

# NORTH DAKOTA LEGISLATIVE COUNCIL

## Minutes of the

### BUDGET AND FINANCE COMMITTEE

Wednesday, August 6, 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, Jeff Delzer, Bob Skarphol, Ken Svedjan, Clark Williams; Senators Randel Christmann, Ray Holmberg, Larry J. Robinson

**Members absent:** Representatives Merle Boucher, Bob Martinson; Senators Tony Grindberg, Elroy N. Lindaas, David O'Connell, Bob Stenehjem

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

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

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

The Legislative Council staff distributed a memorandum entitled [Compulsive Gambling Treatment](#), which provides information on North Dakota Lottery proceeds used for compulsive gambling treatment services, casino and tribal contributions for compulsive gambling treatment services, and the history of lottery revenue transferred to the general fund.

The Legislative Council staff distributed a memorandum entitled [State Revenues and Selected Economic Indicators - Historical Comparison](#), which provides the correlation of state revenues and appropriations to various economic indicators since 1971.

Representative Aarsvold asked for information on the source of North Dakota personal income data, including whether North Dakota personal income includes any income earned by out-of-state residents from North Dakota sources.

In response to a question from Representative Berg, the Legislative Council staff said the economic indicators that most closely predict general fund revenue collections include gross state product and personal income.

#### STATUS OF GENERAL FUND AND JULY 2008 PRELIMINARY REVENUE FORECAST

Ms. Pam Sharp, Director, Office of Management and Budget (OMB), presented a report on the status of the general fund, including oil and gas tax distributions to local governments, the July 2008

revised 2007-09 biennium revenue forecast, and the July 2008 preliminary 2009-11 biennium revenue forecast.

Ms. Sharp presented the following schedule showing the status of the general fund for the 2007-09 biennium as of June 30, 2008, and reflecting the July 2008 revised revenue forecast:

July 1, 2007, balance	\$295,541,176
Estimated revenues	2,620,312,137
Estimated available funds	\$2,915,853,313
Appropriations	(2,461,973,956)
Estimated June 30, 2009, balance	\$453,879,357

Ms. Sharp presented the following schedule showing the status of the permanent oil tax trust fund for the 2007-09 biennium as of June 30, 2008, and reflecting the July 2008 revised revenue forecast:

July 1, 2007, balance	\$143,270,662
Estimated revenues	625,351,411
Estimated available funds	\$768,622,073
Appropriations and transfers	(145,716,541)
Estimated June 30, 2009, balance	\$622,905,532

Through June 2008, Ms. Sharp said general fund revenues have exceeded the legislative forecast by \$206.2 million or 17.9 percent. She said major variances relate to sales tax and individual and corporate income tax categories.

Ms. Sharp presented a schedule of oil and gas tax and mineral royalty allocations to cities and counties for fiscal years 2004 through 2008 and for the first month of fiscal year 2009. She said total allocations for fiscal year 2008 totaled \$40.8 million, \$13.2 million more than the \$27.6 million allocated for fiscal year 2007.

Ms. Sharp presented the July 2008 preliminary revenue forecast for the 2009-11 biennium. She said the preliminary forecast for ongoing revenues totals \$2,734,683,000, which is \$201,744,919 or 8 percent more than the 2007-09 revised revenue forecast of \$2,532,938,081.

Ms. Sharp said the 2009-11 preliminary forecast anticipates transfers of \$666 million to the permanent oil tax trust fund for the 2009-11 biennium, \$41 million or 6.6 percent more than the \$625 million anticipated to be transferred during the 2007-09 biennium.

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

In response to a question from Representative Berg, Ms. Sharp said oil production is anticipated to average 159,600 barrels per day for fiscal year 2009. She said current production is approximately 155,000 barrels per day and the forecast anticipates production increasing to approximately 170,000 barrels per day by the end of fiscal year 2009.

For the 2009-11 biennium, Ms. Sharp said the forecast anticipates oil production to average 161,000 barrels per day for fiscal year 2010 and 182,000 barrels per day for fiscal year 2011. Regarding estimated oil prices, she said, the forecast anticipates oil prices to begin the 2009-11 biennium at \$95 per barrel decreasing to \$75 per barrel by the end of the biennium.

