

NORTH DAKOTA LEGISLATIVE MANAGEMENT

Minutes of the

LEGISLATIVE MANAGEMENT

Wednesday, September 24, 2014
Roughrider Room, State Capitol
Bismarck, North Dakota

Senator Ray Holmberg, Chairman, called the meeting to order at 3:00 p.m.

Members present: Senators Ray Holmberg, Dwight Cook, Joan Heckaman, Dave Oehlke, Larry J. Robinson, Mac Schneider, Ronald Sorvaag, Rich Wardner; Representatives Al Carlson, Bill Devlin, Brenda Heller, Marvin E. Nelson, Kenton Onstad, Jim Schmidt

Members absent: Representatives Chuck Damschen, Ron Guggisberg, Mark S. Owens

Others present: Pam Sharp and Sheila Peterson, Office of Management and Budget
Allen H. Knudson, Jason J. Steckler, and Sheila M. Sandness; Legislative Council, Bismarck
See [Appendix A](#) for additional persons present.

It was moved by Representative Carlson, seconded by Representative Schmidt, and carried on a voice vote that the minutes of the June 10, 2013, meeting be approved as distributed.

OPENING REMARKS

Chairman Holmberg said the purpose of this meeting is to fulfill the Legislative Management'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 the law resulted from passage of a constitutional amendment in 2004 which permits the Legislative Assembly to provide, by law, a procedure through which the Legislative Management may establish an appropriate method for determining the fiscal impact of an initiated measure and for making the information regarding the fiscal impact of the measure available to the public.

Chairman Holmberg said the Secretary of State has notified the Legislative Council office that four initiated measures qualify for the general election ballot. He said the measures include Measure No. 5, an initiated constitutional measure that relates to a clean water, wildlife, and parks trust and fund; Measure No. 6, that relates to parental rights and responsibilities; Measure No. 7, that relates to operation of a pharmacy; and Measure No. 8, that relates to school classes beginning after Labor Day.

Chairman Holmberg said the procedure to obtain fiscal information on these measures tracks the procedure followed for fiscal notes during legislative sessions. He said the Legislative Council staff requested the state agencies that appear to have the best information on the impact on the measure or the primary responsibility for compiling and maintaining relevant information to present their determinations at this meeting. He emphasized that the only purpose for holding this meeting is to meet the Legislative Management's statutory responsibility to obtain fiscal information on each measure, and the Legislative Management is not holding this meeting to receive testimony on the merits of any of the measures. He said the committee will consider acceptance of each fiscal impact statement and then consider a motion to direct the Legislative Council to forward approved statements to the Secretary of State as required by law. He said the Secretary of State is required to make the information available to the public.

INITIATED CONSTITUTIONAL MEASURE FOR THE CLEAN WATER, WILDLIFE, AND PARKS TRUST AND FUND - MEASURE NO. 5

This initiated constitutional measure would create a new section to Article X of the Constitution of North Dakota. This section would create a clean water, wildlife, and parks trust and clean water, wildlife, and parks fund for grants to state agencies, political subdivisions, tribal governments, and nonprofit organizations for water quality, natural flood control, wildlife and fish habitat, natural and recreation area acquisition, and youth nature and outdoor education projects. Under the measure, funding would be provided through 5 percent of the state's share of the oil extraction tax. Ten percent of this amount would be placed in the trust and 90 percent in the fund. The fund would

be administered by a commission consisting of the Governor, the Attorney General, and the Agriculture Commissioner. The commission would be advised by a 13-member citizen accountability board. The commission would be required to allocate at least 75 percent and no more than 90 percent of the revenue deposited in the fund annually. The funds in the trust would be invested by the State Investment Board and earnings from the trust would be transferred to the fund. The measure would prohibit the spending of the earnings and principal of the trust until after January 1, 2019, and the expenditure of principal of the trust would require at least a two-thirds vote of each house of the Legislative Assembly. The measure would require that the financing through the oil extraction tax would be voted on by the electors of the state every 25 years.

Chairman Holmberg recognized Ms. Sheila Peterson, Director, Fiscal Management, Office of Management and Budget. Ms. Peterson reviewed the fiscal impact statement ([Appendix B](#)) of the Office of Management and Budget (OMB) provided to the Legislative Council. She said OMB estimates the fiscal impact of this initiated measure to be \$49 million for the remainder of the current biennium and \$259 million for the 2015-17 biennium.

It was moved by Representative Carlson, seconded by Senator Cook, and carried on a roll call vote to accept the fiscal impact statement of OMB which concluded the fiscal impact of Measure No. 5 is estimated to be \$49 million for the 2013-15 biennium and \$259 million for the 2015-17 biennium. Senators Holmberg, Cook, Heckaman, Oehlke, Robinson, Schneider, Sorvaag, and Wardner and Representatives Carlson, Devlin, Heller, Nelson, Onstad, and Schmidt voted "aye." No negative votes were cast.

INITIATED MEASURE ON EQUAL PARENTAL RIGHTS AND RESPONSIBILITIES - MEASURE NO. 6

This initiated statutory measure would amend Section 14-09-06.2 to create a presumption that each parent is a fit parent and that the awarding of equal parental rights and responsibilities is in the best interest of the child. The measure would provide that the presumption is rebuttable only by clear and convincing evidence to the contrary. The measure also provides a definition of equal parenting time.

Chairman Holmberg recognized Ms. Peterson. Ms. Peterson reviewed the fiscal impact statement ([Appendix C](#)) OMB provided to the Legislative Council. She said OMB has determined that the measure does not have a fiscal impact.

It was moved by Senator Wardner, seconded by Representative Carlson, and carried on a roll call vote to accept the fiscal impact statement of OMB which concluded there was no fiscal impact of Measure No. 6. Senators Holmberg, Cook, Heckaman, Oehlke, Robinson, Schneider, Sorvaag, and Wardner and Representatives Carlson, Devlin, Heller, Nelson, Onstad, and Schmidt voted "aye." No negative votes were cast.

INITIATED MEASURE REGARDING PHARMACY OPERATION - MEASURE NO. 7

This initiated statutory measure would remove the existing requirement that to qualify to receive a permit to operate a pharmacy, the applicant must be a licensed pharmacist or must be a business entity with majority ownership by one or more licensed pharmacists.

Chairman Holmberg recognized Ms. Peterson. Ms. Peterson reviewed the fiscal impact statement ([Appendix D](#)) OMB provided to the Legislative Council. She said the estimated fiscal impact of the measure would be a reduction of Medicaid spending of \$82,961, half of which would be from the general fund and half of which would be from federal funds.

Senator Schneider raised a question regarding the factors considered in preparing the fiscal impact statement. Ms. Peterson explained the steps followed in determining the probable fiscal impact.

It was moved by Senator Oehlke, seconded by Senator Sorvaag, and carried on a roll call vote to accept the fiscal impact statement of OMB which concluded the fiscal impact of Measure No. 7 would be a reduction of Medicaid spending of \$82,961. Senators Holmberg, Cook, Heckaman, Oehlke, Robinson, Schneider, Sorvaag, and Wardner and Representatives Carlson, Damschen, Devlin, Guggisberg, Heller, Onstad, and Schmidt voted "aye." Representative Nelson voted "nay."

INITIATED MEASURE TO REQUIRE CLASSES TO BEGIN AFTER LABOR DAY - MEASURE NO. 8

This initiated statutory measure would require elementary and high school classes to begin after Labor Day.

Chairman Holmberg recognized Mr. Jerry Coleman, Director of School Finance, Department of Public Instruction. Mr. Coleman reviewed the fiscal impact statement ([Appendix E](#)) the Department of Public Instruction

provided to the Legislative Council. He said the Department of Public Instruction estimates the measure will have no fiscal impact.

It was moved by Senator Robinson, seconded by Senator Schneider, and carried on a roll call vote to accept the fiscal impact statement of the Department of Public Instruction which concluded there would be no fiscal impact of Measure No. 8. Senators Holmberg, Cook, Heckaman, Oehlke, Robinson, Schneider, Sorvaag, and Wardner and Representatives Carlson, Devlin, Heller, Nelson, Onstad, and Schmidt voted "aye." No negative votes were cast.

FISCAL IMPACT STATEMENTS TO BE FORWARDED TO THE SECRETARY OF STATE

It was moved by Representative Carlson, seconded by Senator Heckaman, and carried on a roll call vote that the Legislative Council forward to the Secretary of State the approved fiscal impact statements for Measures No. 5, 6, 7, and 8. Senators Holmberg, Cook, Heckaman, Oehlke, Robinson, Schneider, Sorvaag, and Wardner and Representatives Carlson, Devlin, Heller, Nelson, Onstad, and Schmidt voted "aye." No negative votes were cast.

Chairman Holmberg said the next meeting of the Legislative Management would be Wednesday and Thursday, November 12-13, 2014, to receive the reports of interim committees.

No further business appearing, **it was moved by Senator Cook, seconded by Senator Robinson, and carried that the meeting be adjourned.**

Chairman Holmberg adjourned the meeting at 3:30 p.m.

Jim W. Smith
Director

John Walstad
Legal Services Director

ATTACH:5