

## NORTH DAKOTA LEGISLATIVE MANAGEMENT

## Minutes of the

**GOVERNMENT FINANCE COMMITTEE**

Tuesday, July 1, 2014  
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, Larry Bellew, Joshua A. Boschee, Bette Grande, Craig Headland, Rick Holman, Lisa Meier, Kylie Oversen, Don Vigesaa, Clark Williams; Senators Dwight Cook, Gary A. Lee, Ronald Sorvaag, Terry M. Wanzek, Rich Wardner

**Member absent:** Senator Donald Schaible

**Others present:** Representative Jim Schmidt and Senator Ray Holmberg, members of the Legislative Management, were also in attendance.

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

**STUDY OF THE STATE EMPLOYEE RETIREMENT PLAN**

Mr. Doug Anderson, Area Senior Vice President of Actuarial and Retirement Services, Arthur J. Gallagher & Co., Bloomington, Minnesota, presented an update ([Appendix B](#)) on the status of the actuarial review being conducted for the committee of the main state employee defined benefit retirement plan. He said Gallagher reviewed the reasonableness of assumptions used by the state employee retirement fund actuary--The Segal Company. He said some assumptions, such as investment return rate, are difficult to predict. He suggested the committee consider reviewing plan projections using alternative assumptions as follows:

<b>Assumption</b>	<b>Segal Assumption</b>	<b>Gallagher-Recommended Alternative</b>
Investment return	8 percent	Consider both 8 and 7.5 percent as the investment return assumption, but also demonstrate results under various actual investment return rates
Salary increases	Various rates based on service and age	Consider current rates plus or minus 10 percent at each age
Total payroll growth	4.5 percent per year	Consider both 4.5 and 3 percent for total payroll growth for open group assumptions
Mortality	RP-2000 combined healthy mortality table, with a 10 percent margin for future mortality improvement	Consider results using current mortality table without 10 percent margin for future mortality improvement and use a different table scale that includes projected future mortality rate improvements
Withdrawal	Current rates are as high as 22 percent in the first year of employment, dropping to 14 percent in the fourth year. Thereafter, rates are based on age and are the same for males and females.	Consider rates 10 percent higher and 10 percent lower at each age
Retirement	Rates vary from age 55 to 75 and depend of eligibility for early retirement and unreduced retirement	Consider rates 5 percent sooner or later from age 55 to 59 to estimate accelerated or deferred retirements

Mr. Anderson reviewed several projections for the state employee retirement plan using different investment return rates. He also highlighted the effect of other assumptions on the projections.

Mr. Anderson said the next steps of the actuarial review include reconciling data and program differences, updating the projection module, reviewing the use of alternative assumptions, and preparing benefit impact information.

In response to a question from Senator Cook, Mr. Anderson said additional fund contributions would be required to pay retirement benefits under the defined benefit retirement plan if newly hired employees do not participate in the defined benefit retirement plan. He said a one-time payment could be made or several smaller payments could be made over several years.

In response to a question from Representative Grande, Mr. Anderson said there are relatively minor differences in the projections made by Gallagher and Segal. He said the actuaries are working together to determine the differences in projections.

Senator Holmberg said the economic activity in the state has resulted in state employees receiving larger-than-average salary increases. He said the recent salary increases may have an effect on the retirement projections.

Mr. Anderson said one option for the salary increase assumption is to forecast higher salary increases during the short term and then assume average salary increases in the long term.

In response to a question from Representative Grande, Mr. Anderson said the actuarial review is measuring total cost increases required for the retirement plan and is not separating the amount into employee and employer contributions.

In response to a question from Chairman Delzer, Mr. Anderson said he will provide information to the committee regarding the actual investment rate of return for the retirement fund in the past.

Representative Grande suggested the committee receive additional information regarding the projections for the retirement plan if it is closed to both new state employees and new political subdivision employees.

Chairman Delzer asked the Legislative Council staff to prepare a bill draft to require new state employees to participate in a defined contribution retirement plan. He said the purpose of the bill draft is to provide a starting point for committee discussions at the next meeting.

