

NORTH DAKOTA LEGISLATIVE MANAGEMENT

Minutes of the

**GOVERNMENT SERVICES COMMITTEE**

Wednesday, July 11, 2012  
 Roughrider Room, State Capitol  
 Bismarck, North Dakota

Representative Jeff Delzer, Chairman, called the meeting to order at 9:00 a.m.

**Members present:** Representatives Jeff Delzer, Duane DeKrey, Glen Froseth, Ed Gruchalla, Matthew M. Klein, Curtiss Kreun, Bob Martinson, Lisa Meier, Phillip Mueller, Todd Porter, David S. Rust, Vicky Steiner, Blair Thoreson, Alon Wieland; Senators Ron Carlisle, Lonnie J. Laffen, Gary A. Lee, Jim Roers

**Members absent:** Representative Don Vigasaa; Senators David O'Connell, Donald Schaible

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

See [Appendix A](#) for additional persons present.

**It was moved by Representative Klein, seconded by Representative Thoreson, and carried on a voice vote that the minutes of the March 14, 2012, meeting be approved as distributed.**

**STATE BUDGET INFORMATION  
 Status of Major State Funds  
 and Other Budget Information**

Ms. Pam Sharp, Director, Office of Management and Budget, presented information ([Appendix B](#)) regarding the status of major state funds and other state budget information. She presented the following information on the status of the state general fund for the 2011-13 biennium:

Unobligated general fund balance - July 1, 2011		\$996,832,711
<b>Add</b>		
General fund collections through May 2012	\$2,281,902,979	
Forecasted general fund revenue for the remainder of the 2011-13 biennium	1,827,511,461	
<b>Total estimated general fund revenue for the 2011-13 biennium</b>		<b>\$4,109,414,440</b>
Balance obligated for authorized carryover from the 2009-11 biennium		106,945,443
<b>Total estimated available</b>		<b>\$5,213,192,594</b>
<b>Less</b>		
2011-13 biennium general fund ongoing appropriations	(3,532,895,032)	
2011-13 biennium general fund one-time appropriations	(533,958,760)	

2011-13 biennium special session appropriations	(169,832,668)	
Balance obligated for authorized carryover from the 2009-11 biennium	(106,945,443)	
2011-13 biennium emergency appropriations utilized in the 2009-11 biennium	519,254	
Estimated deficiency requests		
Department of Human Services - Accelerated 2013-15 biennium federal medical assistance percentage (FMAP) costs	(21,200,000) <sup>1</sup>	
<b>Total appropriations and estimated deficiency requests</b>		<b>(\$4,364,312,649)</b>
Estimated general fund balance - June 30, 2013		\$848,879,945 <sup>2</sup>

<sup>1</sup>The Department of Human Services anticipates requesting a deficiency appropriation related to the FMAP rate decreasing to 52.27 percent in fiscal year 2012 at an estimated cost to the state of \$21.2 million. The department anticipates that in the 2013-15 biennium the FMAP rate is likely to decrease to the minimum of 50 percent.

<sup>2</sup>Pursuant to North Dakota Century Code Section 54-27.2-02, any end-of-biennium balance in excess of \$65 million must be transferred to the budget stabilization fund, up to a cap of 9.5 percent of general fund appropriations. This amount does not reflect any potential transfers.

Ms. Sharp presented the following schedule detailing the balance of selected special funds as of May 31, 2012:

Budget stabilization fund	\$386,351,110
Legacy fund	\$351,974,105
Foundation aid stabilization fund	\$204,034,265
Property tax relief sustainability fund	\$261,828,006

Ms. Sharp said as of July 6, 2012, the Office of Management and Budget (OMB) has identified six potential deficiency appropriations totaling \$23,686,371 to be requested from the 63<sup>rd</sup> Legislative Assembly. She said the potential deficiency appropriations relate to State Department of Health food and lodging inspector costs, State Department of Health loan repayment for lawsuit costs, Department of Human Services FMAP changes, Job Service North Dakota loan interest, Highway Patrol mileage rates, and State Fair flood recovery costs.

In response to a question from Senator Lee, Ms. Sharp said the state FMAP rate for the remainder of the 2011-13 biennium is estimated to be approximately 52 percent. She said the FMAP rate is expected to decrease to 50 percent during the 2013-15 biennium.

In response to a question from Representative Delzer regarding the effect of the FMAP reduction from 52 to 50 percent in the 2013-15 biennium, Ms. Sharp said approximately \$90 million of additional state funding will be needed during the 2013-15 biennium to continue Medicaid program services at the current level.