Representative Carlson asked for OMB's anticipated use of the \$623 million anticipated to be remaining in the permanent oil tax trust fund at the end of the 2007-09 biennium. Ms. Sharp said OMB is interested in saving some funds for future needs; however, the balance in the permanent oil tax trust fund will be considered a source of funding available to be used during the 2009-11 biennium. She said during the 2007-09 biennium, funding from the permanent oil tax trust fund was used for property tax relief. She said the executive budget may consider this a source of funding for this purpose again.

Representative Skarphol expressed concern regarding the current oil and gas production tax allocation formula for cities. He said smaller cities located in counties with a large city do not receive their appropriate share of oil and gas production tax allocations. He suggested the 2009 Legislative Assembly address the inadequacies of the current formula.

The Legislative Council staff presented a memorandum entitled [Preliminary Outlook - North Dakota 2009-11 Biennium General Fund Budget](#). The Legislative Council staff said the memorandum provides preliminary information on general fund ongoing and one-time revenues and expenditures anticipated for the 2009-11 biennium. The Legislative Council staff said the revenue items are based on OMB's July 2008 preliminary forecast for the 2009-11 biennium.

Senator Holmberg asked the Legislative Council staff to provide the estimated costs for the 2009-11 biennium of various state employee salary increase options.

Senator Christmann suggested the 2009 Legislative Assembly consider addressing deferred

maintenance at state institutions with a portion of the one-time funding available for the 2009-11 biennium.

Representative Berg asked the Legislative Council staff to review state appropriations for the last 10 years to identify the amount provided for state disasters. He suggested reserving a portion of the one-time funding available for the 2009-11 biennium for the cost of future disasters.

## ECONOMIC SECTOR INFORMATION

Mr. Lynn Helms, Director, Department of Mineral Resources, Industrial Commission, provided information regarding the oil industry in North Dakota. He said North Dakota currently has 80 oil rigs operating within the state and he anticipates an average of 90 rigs will be operating during the 2009-11 biennium. He said each rig can drill approximately 10 wells per year and the cost of each well drilled averages \$5.8 million. A copy of the information presented is on file in the Legislative Council office.

Mr. Helms said the average daily production on new oil wells within the Bakken Formation is 600 barrels per day. He said the North Dakota oil industry will again soon experience oil pipeline capacity limitations. He said it costs approximately \$1 to \$2 per barrel to transport oil by pipeline to Minnesota compared to a cost of approximately \$13 per barrel to transfer oil by rail to Oklahoma.

In response to a question from Senator Robinson, Mr. Helms said it takes at least five years to plan and construct an oil pipeline.

In response to a question from Senator Christmann, Mr. Helms said the Tesoro Oil Refinery in Mandan sells approximately one-third of its product in North Dakota.

Representative Skarphol expressed concern that oil exploration in North Dakota may decline due to the lack of pipeline capacity. Mr. Helms said he anticipates any North Dakota oil production over 160,000 barrels per day will be discounted due to oil pipeline capacity limitations.

Mr. Neal Fisher, Administrator, Wheat Commission, provided information on North Dakota crop production and prices.

Mr. Fisher said wheat continues to be "king" of North Dakota agriculture, contributing approximately \$6.9 billion to the state's economy. He presented the following schedule showing crop production, average price, and production values for 2006 and 2007 for various North Dakota crops:

Crop	2006			2007		
	Production (Thousand Bushels)	Average Price	Value of Production (\$1,000)	Production (Thousand Bushels)	Average Price	Value of Production (\$1,000)
All wheat	251,770	\$4.50	\$1,130,352	300,050	\$7.70	\$2,332,400
Spring	212,350	\$4.49	\$953,452	234,000	\$7.30	\$1,708,200
Durum	31,500	\$4.58	\$144,270	43,800	\$11.00	\$481,800
Barley	48,755	\$2.65	\$129,201	77,840	\$3.95	\$307,468
Sunflower	1,114,800	\$14.40	\$159,314	1,492,000	\$21.40	\$317,790
Oats	4,920	\$1.84	\$9,053	15,340	\$2.40	\$36,816
Corn	155,400	\$2.77	\$430,458	272,600	\$3.75	\$1,022,250
Soybeans	119,970	\$5.98	\$717,421	104,650	\$9.80	\$1,025,570

