

## NORTH DAKOTA LEGISLATIVE MANAGEMENT

## Minutes of the

**BUDGET SECTION**

Wednesday, September 24, 2014  
Senate Chamber, State Capitol  
Bismarck, North Dakota

Representative Chet Pollert, Chairman, called the meeting to order at 9:45 a.m.

**Members present:** Representatives Chet Pollert, Larry Bellew, Mike D. Brandenburg, Al Carlson, Bill Devlin, Mark A. Dosch, Rick Holman, Keith Kempenich, Gary Kreidt, Bob Martinson, Corey Mock, David Monson, Kenton Onstad, Mark Sanford, Roscoe Streyle, Blair Thoreson, Don Vigesaa, Alon Wieland, Clark Williams; Senators Bill L. Bowman, Ron Carlisle, Robert Erbele, Joan Heckaman, Ray Holmberg, Ralph Kilzer, Jerry Klein, Gary A. Lee, David O'Connell, Larry J. Robinson, Mac Schneider, Terry M. Wanzek, Rich Wardner, John M. Warner

**Members absent:** Representatives Tracy Boe, Jeff Delzer, Eliot Glassheim, Bette Grande, Ron Guggisberg, Kathy Hawken, Jon Nelson, Robert J. Skarphol; Senators Tony Grindberg, Karen K. Krebsbach, Tim Mathern

**Others present:** Sean B. Smith, Legislative Council, Bismarck  
Representative Jim Schmidt, member of the Legislative Management, was also in attendance.  
See [Appendix A](#) for additional persons present.

**It was moved by Senator O'Connell, seconded by Senator Robinson, and carried on a voice vote that the minutes of the June 25, 2014, meeting be approved as distributed.**

**STATUS OF THE GENERAL FUND**

Ms. Pam Sharp, Director, Office of Management and Budget, presented a report ([Appendix B](#)) on the status of the general fund.

Ms. Sharp presented the following information on the status of the general fund as of August 31, 2014, 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 August 2014	\$3,280,745,030	
Forecasted general fund revenue for the remainder of the 2013-15 biennium	2,450,691,417	
Total revenues		5,731,436,447
Total available		\$7,382,873,294
Less		
Legislative appropriations - One time	(\$2,433,567,701)	
Legislative appropriations - Ongoing	(4,429,019,653)	
Contingent appropriation - Dickinson State University	(6,000,000)	
Contingent appropriation - Department of Public Instruction	(5,000,000)	
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		(6,799,278,775)
Estimated ending general fund balance - June 30, 2015		\$583,594,519 <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 information ([Appendix C](#)) on general fund revenue collections for August 2014 and the 2013-15 biennium to date. She said general fund revenues collected for the biennium to date are \$254.6 million, or 8.4 percent more than the original legislative forecast.

### ECONOMIC INDICATORS

Ms. Sharp presented information ([Appendix D](#)) on the key economic indicators, including consumer prices, money markets, personal income, commodity prices, unemployment, energy prices and production, and interest rates.

### PRELIMINARY 2013-15 BIENNIUM REVENUE FORECAST

Ms. Sharp presented information ([Appendix E](#)) regarding the revised 2013-15 biennium revenue forecast and the preliminary 2015-17 biennium revenue forecast. She said 2013-15 biennium revised revenue forecast estimates total general fund revenues of \$4.9 billion, \$285 million more than the 2013 legislative forecast. She said the preliminary 2015-17 biennium revenue forecast estimates total general fund revenues of \$5.2 billion, \$293 million more than the 2013-15 biennium revised forecast.

Ms. Sharp provided the estimated oil tax revenue and revenue allocations for the revised 2013-15 biennium forecast and the preliminary 2015-17 biennium forecast as shown on the schedule below. She said the August 2014 preliminary revenue forecast is based on oil production reaching 1.3 million barrels per day by the end of the 2013-15 biennium and increasing to 1.4 million barrels per day by the end of the 2015-17 biennium, and oil prices are expected to average \$90 per barrel during this period.

	2013-15 Biennium (Amounts Shown in Millions)	2015-17 Biennium (Amounts Shown in Millions)
Estimated oil revenue allocations		
General fund	\$300.0	\$300.0
Legacy fund	2,458.3	3,186.5
Property tax relief fund	341.8	341.8
Strategic investment and improvements fund	1,285.9	2,019.8
Political subdivisions	776.5	967.5
Tribal allocations	513.3	583.2
Foundation aid stabilization fund	375.6	517.9
Common schools trust fund	375.6	517.9
Resources trust fund	720.0	928.0
Renewable energy development fund	3.0	3.0
Energy conservation fund	1.2	1.2
Infrastructure revolving loan fund	27.0	103.6
Oil and gas impact grant fund	240.0	240.0
State disaster fund	22.0	22.0
North Dakota outdoor heritage fund	23.8	29.6
Well plugging and site reclamation fund	10.0	10.0
Oil and gas research fund	10.0	10.0
Estimated state oil tax revenue	\$7,484.0	\$9,782.0

Representative Carlson expressed concern regarding the preliminary revenue forecast for sales tax and personal income tax collections for the 2015-17 biennium. He said it appears the forecast may be too aggressive in these areas.

Senator Lee expressed concern regarding the oil revenue projections for the 2015-17 biennium and the forecasted price of \$90 per barrel of oil used to calculate the revenue. He believes the forecasted price is higher than appropriate based on the current price of a barrel of oil which is lower than \$90.

Ms. Sharp said the Tax Department reported the actual average price per barrel of oil was approximately \$90 for the 2013-15 biennium to date. She said Moody's projected a price in excess of \$90 per barrel of oil for the 2015-17 biennium.

Representative Kempenich expressed concern regarding the potential effect commodity price declines and the agricultural economy will have on state revenues during the 2015-17 biennium.

In response to a request from Representative Onstad, Ms. Sharp later during the meeting, provided information to the Budget Section indicating that for the month of August 2014, 38 percent of the total oil and gas tax revenue excluding the tribal share was deposited into the legacy fund. This amount includes additional deposits due to the balance in the strategic investment and improvements fund being in excess of \$300 million.

### AGENCY BUDGET REQUESTS

Ms. Sharp presented information ([Appendix F](#)) regarding the number of agency budget requests submitted by the July 15, 2014, statutory deadline, the number submitted to date, the number of extensions granted, and new submission deadlines. She said 11 of the 70 agency budgets were submitted by the July 15, 2014, deadline and 57 of the 70 agency budgets have been submitted as of September 22, 2014. She said 13 agency budget requests have not been submitted and have been granted extensions as follows:

Agency	Extension Date Granted as of September 22, 2014
Governor's office	September 30
Office of Management and Budget	October 1
Information Technology Department	September 29
Department of Public Instruction	November 10
Department of Human Services	October 10
Industrial Commission	October 3
North Dakota Mill and Elevator	September 30
Department of Corrections and Rehabilitation	October 15
Adjutant General	September 26
Department of Commerce	October 15
Game and Fish Department	September 25
State Water Commission	October 15
Department of Transportation	October 3

### IRREGULARITIES IN THE FISCAL PRACTICES OF THE STATE

Pursuant to Section 54-14-03.1, Ms. Sharp presented information ([Appendix G](#)) on irregularities in the fiscal practices of the state. She presented the following fiscal irregularity for the period May 2014 through July 2014:

Agency	Fiscal Irregularity	Amount
Tax Department	Temporary workload adjustment	\$500

### EMPLOYEE BONUSES

Ms. Sharp presented information on the number of state employees receiving salary bonuses above the 25 percent limitation pursuant to Section 54-06-30. She said agencies may not give bonuses to more than 25 percent of their employees, except in special circumstances approved by Human Resource Management Services. She said Human Resource Management Services is required to report any exceptions to the Budget Section. She said no agencies made requests or exceeded the 25 percent limitation as of July 1, 2014.

### TOBACCO SETTLEMENT PROCEEDS

Ms. Sharp presented information ([Appendix H](#)) on the status of tobacco settlement proceeds received by North Dakota. She said total payments received to date are \$433.3 million, and the next payment is anticipated to be received in April 2015. She said the April 2014 payment totaled \$34 million, of which \$22.8 million was deposited in the tobacco settlement trust fund and \$11.2 million was deposited in the tobacco prevention and control trust fund. A summary of the recent collections is listed below.

Period	Tobacco Settlement Trust Fund (Amounts Shown in Millions)	Tobacco Prevention and Control Trust Fund (Amounts Shown in Millions)	Total (Amounts Shown in Millions)
April 2012	\$20.1	\$11.4	\$31.5
April 2013	20.1	11.4	31.5
April 2014	22.8	11.2	34.0
Total	\$63.0	\$34.0	\$97.0

### STATE AGENCY APPLICATIONS FOR FEDERAL GRANTS

Ms. Sharp presented information ([Appendix I](#)) on state agencies that applied for federal grants estimated to be \$25,000 or more pursuant to Section 54-27-27. She said for the period June 2013 through June 25, 2014, the following agency has applied for a federal grant estimated to be \$25,000 or more:

Agency	Time Period of Grant	Amount
Department of Public Instruction	July 2015 through June 2017	\$400,000

Ms. Sharp said for the period June 2013 through June 25, 2014, the following agency was awarded a federal grant estimated to be \$25,000 or more:

Agency	Time Period of Grant	Amount
Department of Public Instruction	October 2014 through March 2016	\$250,000

## DEPARTMENT OF PUBLIC INSTRUCTION FEDERAL GRANTS

Ms. Valerie Fischer, Director, Safe and Healthy Schools, Department of Public Instruction, presented information ([Appendix J](#)) on the purpose and status of federal grant applications. She provided the following information on three federal grant opportunities which would promote school and student safety and mental health:

Funding Agency	Status	Grant Award and Duration	Grant Scope and Purpose
Substance abuse and mental health services administration	Pending	\$1,900,000/year (5 years)	Provide training to 1,500 educators and community partners; address state level barriers; partner with the Department of Human Services to improve student identification, screening, referral, treatment, and reentry.
United States Department of Education	Not awarded	\$750,000/year (5 years)	Provide funds to five local educational agencies to develop, enhance, or expand Positive Behavioral Interventions & Supports systems to improve behavioral outcomes and learning conditions for students.
United States Department of Education - Received grant notice September 19, 2014	Awarded	\$250,000 (18 months)	Provide onsite assessments and training to 75 rural school districts and communities relating to emergency management operations.

### AGENCY REQUEST APPROVED BY THE EMERGENCY COMMISSION

Chairman Pollert directed the Budget Section to consider an agency request ([Appendix K](#)), which has been authorized by the Emergency Commission and forwarded to the Budget Section pursuant to Chapter 54-16. Ms. Sheila Peterson, Director, Fiscal Management Division, Office of Management and Budget, provided information regarding the following request that has been authorized by the Emergency Commission and requires consideration by the Budget Section:

- **Secretary of State (Request #1847)** - Request is to transfer \$150,000 from the operating expenses line item to the salaries and wages line item for additional costs relating to overtime and temporary employees.

**It was moved by Senator Holmberg, seconded by Senator Bowman, and carried on a roll call vote that the Budget Section approve the following request, which has been approved by the Emergency Commission:**

- **Secretary of State (Request #1847)** - Request is to transfer \$150,000 from the operating expenses line item to the salaries and wages line item for additional costs relating to overtime and temporary employees.

Representatives Pollert, Bellew, Brandenburg, Carlson, Devlin, Dosch, Holman, Kempenich, Kreidt, Martinson, Mock, Monson, Onstad, Sanford, Streyle, Thoreson, Vigesaa, Wieland, and Williams and Senators Bowman, Carlisle, Erbele, Heckaman, Holmberg, Kilzer, Klein, Lee, O'Connell, Robinson, Schneider, Wanzek, and Wardner voted "aye." No negative votes were cast.

### NORTH DAKOTA STATE UNIVERSITY PHISHING EMAIL ATTACK

Dr. Lisa Feldner, Vice Chancellor for Information Technology and Institutional Research, North Dakota University System, presented information ([Appendix L](#)) regarding the recent phishing email attack and subsequent unauthorized access to personal information at North Dakota State University (NDSU). She said NDSU employees received approximately 140 fraudulent emails asking employees to click a link to confirm their salary revision documents. She said eight individuals clicked on the link allowing the unauthorized users to access the employees' personal payroll data information. As a result, she said, seven of the eight employees' payroll checks were stolen. She said the total amount of lost wages was over \$28,600. She said NDSU reimbursed the employees for the lost wages.

Dr. Feldner said Core Technology Services was alerted of the compromised accounts, and the ConnectND employee direct deposit self-service system was disabled. She said no other campus received the emails and the University System is in the process of installing detection/threat prevention devices on each campus. She said the new device would not have prevented the emails from being received, but would have likely blocked the personal information from being provided to the unauthorized users. She said this was a targeted phishing attack. She said most email systems are designed to detect and block mass phishing attempts, not targeted attacks.

In response to a question from Senator Schneider, Dr. Feldner said employee email addresses are generally available on campus websites.

In response to a question from Senator Schneider, Dr. Feldner said student email addresses could be available through open records requests.

In response to a question from Representative Carlson, Dr. Feldner said a statewide approach to information technology best practices would include a uniform records retention policy and a standardized purge of record policy.

### **GAME AND FISH DEPARTMENT - LAND ACQUISITIONS**

Mr. Scott Peterson, Deputy Director, Game and Fish Department, presented information ([Appendix M](#)) on proposed land acquisitions in Sargent County and Cavalier County pursuant to Section 20.1-02-05.1. He said the land acquisition in Sargent County consists of 47 acres and the land acquisition in Cavalier County consists of 160 acres. He said both land acquisitions are adjacent to existing wildlife management areas. He said the total acquisition price of the land in Sargent County is \$187,000 and the total acquisition price of the land in Cavalier County is \$220,000.

In response to a question from Senator Bowman, Mr. Casey Anderson, Private Lands Field Operations Coordinator, Game and Fish Department, said the department notifies individuals who own land adjacent to the property that the department is planning to purchase the property.

In response to a question from Senator Wanzek, Mr. Peterson said an independent appraisal is required prior to the department offering to purchase the property.

**It was moved by Representative Carlson, seconded by Representative Monson, and carried on a roll call vote that pursuant to Section 20.1-02-05.1 that the Budget Section approve the Game and Fish Department's land acquisition in Sargent County.** Representatives Pollert, Bellew, Carlson, Dosch, Holman, Kempenich, Martinson, Monson, Onstad, Sanford, Vigesaa, Wieland, and Williams and Senators Carlisle, Holmberg, Kilzer, Klein, Lee, Robinson, and Wardner voted "aye." Representatives Brandenburg, Devlin, Kreidt, Mock, Streytle, and Thoreson and Senators Bowman, Erbele, Heckaman, O'Connell, Schneider, and Wanzek voted "nay."

**It was moved by Senator Carlisle, seconded by Representative Monson, and carried on a roll call vote that pursuant to Section 20.1-02-05.1 that the Budget Section approve the Game and Fish Department's land acquisition in Cavalier County.** Representatives Pollert, Bellew, Carlson, Dosch, Holman, Kempenich, Martinson, Mock, Monson, Onstad, Sanford, Vigesaa, Wieland, and Williams and Senators Carlisle, Holmberg, Kilzer, Klein, Lee, Robinson, Schneider, Wanzek, and Wardner voted "aye." Representatives Brandenburg, Devlin, Kreidt, Streytle, and Thoreson and Senators Bowman, Erbele, Heckaman, and O'Connell voted "nay."

### **DEPARTMENT OF CORRECTIONS AND REHABILITATION - PRISON POPULATION REPORT**

Ms. Leann K. Bertsch, Director, Department of Corrections and Rehabilitation, presented information ([Appendix N](#)) on the Department of Corrections and Rehabilitation (DOCR) prison population management plan, inmate admissions, and the number of inmates DOCR has not admitted after sentencing pursuant to Section 6 of 2013 Senate Bill No. 2015. She said DOCR has not refused to admit any inmates to date. She said if prison facilities reach operational capacity, DOCR will utilize its prison population management plan to prioritize admissions and releases.

Senator Robinson asked that DOCR provide the Budget Section members with a report on the total capacity of each facility for fiscal years 2014 and 2015, the number of inmates included in the state's facilities from other states, and the number of inmates from North Dakota in other states' facilities.

In response to a question from Chairman Pollert, Ms. Bertsch said DOCR does not anticipate requesting a deficiency appropriation for the 2013-15 biennium.

### **DEPARTMENT OF HUMAN SERVICES UPDATES Quarterly Budget Insight Report**

Ms. Debra McDermott, Chief Financial Officer, Department of Human Services, presented the Department of Human Services (DHS) quarterly budget insight report ([Appendix O](#)). She said the report, updated quarterly, provides information on the status of programs of DHS.

Ms. McDermott said the number of Medicaid eligibles increased from 65,954 in July 2013 to 79,031 in June 2014. She said Medicaid Expansion enrollment was 10,611 as of June 2014. She provided information on the number of eligibles as follows:

Comparison of Eligibles	Medicaid Eligibles		
	July 2013	June 2014	Variance
Under age 21	36,918	37,769	851
Over age 65 (Aged)	7,815	7,828	13
Disabled	10,404	10,340	(64)
Adults	10,817	12,483	1,666
Medicaid Expansion		10,611	10,611
Total	65,954	79,031	13,077

### Transfers Between Line Items or Subdivisions in Excess of \$50,000

Ms. McDermott presented information regarding transfers between line items and between subdivisions in excess of \$50,000 pursuant to Section 3 of 2011 Senate Bill No. 2012. She said there has been one line item transfer relating to a request approved during the Budget Section in December 2013. She said the approved request increased federal funds spending authority by \$5,851,660 for the Medicaid management information system (MMIS) computer project. As a result, she said, \$775,000 was transferred from the grants line item in program and policy to the operating expenses line item in administration and support to provide the required state matching funds.

In response to questions from Chairman Pollert, Ms. McDermott said DHS does not anticipate requesting a deficiency appropriation for the 2013-15 biennium. She said there were 12,850 Medicaid eligibles due to Medicaid Expansion as of September 1, 2014. She said DHS anticipates this number to continue to increase.

### Status of Medicaid Management Information System Project

Ms. Jennifer Witham, Director, Information Technology Services, Department of Human Services, presented information ([Appendix P](#)) regarding the MMIS project. She said the MMIS project budget is \$88.5 million, and expenditures through July 2014 total \$59.1 million. She said multiple testing activities are in process prior to implementation. She said parallel testing with the legacy system claims payment results is nearing completion. She said operational readiness testing is complete and user acceptance testing will be complete in October 2014. She said complete system testing will begin in October 2014. She said DHS will continue to finalize other testing, including data conversion and electronic data exchange. In addition, she said, the Affordable Care Act (ACA) requirements are being finalized into the new system.

Ms. Witham presented information regarding the Eligibility Systems Modernization Project. She said the project is to replace the current legacy eligibility determination systems with a fully integrated system that includes ACA requirements. She said the system replacement includes Medicaid, children's health insurance program (CHIP), temporary assistance for needy families (TANF), supplemental nutrition assistance program (SNAP), child care assistance program (CCAP), and low-income home energy assistance program (LIHEAP). She said the Centers for Medicare and Medicaid Services (CMS) provides enhanced federal financial participation (FFP) of 90 percent for Medicaid requirements of the system replacement. She said the enhanced FFP is available through December 31, 2015. She said ACA requirements had to be in place by October 1, 2013. She said because of the complexity of the ACA requirements and the limited resources, DHS issued a request for proposal (RFP) for additional project assistance in order to accelerate the project's schedule and maximize the availability of federal funds for the project.

In response to a question from Chairman Pollert, Ms. Witham said DHS is meeting with Xerox on September 30, 2014, to negotiate the time needed to complete the remaining tasks. She said DHS will have a better understanding of the anticipated project completion date after the meeting.

### NORTH DAKOTA HOSPITAL ASSOCIATION REPORT

Mr. Jerry Jurena, President, North Dakota Hospital Association, presented information ([Appendix Q](#)) on the effectiveness of the program to assist hospitals verify personal and health insurance information of patients. He said of the \$700,000 grant provided for the program in 2013 House Bill No. 1015, expenditures to date total \$153,570. He said the North Dakota Hospital Association entered an agreement with Emdeon Business Services, LLC, for a software program to provide hospitals with a source to verify personal data and health insurance data.

In response to a question from Senator Carlisle regarding a hospital's ability to request personal information from a patient, Mr. Jurena said hospitals are required to follow the federal Emergency Medical Treatment & Labor Act guidelines.

## STATE FIRE MARSHAL EXPENDITURES

Mr. Raymond Lambert, State Fire Marshal, presented information ([Appendix R](#)) regarding expenditures by certified fire departments, district funds received from the insurance tax distribution fund, and reserve fund balances pursuant to Section 18-04-02. He said a certification packet was mailed in August 2014 to each fire service within the state. He said 90 reports have been received, and he anticipates receiving the remaining 240 reports by October 2014. He said of the 90 reports that have been received, insurance tax distribution funds of \$3.2 million were received in 2013. He said \$2.4 million of the funds have been spent to date. He said a complete report will be available in November 2014 which will include all fire service funds.

## REPORT ON FEDERAL FUNDS

Mr. Sean B. Smith, Fiscal Analyst, Legislative Council, presented a memorandum entitled [Analysis of Federal Funds for Bienniums Ending June 30, 2015, and June 30, 2017](#), which provides information regarding federal funds estimated to be received by state agencies during the 2013-15 and 2015-17 bienniums. Agencies estimate \$3.4 billion of federal funds will be received during the 2013-15 biennium, \$231.1 million less than appropriated. Agencies estimate \$3.45 billion of federal funds will be received for the 2015-17 biennium, \$316.7 million more than is estimated to be received during the 2013-15 biennium.

Mr. Smith presented a memorandum entitled [Largest Variances by Agency - 2013-15 Biennium - Federal Funds Appropriated and Federal Funds Estimated to Be Received](#). The memorandum provides information regarding the major variances experienced by agencies during the 2013-15 biennium relating to federal funds appropriated and federal funds estimated to be received and the major variances estimated for the 2015-17 biennium compared to the 2013-15 biennium.

## LEGISLATIVE HEARINGS FOR FEDERAL BLOCK GRANTS

Mr. Smith distributed a memorandum entitled [Federal Block Grants - 2015 Legislative Hearings](#), which provides information regarding block grant hearings required during the 2015 legislative session. He distributed a concurrent resolution draft [[15.3022.01000](#)] authorizing the Budget Section to hold any legislative block grant hearings required during the 2015-17 biennium. He said the Legislative Council staff contacted state agencies receiving federal funds to determine which agencies receive block grants that require legislative hearings. The survey revealed only one block grant with that requirement--the community services block grant administered by the Department of Commerce Division of Community Services. A summary of the proposed use and distribution plan for the block grant will be provided by the Department of Commerce as part of the agency's appropriations hearing during the 2015 legislative session. The required public hearing will be held as part of the appropriations hearing for the Department of Commerce during the 2015 legislative session.

**It was moved by Senator Robinson, seconded by Representative Vigesaa, and carried on a roll call vote that the resolution draft providing the Budget Section authority to hold public legislative hearings required for receipt of federal block grant funds during the period from the recess or adjournment of the 64<sup>th</sup> Legislative Assembly through September 30, 2017, be approved and recommended to the Legislative Management.** Representatives Pollert, Bellew, Carlson, Devlin, Dosch, Holman, Kreidt, Martinson, Mock, Monson, Onstad, Sanford, Streyle, Thoreson, Vigesaa, Wieland, and Williams and Senators Carlisle, Erbele, Heckaman, Holmberg, Klein, Lee, O'Connell, Robinson, Schneider, Wanzek, Wardner, and Warner voted "aye." No negative votes were cast.

## COMMITTEE DISCUSSION AND CONSIDERATION OF CHANGES TO REPORTING OF LEGISLATIVE BUDGET CHANGES DURING THE LEGISLATIVE SESSION

Representative Carlson discussed a proposal to change the legislative process for reporting budget changes during the legislative session to provide the Legislative Assembly with more detail on the changes to revenues and appropriations in comparison to the previous biennium legislatively approved levels.

The Legislative Budget Analyst and Auditor presented a memorandum entitled [Reporting of Legislative Budget Changes - Alternative](#), which provides information on an alternative method for reporting legislative budget changes during legislative sessions. The alternative method in which the "official" weekly *Budget Status Report* and the *Statement of Purpose of Amendment to Appropriation Bills* would compare the current biennium legislative changes in detail to the base level (the previous biennium legislatively approved funding levels excluding the prior biennium "one-time" funding items) rather than to the current biennium executive budget recommendations. This alternative reporting format will not affect any processes used by the Governor or the Office of Management and Budget (OMB). The base level revenue amounts would be adopted by the Budget Section at its December 2014 meeting based on the executive budget revenue forecast. The new reporting format would be implemented for the 2015 legislative session.

In response to a question the Senator Heckaman, the Legislative Budget Analyst and Auditor said budget processes vary from state to state. He said some states compare the current legislative changes to the previous legislatively approved levels and some states compare the current legislative changes to executive budget recommendations.

**It was moved by Representative Thoreson, seconded by Representative Carlson, and carried on a roll call vote that the Legislative Council staff use, for budget status and Statement of Purpose of Amendment reporting and comparison purposes, the 2015-17 biennium "base level" rather than the 2015-17 biennium executive budget.** Representatives Pollert, Bellew, Brandenburg, Carlson, Devlin, Dosch, Kreidt, Martinson, Monson, Sanford, Thoreson, Vigasaa, Wieland, and Williams and Senators Carlisle, Erbele, Heckaman, Holmberg, Klein, Lee, O'Connell, Robinson, Wanzek, and Wardner voted "aye." Representatives Holman, Mock, and Onstad and Senators Schneider and Warner voted "nay."

### **2014 NORTH DAKOTA FINANCE FACTS**

At the request of Chairman Pollert, the Legislative Budget Analyst and Auditor presented the Legislative Council report entitled [2014 North Dakota Finance Facts](#). The publication includes information regarding economic statistics, the state budget, K-12 education, higher education, human services, corrections, economic development, and transportation. The brochure is updated and published annually.

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

### **INFORMATION TECHNOLOGY DEPARTMENT - ANNUAL REPORT**

Mr. Mike Ressler, Chief Information Officer, Information Technology Department, presented information ([Appendix S](#)) regarding a summary of the Information Technology Department (ITD) annual report pursuant to Section 54-59-19. He said ITD revenue for the fiscal year 2014 totaled \$61.9 million. He said the majority of ITD revenue is generated from computer hosting (34 percent), software development (32 percent), and direct billing service fees (20 percent). He said the rates charged for fees and services by ITD compare favorably to those charged by surrounding states. He said through the annual customer survey, customers of ITD report the following:

- 89.7 percent agree that ITD services met their business needs.
- 97.5 percent viewed ITD as a trusted business partner.
- 88.5 percent agree ITD provides technology direction.
- 88.5 percent agree ITD is aligned with their mission.

He said within the next 5 to 10 years, it is anticipated that many of the applications currently hosted within ITD will be hosted with "cloud" storage.

In response to a question from Representative Kempenich, Mr. Ressler said ITD received three bids in response to an RFP to enhance the state network and provide additional bandwidth. He said ITD awarded the contract to Dakota Carrier Network.

### **NORTH DAKOTA OUTDOOR HERITAGE ADVISORY BOARD - ACTIVITIES TO DATE**

Mr. Wade Moser, Chairman, Outdoor Heritage Fund Advisory Board, Industrial Commission, presented a summary ([Appendix T](#)) of the board's activities to date. He said in September 2013, the Governor appointed the 12 voting members and 4 nonvoting members of the board. He said the board established dates for the five rounds of applications during the 2013-15 biennium which include: December 2, 2013; April 1, 2014; August 1, 2014; November 3, 2014; and April 1, 2015. He said the Industrial Commission has awarded funds of \$14.1 million to date. He said these funds will be added with other sources of funding to provide projects totaling \$73.3 million. He said the timing of the distribution of funds varies for each project. He said some projects will receive the funds within the next year and other projects will receive funds over a 10-year period.

### **SECRETARY OF STATE - CREDIT CARD USAGE RATES**

Mr. Alvin A. Jaeger, Secretary of State, presented information ([Appendix U](#)) regarding credit card usage rates and credit card fees paid by the Secretary of State pursuant to Section 7 of 2013 House Bill No. 1002. He said while fees expended to date for the 2013-15 biennium are less than budgeted, he anticipates that the usage of credit cards will increase significantly when the agency's new software system is deployed.

### **STATE TREASURER - OUTSTANDING WARRANTS AND CHECKS**

Mr. Ryan Skor, Director of Finance, State Treasurer's office, presented information ([Appendix V](#)) on warrants and checks outstanding for more than 90 days and less than three years pursuant to Section 54-11-01. He said as



of September 2014, 14,237 checks are outstanding totaling \$3.9 million. He said the amount of outstanding checks has been decreasing. He provided a listing of 2,344 outstanding checks to be sent to the Unclaimed Property Division of the Department of Trust Lands in October 2014, which total \$376,689.

### **STATE WATER COMMISSION - FARGO FLOOD CONTROL FUNDING AND EXPENDITURES TO DATE**

Mr. David Laschkewitsch, Director of Administrative Services, State Water Commission, presented information ([Appendix W](#)) regarding Fargo flood control funding and expenditures to date. He said the State Water Commission (SWC) provided reimbursements of \$48,342,234 since 2009 for Fargo flood control funding and expenditures as follows:

Biennium	Authorization	Expenditure
2009-11	\$45,000,000	\$8,526,912
2011-13	\$30,000,000	\$29,732,748
2013-15 (amount to date)	\$100,000,000	\$10,082,574

Mr. Laschkewitsch said SWC reallocated \$3,053,000 to the water supply category and \$15,500,000 to the Southwest Pipeline Project for increases in project costs. He said the funds were provided from the general water management category.

In response to a question from Representative Carlson, