the table. She said KLJ is integrated into the oil industry and can define the issues well. She said the negatives about KLJ include the short-term timeline for the forecast and the reuse of the existing model. She said The Louis Berger Group does not have intimate knowledge of the Bakken but has superior knowledge with other places and uses a longer forecast timeline. She said in addition, The Louis Berger Group will provide an interactive computer model.

Representative Silbernagel said there is limited time, and KLJ appears to be ahead of the curve on having information. He said if KLJ is chosen, the contract for the study will need to be clear as to deliverables and what the committee needs.

Representative Porter said he likes some of the KLJ optional studies related to transportation and oil and gas infrastructure. He said the infrastructure needed by cities for sewer and water systems is a big issue. He said making a forecast beyond five years is only guessing. He said once the infrastructure needs catch up to tax revenues, the Legislative Assembly will evaluate tax revenues. He said revenues also need to be evaluated so this state can stay competitive. He said KLJ has the advantage as to the inner workings of the oil industry and how to stay competitive.

Senator Wardner said he would not recommend adding a study beyond the base studies. He said both parties cost approximately the same. He said KLJ is familiar with the oil industry and has the upper hand.

Senator Cook said he was impressed with both companies. He said the testimony by KLJ on using liquid natural gas and technology related to water was impressive.

Senator Triplett said The Louis Berger Group has the advantage as to keeping this state competitive because of its experience outside this state. She said if the information only comes from within this state, there is not the same perspective. She said there is a clear advantage for The Louis Berger Group. She said she drafted the language in the study. She said the oil industry will press the Legislative Assembly in the future to reduce taxes on the industry. She said the Legislative Assembly cannot make decisions without a broad understanding from the outside world. She said the longer timeframe of the forecast and the broader perspective of The Louis Berger Group is what the study should contain. She said The Louis Berger Group has Ph.D.s in mineral economics. She said she wants the oil industry to be gentler on the environment. She said KLJ does not use the word environment the way she uses the word environment. She said she wants to know the cost for not doing things right. She wants to know the cost of letting the oil industry go so fast that it accepts the loss of human life. She said North Dakota is the most dangerous place to work. She said the study of the environmental considerations by KLJ will be on how to work around environmental laws.

Senator Andrist said he was uncomfortable voting because of the comparison of apples to oranges. He said he liked both companies but would vote against The Louis Berger Group.

It was moved by Senator Triplett, seconded by Senator Murphy, and failed on a roll call vote to approve The Louis Berger Group, Inc., for recommendation to the Legislative Management as a consultant. Senators Murphy and Triplett voted "aye." Senators Wardner, Andrist, and Armstrong and Representatives Porter, Boe, Hanson, and Silbernagel voted "nay."

It was moved by Senator Murphy, seconded by Representative Silbernagel, and carried on a roll call vote that KLJ be recommended to the Legislative Management as a consultant. Senators Wardner, Andrist, Armstrong, Hogue, and Murphy and Representatives Porter and Silbernagel voted "aye." Senator Triplett and Representatives Boe and Hanson voted "nay."

PIPELINES

Senator Triplett said because of a recent leak in an oil pipeline, she is concerned with the communications to the public of leaks and the relationship between the state and federal government as to the monitoring of pipelines for leaks. She said the protocol for reporting worked flawlessly, but nobody told the public. She said the public needs to be notified. She said this should be made clear in the law and is open to suggestions on how to do it.

Mr. David Glatt, Chief, Environmental Health Section, State Department of Health, provided testimony on pipeline leaks. He said the department wants to be transparent. He said the department is working on providing spill data on the website to the public. He said the department was working on this before the leak but has accelerated the project after the leak. He said the department was working on the issue because of the numerous requests for information on leaks. He provided a copy ([Appendix F](#)) of the information to be provided on the website. He said there are 1,500 spills to 1,600 spills this year, and the majority are small. He said the website will have two databases--one back to 1975 and one for the last 12 months. He said there needs to be a threshold for more public reporting. He said the department is looking at a quantity threshold.

In response to a question from Senator Triplett, Mr. Glatt said the State Department of Health is not involved with a spill on a well pad. He said that is the jurisdiction of the Oil and Gas Division.

In response to a question from Senator Wardner, Mr. Glatt said the list of spills includes agricultural spills and hydraulic hose bursts.

In response to a question from Senator Cook, Mr. Glatt said the State Department of Health is geared to managing risk and containing a spill. He said the next step is to let people know of the spill.

Senator Cook said he was informed of the spill from a telephone call from Tesoro. He said it is the job of the press to let people know of spills. He said he supports the State Department of Health making it easier for the press.

Senator Triplett asked that the State Department of Health coordinate with the Oil and Gas Division so reports of spills on and off of well sites are reported in the same manner.

In response to a question from Senator Triplett, Mr. Glatt said the Oil and Gas Division has a form for spills, and the State Department of Health accepts that form. He said if the spill is reported to the department, the report will be placed on the database.

In response to a question from Senator Andrist, Mr. Glatt said a news release will be part of the procedure to provide information to the public.

No further business appearing, Chairman Wardner adjourned the meeting at 1:51 p.m.

Timothy J. Dawson
Committee Counsel

ATTACH:6