## STATE BUDGET INFORMATION

### Status of the General Fund and Major Special Funds

Ms. Pam Sharp, Director, Office of Management and Budget, presented information ([Appendix C](#)) regarding the status of the general fund and the current balance of major state funds. She presented the following information on the status of the general fund for the 2013-15 biennium:

Unobligated general fund balance - July 1, 2013		\$1,396,059,186
Balance obligated for unspent emergency appropriation authority		165,874,199
Balance obligated for authorized carryover from the 2011-13 biennium		89,503,462
Total beginning general fund balance - July 1, 2013		\$1,651,436,847
Add		
General fund collections through May 2014	\$2,701,867,812	
Forecasted general fund revenue for the remainder of the 2013-15 biennium	2,977,097,397	
Total revenues		5,678,965,209
Total available		\$7,330,402,056
Less		
Legislative appropriations - One time	(\$2,433,567,701)	
Legislative appropriations - Ongoing	(4,429,019,653)	
Authorized carryover from the 2011-13 biennium	(89,503,462)	
2013-15 emergency appropriations utilized in the 2011-13 biennium	163,812,041	
Total appropriations		(6,788,278,775)
Estimated ending general fund balance - June 30, 2015		\$542,123,281 <sup>1</sup>

<sup>1</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 maximum of 9.5 percent of general fund appropriations.

Ms. Sharp presented the following information regarding the balances of major state funds as of May 31, 2014:

Budget stabilization fund	\$583,545,799
Legacy fund	\$2,090,985,729
Foundation aid stabilization fund	\$459,463,312
Property tax relief fund	\$657,000,000
Strategic investment and improvements fund	\$1,149,622,670 <sup>1</sup>
<sup>1</sup> Includes \$887,220,055 of obligated funds.	

In response to a question from Chairman Delzer, Ms. Sharp said the unobligated balance of the strategic investment and improvements fund now exceeds \$300 million. She said 25 percent of revenues designated for deposit in the strategic investment and improvements fund will instead be deposited in the legacy fund.

In response to questions from Chairman Delzer, Ms. Sharp said she will provide the committee with information at a future meeting regarding recent variances in corporate income tax collections, tax collections related to agriculture, and the amount of increased income tax collections attributable to higher wages and to new residents.

Senator Wanzek said recent decreases in agriculture commodity prices may affect sales and income tax collections.

In response to a question from Chairman Delzer, Ms. Sharp said she will provide the committee with information at a future meeting comparing tax collections for state fiscal years 2013 and 2014.

### Common Schools Trust Fund

Mr. Lance D. Gaebe, Commissioner, Department of Trust Lands, presented information ([Appendix D](#)) regarding the common schools trust fund. He said the federal Enabling Act of 1889 granted 2.5 million acres of land to the state for support of common (public) schools. He said the Enabling Act requires proceeds from the sale of the land to be placed in a permanent school fund, and interest from the fund is to be used to support common schools. He said 668,000 acres of land were also granted to the state for the benefit of other public institutions. He said other revenue sources for the common schools trust fund include mineral royalties, a percentage of oil extraction taxes, tobacco settlement proceeds, and investment gains or losses.

Mr. Gaebe said the common schools trust fund currently consists of 635,000 acres of surface lands, 1.5 million acres of mineral rights, and approximately \$3 billion of investment assets. He said the investment assets are estimated to increase to \$4.4 billion by the 2017-19 biennium. He said biennial distributions to common schools are in an amount equal to 10 percent of the five-year average value of investment assets of the fund. He said \$130.3 million will be distributed from the fund during the 2013-15 biennium, and distributions during the 2017-19 biennium are estimated to be \$294.5 million.

Mr. Gaebe said the common schools trust fund must be invested in a prudent way and managed for the exclusive benefit of common schools. He said a recent Attorney General opinion determined the Land Board does not have the authority to provide grants or gifts from the fund to any entity but may approve loans from the fund, except that the loans may not be at a below-market interest rate.

In response to a question from Senator Wanzek, Mr. Gaebe said the fund can experience losses in its investment assets. He said the land and mineral rights owned by the fund are not included in calculations of investment gains or losses because they are not liquid assets and are not included in distribution calculations.

In response to a question from Senator Lee, Mr. Gaebe said distributions from the fund on a per student basis are affected by the amount of funds available to be distributed and the number of students enrolled at common schools.