Crop	2006			2007		
	Production (Thousand Bushels)	Average Price	Value of Production (\$1,000)	Production (Thousand Bushels)	Average Price	Value of Production (\$1,000)
Dry beans (cwt)	7,680	\$20.20	\$155,136	10,571	\$22.80	\$241,087
Flax	10,368	\$5.80	\$60,134	5,548	\$13.00	\$72,124
Canola (1,000 lb)	1,280,950	\$11.90	\$152,433	1,326,800	\$18.50	\$245,458
Peas (cwt)	9,322	\$6.33	\$59,008	10,400	\$10.60	\$110,240
Lentils (cwt)	1,214	\$9.72	\$11,800	1,336	\$18.60	\$24,850

Mr. Fisher said Italy imported the most United States durum for the 2007-08 marketing year and Japan imported the most United States spring wheat for the 2007-08 marketing year. A copy of the information presented is on file in the Legislative Council office.

Mr. Wade Moser, Executive Vice President, North Dakota Stockmen's Association, provided information on the livestock industry in North Dakota. Mr. Moser said the United States feed grain cost per steer in 2008 exceeds \$280 compared to approximately \$130 in 2006. He said the cost of hay in the United States is currently approximately \$160 per ton compared to approximately \$135 per ton one year ago. He said although beef exports have increased 33 percent for the first six months of 2008 and cattle prices are remaining fairly steady, the cost of feed has increased substantially in 2008 which he anticipates will reduce net income of cattle producers in 2008. A copy of the information presented is on file in the Legislative Council office.

In response to a question from Representative Aarsvold, Mr. Moser said he is concerned regarding the increasing cost of feed due to the ethanol industry. He said the byproducts from ethanol production were anticipated to be made available to North Dakota cattle producers but producers have not had an opportunity to purchase the byproducts because the majority of these byproducts are exported.

The committee recessed for lunch at 12:00 noon and reconvened at 1:00 p.m.

### COMPULSIVE GAMBLING TREATMENT

Mr. Allan Stenehjerm, Project Coordinator, North Dakota Indian Gaming Association Compulsive Gambling Project, provided information on compulsive gambling treatment services. He said the Indian casinos provide financial assistance for individuals who indicate on intake for compulsive gambling treatment services that their addiction relates to casino gaming. He said these individuals are eligible for assistance for up to 16 weeks of compulsive gambling treatment services. He said the North Dakota Indian Gaming Association and Lutheran Social Services are proposing a North Dakota compulsive gambling treatment initiative of \$1.2 million. A copy of the information presented is on file in the Legislative Council office.

Ms. Lisa Vig, Program Director, Gamblers Choice, Lutheran Social Services, provided comments on compulsive gambling treatment. She said additional funding is needed for compulsive gambling treatment in the state. She said the number of individuals

requiring treatment is remaining steady; however, the cost of providing the treatment is increasing. She said individuals needing compulsive gambling treatment services generally have neither health insurance nor financial resources. She said the \$1.2 million compulsive gambling treatment initiative would provide \$800,000 for statewide treatment services, \$275,000 for a statewide public awareness campaign, \$25,000 for statewide fee-for-service treatment from private providers, and \$100,000 for a statewide school prevention program.

In response to a question from Representative Carlson, Mr. Stenehjerm said the Indian casinos provide Lutheran Social Services \$90,000 per biennium for compulsive gambling treatment.

In response to a question from Representative Carlson, Ms. Vig said most gambling addictions relate to slot machines and pull tabs.

### STATUS OF STATE REVENUES

Ms. Kathryn Strombeck, Tax Department, provided information on the status of individual and corporate income tax collections to date for the 2007-09 biennium, information on corporations with the highest North Dakota net tax liability, and the taxation of oil produced on tribal lands.