In response to a question from Representative Froseth, Ms. Sharp said the fees charged for food and lodging inspections conducted by the State Department of Health do not provide for the full cost of the inspections.

Representative Froseth suggested the committee review the fees charged by the State Department of Health for food and lodging inspections, including the feasibility and desirability of increasing the fees to provide for the total cost of the inspections.

Ms. Sharp said the preliminary revenue forecast will be released in August 2012 to provide estimates for updated 2011-13 biennium general fund revenues and 2013-15 biennium revenues. She said a revised revenue forecast will be completed in November 2012 which will be used to develop the 2013-15 executive budget recommendation.

Ms. Sharp said budget guidelines were issued to executive branch state agencies to develop agency budget requests for the 2013-15 biennium. She said the guidelines provide for a hold-even budget, and agencies are to identify optional adjustments to generate savings of 3 percent.

In response to a question from Representative Delzer, Ms. Sharp said state employee salary and health insurance increases are not included in the hold-even budget requests submitted by state agencies to OMB.

### **Compliance With Legislative Intent Report**

Chairman Delzer called on the Legislative Budget Analyst and Auditor to present the [2011-13 Biennium Report on Compliance With Legislative Intent](#) and [Analyses of Major State Trust Funds](#). The Legislative Budget Analyst and Auditor said the reports are available on the Legislative Council website and printed reports are available on request. He reviewed examples of agency compliance reports and selected trust fund analyses.

In response to a question from Representative Froseth, the Legislative Budget Analyst and Auditor said the Legislative Assembly appropriated \$341,790,000 to the Department of Public Instruction for mill levy reduction grants for the 2011-13 biennium. He said the Department of Public Instruction is anticipating property value increases to be less than projected during the legislative session

resulting in an estimated \$10.3 million of the appropriation not being needed.

In response to a question from Representative Delzer, the Legislative Budget Analyst and Auditor said the constitution requires that 30 percent of oil and gas production tax and oil extraction tax collections be deposited in the legacy fund. He said the constitution also requires that 10 percent of oil extraction tax collections be deposited in the foundation aid stabilization fund and 10 percent of oil extraction tax collections be deposited in the common schools trust fund.

### **Status of State Employee Retirement Fund**

Mr. Sparb Collins, Executive Director, Public Employees Retirement System, presented information ([Appendix C](#)) regarding the status of the state employee retirement fund. He said the balance of the public employee's retirement fund is currently at approximately 70 percent of the actuarial value of accrued benefits. He said the Legislative Assembly authorized an increase of 1 percent for employee and 1 percent for employer retirement fund contributions during each year of the 2011-13 biennium. He said the Public Employees Retirement System (PERS) Board is recommending additional 1 percent employee and 1 percent employer contributions for each year of the 2013-15 biennium. He said the estimated cost to the state for the recommended employer contribution increases during the 2013-15 biennium is \$9,992,565.

In response to a question from Representative Porter, Mr. Collins said he will provide the committee additional information regarding historical changes made to the PERS retirement program, including changes in contribution levels, eligibility requirements, and benefits.

In response to a question from Representative Delzer, Mr. Collins said he will provide the committee information regarding the average retirement age of state employees.

In response to a question from Representative Klein, Mr. Collins said he will provide additional information to the committee regarding other states that have changed from a defined benefit to a defined contribution plan for public employee retirement programs.

In response to a question from Representative Froseth, Mr. Collins said nonclassified state employees have the option to enroll in a defined contribution retirement plan rather than the regular PERS defined benefit retirement plan.

In response to a question from Representative Wieland, Mr. Collins said most state employees also participate in the federal Social Security program. He said employees participating in specific retirement plan programs, such as the Highway Patrolmen's retirement fund, do not participate in the federal Social Security program. He said the retirement programs for employees that do not participate in the federal

Social Security program have higher contribution and benefit rates.

### **Classified State Employee Compensation System - Implementation of Hay Group Recommendations**

Mr. Ken Purdy, Classification and Compensation Manager, Human Resource Management Services Division, Office of Management and Budget, provided an update ([Appendix D](#)) on the status of the implementation of Hay Group recommendations for the classified state employee compensation system. He said a revised grade structure was developed based on job evaluations and market-based ranges determined from a salary survey. He said all state job classifications were reviewed to determine placement into the appropriate grade ranges. He said the new grade ranges became effective on July 1, 2012.

Mr. Purdy said 745 employees have salary levels which are below the minimum salary amounts established in the new grade ranges. He said the cost of providing salary increases to these employees to bring them to the new minimum salary levels is \$1.9 million in total for state fiscal year 2013.