In response to a question from Chairman Delzer, Mr. Gaebe said the 2013 Legislative Assembly authorized the Land Board to provide up to \$150 million of loans from the strategic investment and improvements fund to schools for construction-related projects. He said all the funds available have been pledged for school projects, but loan proceeds will not be distributed for a project until local approval for the project is obtained. He said the Land Board is also authorized to provide up to \$50 million in loans from the coal development trust fund for school construction projects in the state.

### Energy Development Impact Grants

Mr. Gaebe presented information ([Appendix E](#)) regarding energy development impact grants. He said the Legislative Assembly authorized \$240 million for energy development impact grants for the 2013-15 biennium. He said of this amount, \$142.4 million has been awarded to date to counties, cities, airports, higher education

institutions, elementary and secondary education schools, and public safety entities. He said the Land Board has also pledged a portion of remaining grant funds for specific projects.

In response to a question from Senator Wanzek, Mr. Gaebe said all fire departments in the state receive an allocation of insurance premium tax collections. He said only fire departments affected by energy development may receive an energy development impact grant.

In response to a question from Representative Headland, Mr. Gaebe said energy development impact grant applications have been received from political subdivisions in areas not directly affected by energy development.

In response to a question from Chairman Delzer, Mr. Gaebe said a portion of energy development impact grant funding is designated for contingency grants. He said the contingency grants may be awarded by the Land Board for unanticipated needs.

### **CHILD SUPPORT LIEN REGISTRY**

Ms. Terry Peterson, Assistant Director, Child Support Division, Department of Human Services, presented information ([Appendix E](#)) regarding the child support lien registry. She said the Legislative Assembly enacted legislation in 2011 to create the registry. She said the registry is a list of obligors who owe past-due child support, and a lien is automatically created against certain property of the obligor when the obligors are listed in the registry. She said lenders and other businesses involved in certain property transactions are required to search the registry for obligors.

In response to a question from Chairman Delzer, Ms. Peterson said businesses required to participate in the lien registry do not receive compensation for their services. She said the department receives feedback from businesses regarding ways to make the system more efficient.

In response to a question from Chairman Delzer, Ms. Peterson said the department does not monitor the number of child support payments received as a result of each industry's required participation in the registry.

Chairman Delzer said it is important for the Legislative Assembly to have information regarding the success of each industry required to participate in the registry.

In response to a question from Senator Wanzek, Ms. Peterson said a good-faith purchaser is not held liable when purchasing property from an obligor unless a title or other document clearly indicates there is a lien on the property.

In response to a question from Representative Vigesaa, Ms. Peterson said approximately 1 percent of obligors listed on the registry made a payment in 2013 as a result of the registry.

In response to a question from Representative Vigesaa, Ms. Peterson said automobile dealers are required to participate in the registry because automobiles are titled personal property. However, she said, watercraft and farm equipment are not titled and therefore not subject to the registry.

Representative Vigesaa expressed concern regarding methods obligors may use to circumvent the registry. He said an obligor can easily purchase an automobile from an out-of-state dealership to avoid the registry. He said businesses in the state may be losing sales due to the registry.

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

### **STUDY OF THE PURCHASE OF THE RESEARCH ENTERPRISE AND COMMERCIALIZATION BUILDING**

Ms. Alice Brekke, Vice President for Finance and Operations, University of North Dakota, commented regarding the Research Enterprise and Commercialization (REAC) building on the campus of the University of North Dakota. She said there are two new tenants in the building, and the building occupancy rate is now above 60 percent. She said the institution is waiting for additional information from the federal Economic Development Administration regarding options to release the university from federal building use restrictions.

In response to a question from Chairman Delzer, Ms. Brekke said the building approximately needs a 60 percent occupancy rate to fully pay for loan and other building costs. She said she will provide additional information to the committee regarding the amount of space being leased in the building and lease income.

In response to a question from Representative Bellew, Ms. Brekke said one of the new building tenants is involved in energy development.

Senator Holmberg said the new tenant involved in energy development located a portion of its operations in Grand Forks due to energy development in the state and the Department of Mineral Resources core library located on the campus of the University of North Dakota.

In response to a question from Senator Wanzek, Ms. Brekke said she will provide the committee with information regarding the length of leases in the building.

In response to a question from Senator Wanzek, Ms. Brekke said only 20 percent of space in the building can be used for institution purposes due to the restrictions of the federal grant.

### LEGISLATIVE COUNCIL FISCAL REPORTS

Chairman Delzer called on the Legislative Council staff to present the [2013-15 Biennium Report on Compliance With Legislative Intent](#) and [Analysis of Major State Trust Funds](#). The reports are available on the Legislative Council website, and printed reports are available on request. The Legislative Council staff reviewed examples of agency compliance reports and selected trust fund analyses and reviewed an example of a "Fiscal Update" email ([Appendix G](#)) that provides information regarding major items included in the reports.

Chairman Delzer called on the Legislative Budget Analyst and Auditor to present a report on state [Budget and Fiscal Trends](#). The report provides a historical perspective of information relating to state revenues, state appropriations, and other fiscal information.

In response to a question from Senator Holmberg, the Legislative Budget Analyst and Auditor said the last transfer made from the Bank of North Dakota to the general fund was during the 2007-09 biennium.

In response to a question from Senator Lee, the Legislative Budget Analyst and Auditor said he will provide information to the committee regarding revenue generated by local option sales taxes.

### STUDY OF THE FOUNDATION AID STABILIZATION FUND

Mr. Sean B. Smith, Fiscal Analyst, Legislative Council, presented a memorandum entitled [Budget Reductions and Allotments, Bank of North Dakota Contingent Transfers, and Special Legislative Sessions Resulting From General Fund Revenue Shortfalls Since 1980](#). He said the memorandum summarizes actions taken by the Governor and the Legislative Assembly since 1980 in response to revenue shortfalls.

Chairman Delzer explained a bill draft [[15.0055.02000](#)] previously reviewed by the committee regarding the use of the foundation aid stabilization fund and budget stabilization fund. He said the bill draft clarifies the order in which the foundation aid stabilization fund and budget stabilization fund are to be used to offset allotments of state school aid payments.

In response to a question from Senator Lee, Chairman Delzer said a special legislative session would likely be called in the event of a large revenue shortfall.

**It was moved by Senator Wanzek, seconded by Representative Meier, and carried on a roll call vote to approve the bill draft relating to the use of the foundation aid stabilization fund and budget stabilization fund and to recommend the bill draft to the Legislative Management.** Representatives Delzer, Bellew, Boschee, Grande, Headland, Holman, Meier, Oversen, and Vigesaa and Senators Cook, Lee, Sorvaag, Wanzek, and Wardner voted "aye." No negative votes were cast.

Chairman Delzer said another portion of the directive for the study of the foundation aid stabilization fund is to determine if the fund should have a maximum balance. He said the balance of the fund is projected to increase considerably during the next several years. He said any changes to the fund require a constitutional amendment to be approved by the voters.

Senator Wardner said the committee also needs to consider where excess funds would be deposited in the event a maximum fund balance is established. He said possible options include creating a state employee retirement plan stabilization fund and creating an elementary and secondary school construction fund to provide grants for school construction projects. He said any newly created funds should also have maximum fund balances, and excess revenues after deposits in the new funds could be deposited in the common schools trust fund.

Senator Cook said providing grants for school construction projects may result in unequitable distributions to schools. He said consideration also needs to be given to school districts that have recently completed school construction projects.

Senator Wardner said a school construction fund could be used to provide loans for school construction projects.

Senator Wanzek said a maximum fund balance should be based on a percentage of state school aid funding rather than having a maximum balance based on a fixed dollar amount.

Chairman Delzer asked the Legislative Council staff to prepare a resolution to provide for a maximum fund balance for the foundation aid stabilization fund. He said the resolution will be used as a starting point for discussions during the next committee meeting. He said the committee will need to determine an appropriate maximum fund balance.

## **STUDY OF THE PROCESS OF APPROPRIATING STATE AGENCY SALARIES AND WAGES**

The Legislative Budget Analyst and Auditor presented a memorandum entitled [Salaries and Wages Appropriations - Other States](#). The memorandum details the process used in selected states to provide funding for state agency salaries and wages.

## **OTHER BUSINESS**

Chairman Delzer said the committee also has a study directive regarding premiums paid for state employee health insurance. He said the committee may again discuss the study at a future meeting.

Chairman Delzer announced the next committee meeting is tentatively scheduled for Tuesday, August 5, 2014.

No further business appearing, Chairman Delzer adjourned the meeting at 2:30 p.m.

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Brady A. Larson  
Assistant Legislative Budget Analyst and Auditor

ATTACH:7