

September 2011

## SPECIAL LEGISLATIVE SESSION - BACKGROUND AND STATUTORY REFERENCES

This memorandum addresses statutory references that could have an impact on the Legislative Assembly during a special legislative session and provides information on the 2001 special session. The memorandum does not discuss proposals for specific legislation that have been suggested by various individuals or groups for consideration by the Legislative Assembly during a special session called for 2011.

### LEGISLATIVE OFFICERS, EMPLOYEES, AND COMMITTEES

North Dakota Century Code Section 54-03-04 provides, in part:

The secretary and officers of the senate and chief clerk and officers of the house of representatives, and the chairmen of all procedural and substantive standing legislative committees shall continue to serve in those positions during any special legislative session which may be called, except in case of the death, resignation, or removal of one of those persons, whereupon the position must be filled, upon the convening of the special session, in the manner provided by law or legislative rule. Members serving on procedural or substantive standing committees of the senate or house during a regular session shall continue to serve on those committees during any special legislative session which may be called following that regular session.

With respect to legislative officers-employees, by custom the officers of the Senate are the Secretary of the Senate, the journal reporter, and the sergeant-at-arms; and the officers of the House of Representatives are the Chief Clerk of the House, the journal reporter, and the sergeant-at-arms. Under the rules of both houses, these individuals are elected by majority of the members-elect, and any vote of election must be recorded in the journal.

During the 2001 special session, the House of Representatives employed 12 employees:

- Chief Clerk of the House
- Assistant Chief Clerk
- Journal Reporter
- Sergeant-at-Arms
- Administrative Assistant to Majority Leader
- Shared Staff Assistant to Majority Leaders
- Administrative Assistant to Minority Leader
- Shared Staff Assistant to Minority Leaders
- Administrative Assistant to Speaker
- Page (majority position)
- Page (minority position)
- Two Committee Clerks

During the 2001 special session, the Senate employed 10 individuals:

- Secretary of the Senate
- Journal Reporter
- Sergeant-at-Arms
- Administrative Assistant to Majority Leader
- Administrative Assistant to Minority Leader
- Page (majority position)
- Page (minority position)
- Information Desk Attendant
- Two Committee Clerks

Each house should employ at least one committee clerk to prepare committee hearing schedules, committee minutes, and committee reports. The number of committee clerks needed depends on the number of issues and the number of committees that will be active. A joint committee requires two clerks--one for the house materials and one for the senate materials.

Section 54-03-10 provides that the Legislative Assembly shall by concurrent resolution fix the compensation of the officers and employees elected or appointed. House Concurrent Resolution No. 3006 (2011) fixes the compensation levels for employee positions of the 62<sup>nd</sup> Legislative Assembly. During any special session called for the 62<sup>nd</sup> Legislative Assembly, employee compensation is governed by House Concurrent Resolution No. 3006. Specific employees and their positions during a special session can be identified by a report from the respective employment committee.

### LEGISLATIVE SERVICES

#### Telephone Service

During a regular legislative session, a toll-free WATS line is made available for North Dakota residents to leave messages for their legislators. During the 2011 legislative session, the telephone message service was operated under contract with a private contractor. Incoming telephone WATS line service was not provided during the 2001 special session.

#### Secretarial Service

During a regular legislative session, secretarial services to legislators are provided through a secretarial pool operated by a third-party contractor. Secretarial services to legislators through a secretarial pool were not provided during the 2001 special session.

#### Bills and Journals

During a regular legislative session, bill and journal room services are provided by a private contractor. The contract for printing bills, resolutions, and journals

is for the period of the 62<sup>nd</sup> Legislative Assembly. The bill and journal room was not open during the 2001 special session. Rather than open the bill and journal room during the limited period of a special session, copies of measures introduced were available on the counters in front of that room and at the information kiosk. Similar arrangements could be used to provide copies of bills and resolutions during a special session. Daily journals will be available online, and copies of the final, printed journal could be available from the Legislative Council office after the special session is adjourned.

### **Computer Services**

The Legislator's Automated Work Station (LAWS) system will be available during a 2011 special session.

Text of bills, amendments, daily journals, and legislative redistricting maps will be available on the legislative branch web page.

### **Video Coverage**

During the 2011 regular session, an assistant sergeant-at-arms operated the video camera for live streaming floor sessions of each house on the legislative branch web page. Floor sessions generally were convened at 1:00 p.m.

No live streaming is planned during the special session.

### **BILL DRAFT CONSIDERATIONS**

Article IV, Section 13, of the Constitution of North Dakota provides, in part:

Every law enacted by a special session of the legislative assembly takes effect on a date specified in the Act.

Under Section 16.1-01-02.2, the Governor may call a special election to be held in 90 days after the call if a referendum petition has been submitted to refer a measure or part of a measure that establishes a legislative redistricting plan.

### **CONFIRMATION OF GUBERNATORIAL APPOINTMENTS**

Article V, Section 8, of the Constitution of North Dakota provides, in part:

If, while the senate is recessed or adjourned, a vacancy occurs in any office that is filled by appointment with senate confirmation, the governor shall make a temporary appointment to the office. When the senate reconvenes the governor shall make a nomination to fill the office. Except on request of the senate, no nominee rejected by the senate may again be nominated for that office at the same session, nor may the nominee be appointed to that office during a recess or adjournment of the senate.

Gubernatorial appointments subject to Senate confirmation are seven appointees to the State Board

of Higher Education, the five members of the State Gaming Commission, the commissioner of the Department of Financial Institutions, the Securities Commissioner, the director of the Office of Administrative Hearings, and the North Dakota member of the Southwestern Low-Level Radioactive Waste Commission.

The term of Mr. James P. Wang on the State Gaming Commission expired July 1, 2011. Mr. Wang has been reappointed to the commission. During the 2009 regular session, the Senate confirmed Mr. Wang to a term ending July 1, 2011.

### **BUDGET STABILIZATION FUND**

Chapter 54-27.2 provides for a budget stabilization fund. Under Section 54-27.2-01, any amounts provided by law for deposit in the fund and any interest or earnings of the fund which would bring the balance in the fund to an amount greater than 9.5 percent of the current biennial state general fund budget, as finally approved "by the most recently adjourned special or regular session" of the Legislative Assembly, may not be deposited or retained in the fund but must be deposited instead in the state general fund. Under Section 54-27.2-03, if the director of the Office of Management and Budget projects that general fund revenues for the biennium will be at least 2.5 percent less than estimated "by the most recently adjourned special or regular session" of the Legislative Assembly, and if the Governor orders a transfer, the State Treasurer is to transfer the appropriate funds from the budget stabilization fund to the state general fund to offset the decrease in general fund revenues.

### **REPORTS BY VARIOUS ENTITIES**

#### **Governor - Condition of the State**

Article V, Section 7, of the Constitution of North Dakota provides, in part:

The governor shall present information on the condition of the state, together with any recommended legislation, to every regular and special session of the legislative assembly.

#### **Governor - Exercise of Emergency Powers**

Section 54-07-01.1 authorizes the Governor to exercise certain emergency powers dealing with the operation of motor vehicles and use of highways and streets in emergencies and support of national defense. The Governor is to report to the Legislative Assembly "at its next session" any proceedings taken by him in exercise of those emergency powers.

#### **Governor - Officers' Defaults**

Under Section 54-07-01(2), the Governor is to see that all offices are filled and duties thereof performed and is to apply remedies as the law allows in case of default. If the remedy is imperfect, the Governor is to "acquaint the legislative assembly therewith at its next session."

### **Adjutant General - Military Purchases**

Section 37-03-07 provides the Adjutant General is to report to the Legislative Assembly "at its next session" when the Governor, upon certification by the commanding officer of the National Guard, has temporarily suspended the statutory requirements on the purchase of military property and has directed the Adjutant General to purchase in the open market such military property as may be required in the case of insurrection, invasion, tumult, riot, or breeches of the peace or eminent danger thereof. The report is to include a statement of the property purchased and the prices paid therefor.

### **Office of the Budget - Special Election Costs**

Under Section 16.1-01-02.3, the Office of the Budget is to submit a request for an appropriation "to the next regular or special session" of the Legislative Assembly to reimburse counties for the costs incurred for conducting a statewide special election that is not held on the date of a statewide primary or general election.

## **REPORTS OF INTERIM COMMITTEES**

### **2001 Special Session Reports**

Prior to the special session November 26-30, 2001, the Legislative Council met on November 6, 2001, and heard reports from the Legislative Redistricting Committee and the Legislative Management Committee. The Legislative Council approved the one bill recommended by the Legislative Redistricting Committee. The Legislative Council accepted the report of the Legislative Management Committee which dealt with recommendations for rules and employment positions for the special session.

### **1991 Special Session Reports**

Prior to the 1991 special session, the Legislative Council heard reports from the Legislative Redistricting and Elections Committee, the interim Finance and Taxation Committee, the interim Natural Resources Committee, and the Legislative Management Committee. The Legislative Council approved three bills recommended by the Legislative Redistricting and Elections Committee and one bill recommended by the interim Finance and Taxation Committee. The Legislative Council, by motion, determined which house in which each bill was to be introduced. The Legislative Council did not approve the recommendations of the interim Natural Resources Committee, which dealt with the financing of water projects. The report of the Legislative Management Committee dealt with recommendations for rules for the special session, and the Legislative Council accepted the report of that committee except for a recommended rule amendment to authorize action on amendments without requiring distribution of copies to each member.

### **2011-12 Interim Reports**

The Legislative Redistricting Committee's study directive under 2011 House Bill No. 1267 is to submit legislation to implement a legislative redistricting plan to the Legislative Management by October 31, 2011, and the chairman of the Legislative Management is to request the Governor to call a special session in time to allow the Legislative Assembly to adopt a plan for use in the 2012 primary election. The chairman, in a letter dated June 27, 2011, requested a special session be called for the week of November 7, 2011.

The Health Care Reform Review Committee's charge with respect to monitoring the impact of the federal Patient Protection and Affordable Care Act is to report to the Legislative Management before any special session.