In response to a question from Senator Carlisle, Mr. Purdy said some agencies are providing additional pay to employees whose positions are located in areas affected by oil and gas development. He said the additional pay is not considered part of the employee's base salary.

### **State Fleet Services Rates and 2013-15 Biennium Budget Guidelines**

Mr. Shannon Sauer, Financial Management Director, Department of Transportation, provided an overview ([Appendix E](#)) of budget guidelines issued to state agencies by the Department of Transportation for State Fleet Services vehicle rental rates for the 2013-15 biennium. He said the budget guidelines provide an estimate for the per mile or per hour operating rate of several classes of vehicles. He said the rates are developed based on historical operating costs, estimated depreciation costs, and estimated vehicle replacement costs. He said the rates also account for excess revenues or deficits resulting from actual costs being different than charged costs in previous budget periods.

In response to a question from Representative Porter, Mr. Sauer said agencies do not receive a refund if the actual cost of using a vehicle is less than the amount charged. He said he will provide additional information to the committee regarding the current balance of the State Fleet Services fund.

In response to a question from Representative Meier, Mr. Paul Hanson, Director, State Fleet Services, Department of Transportation, said the replacement frequency of State Fleet Services vehicles varies based on vehicle type. He said passenger sedans are normally replaced after approximately five years of service or 70,000 miles.

### **Information Technology Department 2013-15 Biennium Budget Guidelines**

Mr. Mike Ressler, Deputy Chief Information Officer, Information Technology Department, provided an overview ([Appendix F](#)) of budget guidelines issued to state agencies by the Information Technology Department for information technology services during the 2013-15 biennium. He said the department issues budget guidelines for information technology services in April of even-numbered years. He said the budget rates established by the department are based on the actual cost of providing the services.

In response to a question from Representative Delzer, Mr. Ressler said the Information Technology Department does not normally adjust service rates during a biennium. However, he said, the department may be required to change rates during a biennium due to federal government guidelines regarding the amount of funding held in reserve by the department.

### **Status of Oil and Gas Production Tax Collections and Allocations**

Ms. Becky Keller, Senior Fiscal Analyst, Legislative Council, presented a memorandum entitled [2011-13 Oil Tax Revenue Allocations](#). She reviewed the level of oil production in the state to date during the 2011-13 biennium as well as changes in the price of oil. She also reviewed the amount of oil and gas tax revenue collections attributable to each county as well as oil and gas production tax distributions to political subdivisions.

In response to a comment from Representative Rust, Chairman Delzer asked the Legislative Council staff to provide information to the committee regarding the reasons for differences in the price of North Dakota crude oil compared to the price of west Texas intermediate crude oil.

### **Historical Economic Indicators**

The Legislative Council staff presented a memorandum entitled [State General Fund Revenues, Appropriations, and Selected Economic Indicators - Historical Comparison](#). The Legislative Council staff said the memorandum includes charts that compare state revenues and appropriations to various economic indicators since 1973.

The committee recessed for lunch at 11:55 a.m. and reconvened at 1:00 p.m.

### **STUDY OF THE USE OF STATE-OWNED AIRPLANES Passengers Utilizing Department of Transportation Airplanes**

Mr. Sauer presented information ([Appendix G](#)) regarding the number of Department of Transportation flights during state fiscal year 2011, including the number of passengers on the flights and passenger fees collected. He presented the following information regarding passenger flights utilizing the department's passenger airplanes:

Flight Information - State Fiscal Year 2011 (July 1, 2010 - June 30, 2011)		
	1998 KingAir B200	1977 Piper Cheyenne
Number of trips	191	57
Flight hours	276.4	86.7
Total passengers	753	155
Total fees collected	\$374,191	\$111,523
Average fees collected per passenger	\$496.93	\$719.51

### North Dakota State University Airplane

Mr. Gary Wawers, Controller, North Dakota State University, Fargo, presented information ([Appendix H](#)) regarding the airplane used by the university. He reviewed a schedule detailing the flights made by the airplane during state fiscal year 2011, including the passengers on each flight. He said the current insurance policy on the airplane provides for a liability coverage limit of \$100 million and a physical damage limit of \$2 million. He said the current annual premium amount for the insurance policy is \$18,395.

Mr. Wawers said the university uses non-general fund revenues to pay for airplane operating costs. He said the revenues used consist of interest income, indirect cost recoveries, transfers from department local funds, and revenues received under the North Dakota/Minnesota tuition reciprocity agreement. He said the university airplane is currently subleased to Fargo Jet Center for an hourly rent of \$660 per flight hour. He said the sublease amount is based on industry comparisons for subleasing similar aircraft. He said since November 2011, Fargo Jet Center has used the plane for 86.9 hours which equates to total payments of \$57,354 to the university.

