

NORTH DAKOTA LEGISLATIVE MANAGEMENT

Minutes of the

LEGISLATIVE MANAGEMENT

Thursday, November 3, 2011
Prairie Room, State Capitol
Bismarck, North Dakota

Representative Al Carlson, Chairman, called the meeting to order at 1:00 p.m.

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

Members absent: Representatives Chuck Damschen and Dan Ruby

Others present: See attached [appendix](#)

It was moved by Senator Robinson, seconded by Representative Weisz, and carried on a voice vote that the minutes of the May 25, 2011, meeting of the committee be approved as distributed.

It was moved by Senator Holmberg, seconded by Senator Taylor, and carried on a voice vote that Senator Wardner be elected vice chairman of the Legislative Management.

OTHER BUSINESS

Chairman Carlson said the meeting was called for the presentation of interim committee reports relating to the special session beginning on November 7, 2011.

Chairman Carlson said the Legislative Management would consider testimony from Mr. Paul Matthews, Cogswell, regarding the Legislative Management study contained in 2011 House Concurrent Resolution No. 3007 relating to eminent domain laws as they relate to pipeline siting. Chairman Carlson said the study was not prioritized by the Legislative Management for the 2011-12 interim.

Mr. Matthews explained his situation with a pipeline that was placed close to his house and the difficulties he experienced in working with the pipeline company and the easement and compensation. He said the concerns regarding the Keystone XL pipeline route through the Nebraska Sandhills and Ogallala Aquifer have brought to light the need for states to pay special attention to a company's use of eminent domain in siting these pipelines. He suggested the committee reconsider its decision to not study the provisions of House Concurrent Resolution No. 3007 and undertake that study during the remainder of the interim. House Concurrent Resolution No. 3007 calls for the Legislative Management to study eminent domain laws as it relates to pipeline siting. Later in

the meeting, the committee discussed whether to undertake this study.

It was moved by Representative Kelsh, seconded by Senator Taylor, and carried on a roll call vote that the Legislative Management assign the study provisions of House Concurrent Resolution No. 3007 to the interim Energy Development and Transmission Committee. Representatives Kelsh and Meyer and Senators Erbele, Heckaman, Lee, Robinson, and Taylor voted "aye." Representatives Carlson, Vigesaa, and Weisz and Senators Hogue, Holmberg, and Wardner voted "nay."

Chairman Carlson said the Legislative Council staff should as part of the study provide information to the committee regarding existing eminent domain laws in North Dakota, as well as other state laws regarding bonding authority and liability issues for abandoned pipelines.

INTERIM COMMITTEE REPORTS

Legislative Redistricting Committee

Senator Holmberg, Chairman, Legislative Redistricting Committee, presented the interim report of the [Legislative Redistricting Committee](#). He said the plan recommended by the committee provides for 47 legislative districts, the same number that has been in place for the last 10 years. He said the committee has before it a copy of the redistricting plan ([Template A](#)). He said several meetings were held to develop a plan. He said while it is not a perfect plan, it does address the traditional districting principles, including compactness, contiguity, preservation of political subdivision boundaries, preservation of communities of interest, preservations of prior districts, protection of incumbents, and compliance of Section 2 of the Voting Rights Act.

Senator Holmberg said the plan developed keeps the Indian reservations intact within legislative districts, and the 47 districts on average--14,310 residents per district--provides for the fewest people per legislative district in the United States. He said the population deviation in 2001 was approximately 10 percent, and committee members agreed that any plan recommended would have a range of 9 percent or less. He said the plan recommended by the committee has an overall population deviation of 8.38 percent, with the largest district having 4.1 percent over the ideal population and the smallest

district with 4.28 percent below the ideal district population.

Senator Holmberg said the bill draft recommended provides:

- Senators and representatives from even-numbered districts must be elected in 2012 for four-year terms;
- Senators and representatives from odd-numbered districts must be elected in 2014 for four-year terms;
- The term of office of a member of the Legislative Assembly elected in an odd-numbered district in 2010 for a term of four years and who, as a result of legislative redistricting, is placed in an even-numbered district terminates December 1, 2012; and
- A member of the Legislative Assembly who is elected from an odd-numbered district in 2010 for a term of four years and who, as a result of legislative redistricting, is placed in an even-numbered district may continue to serve the remainder of that term for which the member was elected if the member changes place of residence to a location in the odd-numbered district from which the member was elected by March 15, 2012.

Senator Holmberg said the bill draft also provides that a term of office held by a member of the Legislative Assembly in an odd-numbered district with a new geographic area that has a 2010 population that is more than 25 percent of the ideal district terminates on December 1, 2012. He said if a vacancy is caused in an odd-numbered district as a result of legislative redistricting, the vacancy must be filled at the 2012 general election for a two-year term.