Ms. Strombeck provided schedules showing that taxable sales and purchases increased by 10.3 percent in calendar year 2007 compared to calendar year 2006, and for the first quarter of 2008 taxable sales and purchases increased by 12.9 percent compared to the first quarter of 2007. A copy of the information presented is on file in the Legislative Council office.

Ms. Strombeck said individual income tax collections for fiscal year 2008 totaled \$306.8 million, which is \$64.1 million or 26.4 percent more than the original legislative estimate of \$242.7 million. She said corporate income tax collections for fiscal year 2008 totaled \$140.7 million, which is \$62.2 million or 79.2 percent more than the \$78.5 million estimated during the 2007 legislative session. She said OMB's preliminary 2009-11 revenue forecast anticipates individual income tax collections to increase by 7.8 percent compared to the 2007-09 revised estimates and corporate income tax collections to remain fairly steady for the 2009-11 biennium.

Ms. Strombeck said the 2006 corporate income tax liability of the top 25 corporations paying taxes in North Dakota totaled \$48 million. She said this was a 126 percent increase from 2005. She said nearly all of the corporations paying these taxes are incorporated in Delaware.

Ms. Strombeck said through August 1, 2008, the Tax Department has processed \$38.6 million in property tax individual income tax credits. She said additional information on the total property tax income tax credits will be available in November 2008.

Ms. Strombeck provided information on the oil and gas tax agreement of the Three Affiliated Tribes - Mandan, Hidatsa, and Arikara Nation and the state of North Dakota. She said the agreement was signed on June 10, 2008, and establishes a uniform taxation system for oil and gas produced within the boundaries of the Fort Berthold Indian Reservation. She said the agreement is effective for production periods beginning July 1, 2008. She said the tax rate for production on trust land and nontrust land is 5 percent for gross production tax and 6.5 percent for oil extraction tax. She said the agreement provides that oil and gas tax revenue from production on trust land be allocated 50 percent to the tribe and 50 percent to the state and political subdivisions based on the statutory distribution formulas. She said oil and gas tax revenue from production on nontrust lands will be allocated 20 percent to the tribe and 80 percent to the state for gross production taxes and 100 percent of oil extraction taxes to the state and political subdivisions based on statutory distribution formulas. A copy of the information presented is on file in the Legislative Council office.

In response to a question from Representative Carlson, Mr. Ryan Bernstein, Legal Counsel, Governor's office, said the agreement allows the tribe to impose one-time fees totaling \$100,000 relating to the siting of the well and use of the land. He said the fees are not production-related taxation.

Representative Berg expressed concern regarding the inclusion in the agreement of these one-time fees. He said the Legislative Assembly did not intend for any additional fees to be assessed.

Representative Skarphol asked whether the taxation agreement applies to the taxation of wells producing oil prior to the effective date of the agreement. Mr. Bernstein said the new taxation structure applies to oil produced from previously drilled wells only during the term of the agreement; however, he said, taxation of oil from any new wells drilled during the effective dates of the agreement apply for the life of the well under the terms of the agreement.

Mr. Michael Ziesch, Research Analyst, Job Service North Dakota, provided information on the types of jobs that are increasing in the state and those that are decreasing. A copy of the information presented is on file in the Legislative Council office.

In the most recent five-year period, Mr. Ziesch said total covered employment increased by 27,433 jobs or 8.7 percent. He said the construction industry posted the largest numeric gain at slightly under 3,300 jobs, and the mining industry posted the largest percentage increase at almost 55 percent. He said two industries posted minimal losses during this time period--utilities and information.

Mr. Ziesch said total covered employment is expected to increase by about 5,000 jobs or 1.5 percent from 2007 to 2008. He said industries projected to experience job increases from 2007 to 2008 include health care, social assistance, and mining. He said agriculture, forestry, fishing, and hunting are expected to post slight decreases.

Senator Christmann suggested Job Service North Dakota and the North Dakota University System use consistent and comparable data so the universities can educate students needed to fill the jobs in demand in North Dakota.

Senator Christmann asked whether Job Service North Dakota and the University System will provide consistent and comparable information to the 2009 Legislative Assembly. Mr. Ziesch said Job Service North Dakota is working with the University System to accomplish this.

### **AGENCY BUDGET INFORMATION**

Ms. Lori Laschkewitsch, Budget Analyst, OMB, provided information on state agencies that have submitted budget requests for the 2009-11 biennium and cost to continue amounts being identified in the budget development process. She said 36 of 73 state agencies have submitted their budget requests as of August 6, 2008.

Ms. Laschkewitsch presented a schedule showing for each agency, excluding higher education institutions, 2009-11 preliminary budget limits. She said the schedule identifies adjustments made to agencies' 2007-09 biennium appropriations to determine the agencies' 2009-11 general fund budget limit, including reductions for capital projects, one-time expenditures, and authorized carryover funds and increases relating to 2009-11 bond payments, cost to continue fiscal year 2009 salary increases, items for continuation of services, and phased-in programs. A copy of the information presented is on file in the Legislative Council office.

Representative Carlson asked how the OMB evaluates agency budgets to determine cost to continue items and more efficient methods for providing agency services. Ms. Laschkewitsch said budget analysts visit with agency personnel, review statutory requirements, and review agency programs. She said because each agency is unique, it is not possible to identify a percentage increase for cost to continue items that would be applicable to all agencies.

Ms. Linda Butts, Deputy Director for Driver and Vehicle Services, Department of Transportation, provided information on requirements to comply with the provisions of the federal REAL ID Act, progress made to date, anticipated costs of complying with the provisions of the Act, and possible alternatives, including the development of an enhanced driver's license.

Ms. Butts said the department has not yet spent any funds on REAL ID implementation. She said the department has attempted to keep all options

available and will be seeking direction from the 2009 Legislative Assembly.

Ms. Butts said the goal of the REAL ID Act is to enhance the security, integrity, and protection of licensing and identification systems in the United States. She said compliance with REAL ID standards is voluntary; however, if a state does not comply it would be required to print "not REAL ID compliant" on all cards issued. She said citizens would need to obtain a passport for all domestic air travel or for access to federal facilities.

Ms. Butts said North Dakota requested and was granted an extension for REAL ID Act compliance through December 31, 2009. She said the extension allows North Dakota citizens to continue to use current driver's licenses to board planes and enter federal facilities. She said North Dakota will need an additional extension to allow the North Dakota driver's license to continue to be used for these purposes until May 10, 2011.

Ms. Butts reviewed the various documents that can be used for identification, including current driver's licenses, REAL ID driver's licenses, REAL ID compliant enhanced driver's licenses, passports, and pass cards.

Ms. Butts said the total cost of implementing the provisions of the REAL ID Act is not yet known because the Act requires verification checks against systems that do not yet exist. She said the department submitted a grant proposal for \$2.1 million to the United States Department of State relating to REAL ID and received an award of \$500,000. She said the grant requires no commitment to implement REAL ID and the department will begin to implement only after legislative review. A copy of the information presented is on file in the Legislative Council office.

Representative Carlson expressed concern regarding the time spent by the Department of Transportation on REAL ID issues. He anticipates that substantial changes in federal rules and regulations may occur prior to implementation deadlines.

Mr. Todd Sando, Assistant State Engineer, State Water Commission, presented information on water projects for the 2009-11 biennium and 2011-13 bienniums, including the anticipated funds available, amounts committed, and planned water projects and related estimated cost in priority order. A copy of the information presented is on file in the Legislative Council office.

Mr. Sando presented a schedule listing potential water projects for the 2009-11 biennium by major project type. He said the estimated cost of the state share of these projects totals \$116.2 million.

Mr. Sando said the commission anticipates funding available for water projects from the water development trust fund and the resources trust fund to total \$132.4 million for the 2009-11 biennium. He said if the proposed initiated measure relating to tobacco use prevention and control is approved in November 2008, water development trust fund revenues from the

Tobacco Master Settlement Agreement are estimated to decrease by \$12 million to \$13 million per biennium.

Representative Carlson asked for the status of the commission's 2009-11 budget request. Mr. Dave Laschkewitsch, State Water Commission, said the commission has requested and been approved for an extension to submit its budget request until September 1, 2008.

In response to a question from Representative Carlson, Mr. Laschkewitsch said the commission's 2009-11 biennium bond payments total approximately \$17 million.

Representative Carlson asked the State Water Commission to provide information to the committee at its next meeting on its budget request for the 2009-11 biennium, including total water project funding needs by major category, anticipated available funding, and anticipated uses of additional resources trust fund revenues available for the 2007-09 biennium.

Ms. Laura Glatt, Vice Chancellor for Administrative Affairs, North Dakota University System, provided information of the status of the University System's 2007-09 biennium budget, including major programmatic changes, status of one-time expenditures, and deferred maintenance; and information on the University System's 2009-11 biennium budget request, including the process used by the University System to develop its budget request, cost to continue items, and major budget changes and initiatives for the 2009-11 biennium.

Regarding the University System's 2007-09 biennium budget, Ms. Glatt said Bismarck State College, Lake Region State College, Mayville State University, Minot State University - Bottineau, University of North Dakota, and Williston State College are projecting funding shortfalls relating to utilities. She said the Northern Tier Network will be fully operational due to the \$2.7 million provided by the Legislative Assembly from the permanent oil tax trust fund. She said the University System will have approximately \$1 million in carryover funds at the end of this biennium to assist with paying Northern Tier Network maintenance costs during the first year of the 2009-11 biennium. She said the University System will need an additional \$1 million for Northern Tier Network maintenance costs for the second year of the 2009-11 biennium.

Ms. Glatt said as part of the budgeting process, each campus prepares a comprehensive campus master plan which includes information on outstanding deferred maintenance valuations. She said the University System currently has almost \$110 million in outstanding deferred maintenance on state facilities only.

Regarding the University System's 2009-11 biennium budget request, Ms. Glatt said the University System's proposed 2009-11 biennium budget request, including the University of North Dakota School of Medicine and Health Sciences and the North Dakota

Forest Service, includes a base funding increase of \$116 million or 24.3 percent compared to the 2007-09 adjusted base general fund appropriation. She said key 2009-11 budget request initiatives include:

1. Increasing needs-based financial aid by approximately \$14 million.
2. Limiting four-year university tuition increases to no more than 4 percent and maintaining community college tuition rates at the 2008-09 levels.
3. Including funding for 7 percent annual average salary increases.
4. Including \$1.5 million to begin implementation of P-16 Education Task Force recommendations for enhanced career planning in conjunction with the Department of Public Instruction and the Department of Career and Technical Education.

Ms. Glatt said the budget request includes one-time funding requests of \$85.8 million and capital project requests of \$90 million. A copy of the information presented is on file in the Legislative Council office.

In response to a question from Representative Skarphol, Ms. Glatt said the University System identifies its deferred maintenance needs as part of an assessment of university facilities conducted as part of the campus master plan developed each biennium.

Representative Skarphol suggested the committee receive information at a future meeting on the Northern Tier Network, including information on the needs of elementary and secondary education and what types of telecommunications activities are being transferred to the network. Representative Aarsvold suggested that private telecommunications carriers in the state also be invited to comment to the committee on the Northern Tier Network. Chairman Carlson said this would be included on a future agenda.

Chairman Carlson asked the Legislative Council staff to provide information to the committee on various state budget funding levels that may be available depending on whether certain initiated measures are approved in November.

Mr. Tom Decker, Director, School Organization and Finance, Department of Public Instruction, provided information on the activities and funding of regional education associations, including information on other funding received by these associations.

Mr. Decker said eight regional education associations are operating in North Dakota--the Great Northwest Education Cooperative, the Mid-Dakota Education Council, the Missouri River Educational Cooperative, the North Central Education Cooperative, the Northeast Education Service Cooperative, the Red River Valley Education Cooperative, the Roughrider Education Services Program, and the South East Education Cooperative.

Mr. Decker provided information on total revenues and expenditures, including sources of revenues, for the cooperatives for fiscal years 2006 through 2008. He said revenues have increased from \$1.4 million in

2006 to \$4.3 million in 2008. A copy of the information presented is on file in the Legislative Council office.

Representative Aarsvold asked the Department of Public Instruction to provide information on those regional education associations that are reflected as spending more than revenues in a fiscal year and how the shortfall is covered.

The Legislative Council staff presented a memorandum entitled [Authorized Number of Full-Time Equivalent Positions - Consideration of Inclusion in Appropriation Bills](#). The Legislative Council staff said based on a request at an earlier committee meeting, the memorandum includes examples of appropriation bills that identify the number of authorized full-time equivalent (FTE) positions for each agency within the bill. The Legislative Council staff said the examples include an alternative appropriation bill format that identifies the base-level funding, adjustments or enhancements, and the appropriation for an agency within one section of the bill using a three-column format as well as examples using the current appropriation bill format utilizing three sections of the bill.

The Legislative Council staff reviewed the current process of authorizing the number of FTE positions for each agency as follows:

1. The number of authorized FTE positions for each agency is included in supporting documentation submitted to the Legislative Assembly as part of the executive budget recommendation.
2. The number of authorized FTE positions recommended in the executive budget and any legislative changes to the number of FTE positions are identified in the statement of purpose of amendments to appropriation bills and included in postsession Legislative Council reports.
3. New FTE positions are, at times, identified in other appropriation bills affecting a state agency or in fiscal notes to bills affecting an agency's budget.
4. The Emergency Commission may authorize additional FTE positions for agencies during the interim for the remainder of the current biennium based on agency requests.

The Legislative Council staff said if the number of authorized FTE positions for each agency is identified in appropriation bills, it is anticipated that:

1. The agency's primary appropriation bill will include only those FTE positions associated with the funding in that bill. Additional FTE positions for the agency may be authorized in other appropriation bills.
2. The Legislative Assembly will specifically take action amending the appropriation bill to change the number of FTE positions similar to the action taken to change funding levels of an agency.

3. Full-time equivalent positions identified in fiscal notes would not be authorized unless also specifically identified in an appropriation bill.

Regarding the Emergency Commission's role, the Legislative Council staff said currently, based on agency requests, the Emergency Commission may authorize additional FTE positions during the interim, generally as part of the approval of additional appropriation authority for the agency under North Dakota Century Code Chapter 54-16. These positions are authorized only for the current biennium and, if the agency wishes to continue the position, the position must be requested by the agency as a new FTE position from the next Legislative Assembly. If the Legislative Assembly includes the number of authorized FTE positions for an agency in the appropriation bill, to continue the current Emergency Commission process, the Emergency Commission would need specific authority to approve additional FTE positions for state agencies.

Ms. Sheila Peterson, Fiscal Management Director, OMB, commented on the proposed appropriation bill changes. She said OMB supports the three-column format for providing agency appropriations within one section of the appropriation bill. She suggested that if FTE positions are included in agency appropriation bills, the number be identified for each agency in total and not identified for each division of the agency.

Chairman Carlson said the committee will further discuss alternative appropriation bill formats at the next committee meeting.

Chairman Carlson asked OMB to provide information to the committee at its next meeting on preliminary 2009-11 biennium budget information, including estimated ongoing and one-time revenues and related general fund transfers; major anticipated expenditures, including expenditures relating to salaries and wages, health insurance, and one-time funding items; and major initiatives that may be considered as part of the executive budget.

Representative Carlson also asked OMB to provide information on its plan for the use of funding in the permanent oil tax trust fund.

Mr. Lynn Bergman, Citizens for Responsible Government, Bismarck, suggested the committee ask that the Governor, in preparation of the 2009-11 biennium executive budget recommendation, assume North Dakota voters, in the November election, approve the initiated measures relating to the permanent oil tax trust fund and income tax rate reductions.

The committee adjourned subject to the call of the chair at 4:45 p.m.

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Allen H. Knudson  
Legislative Budget Analyst and Auditor

ATTACH:1