

NORTH DAKOTA LEGISLATIVE COUNCIL

Minutes of the

BUDGET AND FINANCE COMMITTEE

Wednesday, April 16, 2008
Roughrider Room, State Capitol
Bismarck, North Dakota

Representative Al Carlson, Chairman, called the meeting to order at 9:00 a.m.

Members present: Representatives Al Carlson, Ole Aarsvold, Rick Berg, Merle Boucher, Jeff Delzer, Bob Martinson, Bob Skarphol, Ken Svedjan, Clark Williams; Senators Randel Christmann, Elroy N. Lindaas, David O'Connell, Larry J. Robinson, Bob Stenehjem

Members absent: Senators Tony Grindberg, Ray Holmberg

Others present: Jim W. Smith, Legislative Council, Bismarck

See attached [appendix](#) for additional persons present.

Chairman Carlson announced that Senator Stenehjem will serve as vice chairman of the committee.

It was moved by Senator Robinson, seconded by Representative Aarsvold, and carried on a voice vote that the minutes of the previous meeting be approved as distributed.

STATUS OF GENERAL FUND

Ms. Sheila Peterson, Fiscal Management Director, Office of Management and Budget (OMB), presented a report on the status of the general fund, major revenue variances to date, and oil and gas tax distributions to political subdivisions. She presented the following schedule showing the status of the general fund for the 2007-09 biennium as of March 31, 2008:

| | |
|----------------------------------|-----------------|
| July 1, 2007, balance | \$295,541,176 |
| Estimated revenues | 2,373,639,771 |
| Estimated available funds | \$2,669,180,947 |
| Appropriations | (2,461,973,956) |
| Estimated June 30, 2009, balance | \$207,206,991 |

Ms. Peterson presented the following schedule showing the status of the permanent oil tax trust fund for the 2007-09 biennium as of March 31, 2008:

| | |
|----------------------------------|---------------|
| July 1, 2007, balance | \$143,270,662 |
| Estimated revenues | 231,164,650 |
| Estimated available funds | \$374,435,312 |
| Appropriations and transfers | (145,716,541) |
| Estimated June 30, 2009, balance | \$228,718,771 |

Ms. Peterson said through March 2008 general fund revenues have exceeded the legislative forecast

by \$116.4 million or 13.7 percent. She said major variances relate to sales tax and individual and corporate income tax categories.

Ms. Peterson presented a schedule of oil and gas tax and mineral royalty allocations to cities and counties for July 2007 through March 2008. She said total distributions for this period were \$37.9 million. A copy of the report is on file in the Legislative Council office.

In response to a question from Representative Carlson, Ms. Peterson said she does not anticipate the executive budget to include any spending of funds from the budget stabilization fund during the 2009-11 biennium. Regarding the permanent oil tax trust fund, she said the budget office will prepare various budget scenarios to be prepared for the outcome of the vote on the initiated measure restricting the future use of money in the permanent oil tax trust fund which will be considered in the November 2008 general election.

In response to a question from Representative Berg, Ms. Peterson said OMB will provide the committee with a 10-year history of the use of money deposited in the permanent oil tax trust fund.

Representative Aarsvold asked for information on the state's lottery, including gross proceeds, taxes, and winnings paid in state compared to out of state. Chairman Carlson said the information would be requested for the committee's next meeting.

In response to questions from Senator Stenehjem and Representative Skarphol, Ms. Peterson said OMB will provide information to the committee at its next meeting on oil and gas tax and mineral royalty collections distributed annually to each city and county for the past 10 years, to the extent available.

Chairman Carlson asked that the Tax Department provide information to the committee at its next meeting on the actual fiscal effect of provisions of 2007 Senate Bill No. 2178 and House Bill No. 1044.

In response to a question from Representative Berg, Ms. Peterson said OMB will include on its next general fund status report information on one-time and ongoing appropriations.

STATE ECONOMIC PROJECTIONS

Dr. David Flynn, Director, Bureau of Business and Economics Research, University of North Dakota, provided information on the North Dakota economy and economic projections for the state. Dr. Flynn said economic models are projecting the probability of a

minor recession in the United States in the first and second quarters of 2008.

Dr. Flynn said current economic concerns for North Dakota include:

1. Consumer concern as a result of the national housing market downturn.
2. Potential increases in the inflation rate.
3. The federal farm bill.
4. Energy prices.
5. Exchange rates which affect exports and Canadian shopping in North Dakota.
6. The unemployment rate, which in North Dakota may be too low.

Dr. Flynn said projections indicate North Dakota nonfarm personal income will increase approximately 3 percent each year for the next three years.

Dr. Flynn said that unlike a number of other states, North Dakota's current economic outlook is positive. A copy of the presentation is on file in the Legislative Council office.

Representative Berg asked for information on the number of home foreclosures in North Dakota. Chairman Carlson asked the Legislative Council staff to arrange for a presentation of this information for the committee's next meeting.

Representative Delzer asked for information on previous economic cycles involving high oil prices and agricultural and crop prices followed by a downturn in these economic sectors and the resulting impact on state government revenues and spending.

Senator Christmann asked for the economic impact of higher energy-related costs. Dr. Flynn said energy costs are a major driver for inflation.

Senator Christmann expressed concern that environmental regulations cause additional costs that affect the petroleum industry as well as alternative fuel development.

Dr. Larry Leistritz, Professor, North Dakota State University Department of Business and Applied Economics, presented information regarding the North Dakota agriculture economy and economic projections for the state. Dr. Leistritz said North Dakota is currently experiencing a strong agriculture economy. He anticipates that demand for biofuels and exports will maintain prices for major crops near current levels.

Dr. Leistritz said wheat prices are projected to decrease from \$8.57 per bushel for the 2007-08 crop year to \$6.74 for the 2010-11 crop year.

Dr. Leistritz said the outlook for agriculture includes:

1. Strong prices for major crops.
2. Feeder cattle prices decreasing slightly from 2007 price levels.
3. Higher input costs for fuel, fertilizer, insurance, etc.
4. Higher land prices and rental rates.

Dr. Leistritz said a major agriculture uncertainty is the threat of drought in the state. A copy of the presentation is on file in the Legislative Council office.

Ms. Kathryn Strombeck, Tax Department, provided information on corporate income tax collections to

date for the 2007-09 biennium. She said through March 2008 the department has collected \$76.5 million in corporate tax collections which is nearly 90 percent more than projected. While audit collections and tax collections accompanied by a return are substantially more than in previous years, she said, estimated payments collected to date have decreased compared to the previous year. She said estimated payments are the only component of corporate collections that reflect current economic activities. She said all other components of collections relate to corporate activities of past tax years.

Ms. Strombeck said that Economy.com's current assessment of the North Dakota economy acknowledges that certain core industries, including agriculture and energy, are doing well, the state has a strong retail base partly due to the favorable exchange rate, and the state did not experience the housing crisis as compared to a number of other states. While these are positive components of the economy, she said, Economy.com has reason to express caution because United States corporate profits, which are the major driver for North Dakota's corporate income tax base, are declining. She said the department will continue to monitor estimated income tax payments. A copy of the report is on file in the Legislative Council office.

In response to questions from Senator Christmann and Representative Skarphol, Ms. Strombeck said the department will provide information to the committee at its next meeting regarding corporate income tax collections, gross receipts tax collections, and financial institutions tax collections.

Representative Berg asked where the 25 corporations with the highest North Dakota net tax liability are incorporated and whether the state in which these corporations are incorporated has a corporate income tax or not. Ms. Strombeck said she would provide that information.

Chairman Carlson asked that the Tax Department update the committee at its future meetings regarding the status of income tax collections.

The Legislative Council staff presented a memorandum entitled [*General Fund Revenue Comparisons and Potential June 30, 2009, Balances of Major State Funds*](#). The Legislative Council staff said as of March 2008 ongoing general fund revenue collections biennium to date are 15.9 percent more than the legislative forecast. If revenue collections for the remainder of the biennium are 8 percent more than the remaining forecasted revenues, there will be approximately \$106.1 million of additional general fund revenue which would result in a potential June 30, 2009, ending general fund balance of \$313.3 million. The Legislative Council staff said to date oil and gas production and extraction tax collections have averaged \$19 million per month for the first nine months of the biennium. Assuming oil and gas tax collections total \$19 million for each month for the remainder of the biennium, there may

be approximately \$153.7 million of additional revenue deposited in the permanent oil tax trust fund during the 2007-09 biennium which would result in a potential June 30, 2009, balance in the permanent oil tax trust fund of \$382.4 million.

BUDGET REQUEST GUIDELINES

Ms. Peterson provided information on budget guidelines for the 2009-11 biennium and options for more clearly identifying costs of specific components of cost-to-continue items in budget documents. She said the Governor has directed agencies to develop a 100 percent, or hold-even budget, for the 2009-11 biennium. She said the major grant programs in the Department of Public Instruction are not subject to the 100 percent guideline, and for planning purposes, the University System is to submit a needs-based budget.

Ms. Peterson said as part of agencies' base budgets, the budget office allows funding be requested to continue the second year salary increase for both years of the 2009-11 biennium and, in some instances, to include funding for phased-in programs implemented during the 2007-09 biennium.

Ms. Peterson said agencies will submit change packages to remove prior biennium one-time funding items, to remove capital projects funding, and to add approved cost-to-continue items.

In response to a question from Representative Boucher, Ms. Peterson said the Governor has announced a \$200 million property tax relief initiative for the 2009-11 biennium. She said this proposal will replace the current property tax relief program approved by the 2007 Legislative Assembly which totaled approximately \$120 million.

Representative Carlson asked for the anticipated amount of cost-to-continue items for the 2009-11 biennium. Ms. Peterson said the budget analysts will be working with state agencies to identify these cost-to-continue items as the executive budget is developed by November 2008.

Chairman Carlson asked OMB to report to each future committee meeting on the cost-to-continue amounts being identified in the budget development process.

The committee recessed for lunch at 12:30 p.m. and reconvened at 1:30 p.m.

Representative Skarphol asked for information on information technology service rate increases compared to state employee salary increases. Chairman Carlson said the information would be requested for the committee's next meeting.

Ms. Peterson provided information regarding the extraordinary repairs funding formula and deferred maintenance at state institutions. She said the extraordinary repairs funding formula calculates the cost to adequately maintain buildings five years old or older based on 2 percent of the building replacement value.

Ms. Peterson said the infrastructure formula takes into consideration various components of

infrastructure to identify the appropriate amount of funding that should be provided each biennium.

For the 2007-09 biennium, Ms. Peterson said the Legislative Assembly provided approximately 41 percent of the formula generated amount for extraordinary repairs of state agencies.

For the 2007-09 biennium, Ms. Peterson said state agencies and higher education institutions identified a total of \$178.7 million of deferred maintenance. She said the extraordinary repairs funding formula generated the need for \$109.5 million for a total of \$288.2 million to address all deferred maintenance and extraordinary repair needs during the 2007-09 biennium. If the Legislative Assembly would provide funding to address all these needs, she said, the following biennium the formula would generate the need for at least an additional \$110 million for extraordinary repair needs at state institutions. A copy of the report is on file in the Legislative Council office.

In response to a question from Representative Berg, Ms. Peterson said OMB does not monitor agency expenditures for specific extraordinary repairs compared to appropriated amounts.

Representative Skarphol suggested the Legislative Assembly consider appropriating a separate line item for extraordinary repairs in the appropriation bills.

Representative Carlson asked for the priority of extraordinary repairs funding in the Governor's 2009-11 biennium budget and the amount allocated for these repairs. Ms. Peterson said the budget office will consider all budgetary needs of state government, including extraordinary repairs, and make a determination of the funding available for each based on the estimated resources available for the 2009-11 biennium.

Senator Christmann suggested the Legislative Assembly require more detailed information to be provided on extraordinary repair needs and related funding requests.

Representative Carlson suggested a method be developed to compare actual expenditures for extraordinary repairs to the funding request presented to the Legislative Assembly as part of the appropriations process.

In response to a question from Representative Berg, Ms. Peterson said in regard to deferred maintenance at higher education institutions, campus master plans are used to develop the deferred maintenance request based on building needs details. Representative Berg asked OMB for a copy of the detailed needs of North Dakota State University's \$30 million deferred maintenance request.

Representative Boucher suggested that funding available to provide for revenue shortfalls, such as the funding in the budget stabilization fund, be used for extraordinary repairs that otherwise would be delayed because of emergency repairs that occur and were not contemplated by the agency.

Senator Robinson asked OMB to provide, to the extent available, amounts requested for deferred maintenance in the previous five bienniums.

In response to a question from Representative Skarphol, Ms. Peterson said a number of accounting and budget system computer changes would need to be made to allow extraordinary repairs to be appropriated as a separate line item. Representative Skarphol asked OMB to provide the cost of these computer system changes.

AGENCY BUDGET REPORTS

Mr. Jerry Coleman, Assistant Director of School Finance, Department of Public Instruction, reported on the status of state aid to school districts. He said that based on current projections, the department anticipates a remaining balance of state aid formula per student payments funding of approximately \$730,000 for the 2007-09 biennium.

In response to a question from Representative Carlson, Mr. Coleman said elementary and secondary public school enrollment in the fall of 2007 was approximately 94,000 students and is estimated to decrease to 92,800 students for the fall of 2008.

Ms. Bonnie Miller, Administrative Services Director, Department of Public Instruction, presented information on estimated school-related costs of federal mandates compared to the federal funding provided to North Dakota schools and on the status of the department's budget. She said the department does not compile data necessary to provide information on school-related costs of federal mandates.

Regarding the department's current budget, Ms. Miller said through February 2008 the department has spent 40 percent of its grant budget and approximately 25 percent of its administrative budget.

Ms. Miller reported on federal funding available to the department. She said the department receives funding from the United States Department of Education and the United States Department of Agriculture. Total funding for the 2007-08 fiscal year is estimated to total \$113 million and the estimated amount for the 2008-09 fiscal year is \$116.3 million.

Ms. Miller discussed potential funding changes for its 2009-11 biennium budget. She said the department will be requesting additional funding to reflect increased billing rates for State Fleet Services and information technology services. She said additional funding for the state assessment program may be needed for the 2009-11 biennium to provide a total of \$2.2 million compared to the 2007-09 appropriation of \$1.2 million. In addition, she said, recommendations of the Governor's Commission on Education Improvement may also affect the department's 2009-11 budget request. A copy of the report is on file in the Legislative Council office.

Ms. Arvy Smith, Deputy State Health Officer, State Department of Health, reported on the status of the department's 2007-09 biennium budget and anticipated budget needs for the 2009-11 biennium.

Ms. Smith said through March 2008 the department has spent 25 percent of its biennial budget. Regarding federal funding changes, she said, the department is no longer receiving a \$300,000 cardiovascular health grant. In addition, she said, federal emergency preparedness and response grants may require state matching which will affect the department's 2009-11 budget request.

Ms. Smith reported on one-time funding of the department. She said the department has spent \$1.2 million of the \$2 million provided for the immunization program transition through March 2008. She anticipates \$600,000 of the \$2 million appropriation may be unspent at the end of the biennium.

Regarding the department's 2009-11 budget request, Ms. Smith anticipates cost-to-continue increases relating to Information Technology Department services, travel, and rental costs. She said additional funding may be requested for the emergency medical services grant program which was phased in during the 2007-09 biennium. A copy of the report is on file in the Legislative Council office.

Mr. Paul T. Govig, Department of Commerce, reported on the status of the department's 2007-09 biennium budget and anticipated budget needs for the 2009-11 biennium. He said through March 2008 the department has spent 29 percent of its 2007-09 biennium budget. He said the department does not anticipate any major concerns with its current budget.

Mr. Govig said the department is beginning the process of developing its 2009-11 biennial budget and in addition to general inflationary increases, he said, costs for information technology services, travel, and promotion and printing are anticipated to increase at a rate greater than inflation. He said the department is experiencing difficulty in recruiting and retaining employees based on the current salary levels of the department. He suggested the Legislative Assembly consider addressing state employee workforce issues. A copy of the report is on file in the Legislative Council office.

BUSINESS INTELLIGENCE INITIATIVE

Ms. Nancy Walz, Information Technology Department, provided information on the status of the department's Business Intelligence Initiative for financial-related reporting. She said the Business Intelligence Initiative allows users to sort, filter, and access data without customized programming. She said the major reasons the state needs to develop a business intelligence system include:

1. Allow relevant information to be accessed quickly and easily.
2. Allow data from multiple systems to be gathered and analyzed, including performance management reporting.
3. Identify correlations for program improvement, fraud detection, or longitudinal studies.
4. Improve management reporting.
5. Improve the ability to prepare trend analyses.

Ms. Walz said the Information Technology Department has hired a business intelligence architect and a business intelligence analyst to begin developing an enterprise approach. She said existing efforts have focused on three projects:

1. The Medicaid management information system replacement project.
2. PeopleSoft reporting.
3. Longitudinal data system.

A copy of the report is on file in the Legislative Council office.

EXTRAORDINARY REPAIRS

Ms. Laura Glatt, Vice Chancellor for Administrative Affairs, North Dakota University System office, commented regarding the appropriateness of the extraordinary repairs funding formula. She said the University System believes the extraordinary repairs funding formula used by OMB is appropriate but is concerned that the formula has not been fully funded.

Ms. Glatt presented a schedule showing the higher education funding that has been provided as a percentage of the formula for recent bienniums as follows:

- 2003-05 biennium - 16.6 percent.
- 2005-07 biennium - 15.1 percent.

- 2007-09 biennium - 30.8 percent.

A copy of the report is on file in the Legislative Council office.

OTHER INFORMATION

Ms. June Herman, American Heart Association, expressed concern regarding the State Department of Health's loss of a \$300,000 federal heart disease and stroke prevention program grant. She said the program began in 2003 and ended in 2007. She said North Dakota is now without a state program. She suggested the establishment of a statewide heart disease and stroke program at an estimated annual cost of \$196,337. A copy of the report is on file in the Legislative Council office.

Chairman Carlson announced the next committee meeting is tentatively planned for mid-June 2008.

No further business appearing, Chairman Carlson adjourned the meeting at 3:45 p.m.

Allen H. Knudson
Legislative Budget Analyst and Auditor

ATTACH:1