Senator Holmberg said the plan includes 33 counties that were not split, 3 counties that were split only to preserve the boundaries of the Fort Berthold Indian Reservation, and 3 counties that were split only because the counties included cities that were too large for one district.

Chairman Carlson distributed copies of a [letter from Mr. Alvin A. Jaeger](#), Secretary of State, regarding the bill draft regarding the required number of precincts in each district. Senator Holmberg said the committee recommended a second bill draft to require that each legislative district contain at least six precincts, a bill draft that he personally does not support, as it should have full hearings during the 2013 legislative session.

It was moved by Senator Wardner, seconded by Senator Hogue, and carried on a roll call vote that the committee accept the report of the interim Legislative Redistricting Committee, including the bill draft for the 47-district plan. Representatives Carlson, Drovdal, Kelsh, Meyer, Onstad, and Vigesaa and Senators Erbele, Heckaman, Hogue, Holmberg, Lee, Robinson, and Wardner voted "aye." Senator Taylor voted "nay."

It was moved by Senator Lee, seconded by Representative Drovdal, and carried on a roll call

vote that the Legislative Management reject the second bill draft recommended by the Legislative Redistricting Committee requiring each legislative district to contain at least six precincts. Representatives Carlson, Drovdal, Meyer, Onstad, Vigesaa, and Weisz and Senators Erbele, Heckaman, Hogue, Holmberg, Lee, Robinson, Taylor, and Wardner voted "aye." Representative Kelsh voted "nay."

Health Care Reform Review Committee

At the request of Chairman Carlson, Ms. Jennifer S. N. Clark, Committee Counsel, presented the report of the interim [Health Care Reform Review Committee](#). Ms. Clark reviewed the studies assigned to the Health Care Reform Review Committee relating to monitoring the impact of the Patient Protection and Affordable Care Act and the Affordable Care Act (ACA). She said the report includes a summary of the Patient Protection and Affordable Care Act; previous interim Industry, Business, and Labor Committee studies; and testimony received during the 2011 interim to date. She said the committee focused on whether the state should create a state-administered health benefit exchange or allow the exchange to be operated by the federal government and the elements of that exchange.

Ms. Clark said the committee recommends three bill drafts:

1. A bill draft that provides for a state-administered health benefit exchange. The bill draft establishes a North Dakota Health Benefit Exchange Board; creates a division in the Office of Management and Budget called the Health Benefit Exchange Division; requires that by January 1, 2013, the exchange be determined by the United States Department of Health and Human Services to begin operations by October 1, 2013; requires the exchange to tie into eligibility determination for the state's Medicaid and children's health insurance programs; includes health benefit exchange and technical advisory groups; creates a navigation office within the exchange division which would provide navigation services to assist consumers in making health coverage decisions; creates a separate risk pool for health plans in the individual and small group markets; provides that the health benefit exchange must be self-sustaining by January 1, 2015; and provides that state entities may not use state funds to fund the planning activities associated with the development and operation of the health benefit exchange. The bill draft also includes appropriations from federal funds to the Information Technology Department for establishing and implementing the health benefit exchange, including 19 full-time equivalent (FTE) positions, redirecting funds

remaining from an appropriation of \$1 million provided to the Insurance Commissioner's office to the Health Benefit Exchange Division for planning for the implementation of the health benefit exchange.

2. A bill draft to provide an appropriation of federal funds to be received by the Department of Human Services for federal ACA-related costs of the Department of Human Services and the Information Technology Department related to the development of an economic assistance eligibility system, an appropriation to defray the expenses and implementation of the ACA's Medicaid expansion provisions, and an appropriation to the Insurance Commissioner for defraying the expenses of implementation of the ACA. This bill draft would provide for 22 FTE positions in the various agencies and has an effective date of November 14, 2011.
3. A bill draft to amend the law relating to the external review procedures required for health insurance policies. The bill draft would clarify the circumstances in which an external review must be available and expedite external review requirements and notice requirements on allowable filing fees for requesting external review. This bill draft would become effective December 1, 2011.

Senator Lee asked why the Office of Management and Budget was chosen as the agency to host the Health Benefit Exchange Division. Ms. Clark said the committee asked various agencies if they would be interested, and they all declined. She said the Insurance Commissioner's office indicated they would have a conflict of interest as the insurance regulator.

Representative Carlson said he has concerns with the state taking over the exchange due to the cost of creating a bureaucracy of approximately \$35 million to \$45 million for a state with a population of 670,000 people. He said the study accomplished what the 62nd Legislative Assembly asked, but he has concerns whether the state should develop a state-administered health benefit exchange. He said he also is concerned with the timelines in the federal law and the requirements for the state to implement the exchange.

Representative Weisz said the timelines are necessary to meet the federal requirements to have the plan and exchange operational by October 1, 2013, and fully operational by January 1, 2014.

Representative Carlson indicated his information is that North Dakota would be the first state to implement a state-administered benefit exchange.

Senator Holmberg said the state may find it difficult to find information technology employees to develop the exchange, and the result would be information technology employees being recruited from other state agencies and affecting their operations.

It was moved by Senator Wardner, seconded by Senator Erbele, and carried on a roll call vote

that the Legislative Management accept the report of the interim Health Care Reform Review Committee, including the bill draft relating to a state-administered health benefit exchange. Representatives Kelsh, Meyer, Onstad, and Vigesaa and Senators Erbele, Heckaman, Lee, Robinson, Taylor, and Wardner voted "aye." Representatives Carlson, Drovdal, and Weisz and Senators Hogue and Holmberg voted "nay."

It was moved by Senator Holmberg, seconded by Representative Weisz, and carried on a roll call vote that the Legislative Management accept the bill draft relating to the economic assistance eligibility system. Representatives Carlson, Drovdal, Kelsh, Meyer, Onstad, Vigesaa, and Weisz and Senators Erbele, Heckaman, Hogue, Holmberg, Lee, Robinson, Taylor, and Wardner voted "aye." No negative votes were cast.

It was moved by Senator Holmberg, seconded by Representative Weisz, and carried on a roll call vote that the Legislative Management accept the bill draft relating to the external review procedures required for health insurance policies. Representatives Carlson, Drovdal, Kelsh, Meyer, Onstad, Vigesaa, and Weisz and Senators Erbele, Heckaman, Hogue, Holmberg, Lee, Robinson, Taylor, and Wardner voted "aye." No negative votes were cast.

The director announced the bill draft recommended by the Legislative Redistricting Committee would be introduced as House Bill No. 1473 and referred to the Joint Legislative Redistricting Committee; the bill draft relating to the state-administered health benefit exchange would be introduced as House Bill No. 1474 and referred to the Joint Legislative Health Care Reform Committee; the bill draft relating to the economic assistance eligibility system would be introduced as House Bill No. 1475 and referred to the Appropriations Committee; and the bill draft relating to the external review procedures required for health insurance policies would be introduced as House Bill No. 1476 and referred to the Joint Legislative Health Care Reform Committee.

Legislative Procedure and Arrangements Committee

At the request of Representative Carlson, Chairman, Legislative Procedure and Arrangements Committee, the assistant director presented the report of the interim [Legislative Procedure and Arrangements Committee](#). The assistant director described the arrangements approved and recommended by the Legislative Procedure and Arrangements Committee with respect to the special session. He said the recommended amendments to legislative rules involve eliminating the one-day delay on voting on bills reported from committee, on messaging bills to the second chamber, and limiting the introduction of bills and resolutions to those introduced by the Legislative Management or approved by the Delayed Bills Committee. He said

similar amendments were recommended and adopted during the 2001 special session relating to legislative redistricting. He said the committee recommends the Employment Committees employ 24 employees for the 2011 special session and set guidelines on the days each employee is to work, especially with respect to pre-session and post-session activities.

In addition, the assistant director said the rules recognize the creation of two joint committees--a Joint Legislative Redistricting Committee and Joint Health Care Reform Committee. He said the committee recommends using the regular standing committees of the Legislative Assembly and encourages the use of joint hearings to reduce the potential for duplication of hearing time within the abbreviated timeframes expected for the special session.

The assistant director said the interim Legislative Procedure and Arrangements Committee approved a motion with respect to amendments to the redistricting bill drafts that provide that any legislator desiring to revise the proposed redistricting plan be advised to work on any proposed revision with a member of that legislator's caucus who was on the interim Legislative Redistricting Committee and has a redistricting

computer assigned to that caucus, that the caucus member work with the Legislative Council staff to review any proposal developed, and that preparation by the Legislative Council staff of any legal descriptions amendments require prior approval of the Joint Legislative Redistricting Committee.

It was moved by Senator Robinson, seconded by Representative Kelsh, and carried on a roll call vote that the Legislative Management accept the report of the interim Legislative Procedure and Arrangements Committee. Representatives Carlson, Drovdal, Kelsh, Meyer, Vigesaa, and Weisz and Senators Erbele, Heckaman, Hogue, Holmberg, Lee, Robinson, Taylor, and Wardner voted "aye." No negative votes were cast.

No further business appearing, Chairman Carlson adjourned the meeting at 3:10 p.m.

Jim W. Smith
Director

ATTACH:1