In response to a question from Representative Delzer, Mr. Wawers said the university recently began to charge a fee to non-university employees who are passengers on the airplane. He said the fee is based on the actual cost of the flight and allocated among flight passengers.

In response to a question from Representative Wieland, Mr. Wawers said the airplane is leased to the university from the North Dakota State University Development Foundation. He said the university makes lease payments directly to GE Capital Finance. He said the lease payments will continue through July 2017.

In response to a question from Representative Delzer, Mr. Wawers said the university has an agreement with Fargo Jet Center to manage the airplane and provide pilot services.

In response to a question from Representative Delzer, Mr. Wawers said funding sources used to pay for the airplane are not restricted and can be used for any university purpose.

Representative Porter suggested the committee receive additional information regarding the comparisons used by the university to determine the amount to charge Fargo Jet Center for subleasing the airplane.

In response to a question from Representative Porter, Mr. Wawers said he will provide the committee

with additional information regarding the insurance policy on the airplane, including the additional insurance costs related to subleasing the aircraft for charter purposes.

In response to a question from Representative Wieland, Senator Roers said the normal hourly operating cost of a KingAir airplane ranges from \$800 to \$1,000 per hour based on 250 annual flight hours. However, he said, the operating costs can vary depending on a number of factors. He said the high operating costs of the university airplane appear to be primarily the result of the low utilization of the airplane.

In response to a question from Representative Delzer, Mr. Wawers said the original purchase price of the airplane was \$2,348,000, and the outstanding balance of the loan is \$1,372,000. He said the university is attempting to sell the airplane for \$1,550,000.

### Bill Draft to Create a Central Aircraft Management System

At the request of Chairman Delzer, the Legislative Council staff presented a bill draft [[13.0083.01000](#)] to create a central management system for state-owned or state-leased aircraft. The Legislative Council staff said the bill draft would require the Aeronautics Commission to establish within its office a central management system for state-owned or state-leased aircraft. All executive branch agencies, excluding the Adjutant General's office and entities under the control of the State Board of Higher Education, would be required to use the central aircraft management system for airplane travel or for other duties requiring the use of an aircraft. However, an agency would be allowed to authorize its employees to use commercial air service rather than the central aircraft management system for travel purposes. The bill draft requires the Aeronautics Commission to charge a user fee based on actual aircraft costs to agencies utilizing aircraft in the central aircraft management system. The bill draft requires the ownership of state-owned airplanes to be transferred to the Aeronautics Commission on July 1, 2013.

In response to a question from Senator Laffen, the Legislative Council staff said aircraft operated by the National Guard under the Adjutant General's office are currently federally owned and would not be subject to the state central aircraft management system. He said the exemption included in the bill draft for the Adjutant General's office would only be needed in the event that the aircraft under the control of the Adjutant General's office were to become state-owned aircraft. He said the bill draft also exempts entities under the control of the State Board of Higher Education but the exemption could be removed to require higher education institutions to participate in the central aircraft management system.

Representative Gruchalla suggested the committee review options to exclude certain law

enforcement aircraft from the proposed central aircraft management system.

Representative Porter suggested the bill draft be amended to specifically allow the Game and Fish Department and Highway Patrol to enter an agreement with the Aeronautics Commission for the exclusive use of specialized aircraft not used for passenger transportation services. Chairman Delzer asked the Legislative Council staff to make this change to the bill draft for consideration at the committee's next meeting.

Senator Laffen suggested the committee review options for the state to purchase the university airplane for use in the proposed central aircraft management system for state-owned or state-leased airplanes.

Chairman Delzer asked the Legislative Council staff to contact representatives of North Dakota State University regarding the feasibility of selling the university airplane to the state, including any prepayment penalties that may be incurred by the institution.

## COMMITTEE DISCUSSION

Representative Delzer said the committee needs to be aware of potential budget issues if oil production in the state declines. He said the state relied heavily on oil tax revenues during the early 1980s and had to increase other tax types in the late 1980s when oil production declined. He said consideration also needs to be given to the amount of tax revenue generated through sales and income taxes as a result of oil and gas development.

Senator Carlisle suggested the committee receive updates at a future meeting regarding the balance of the strategic investment and improvements fund.

No further business appearing, Chairman Delzer adjourned the meeting at 2:05 p.m.

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Brady A. Larson  
Senior Fiscal Analyst

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Allen H. Knudson  
Legislative Budget Analyst and Auditor

ATTACH:8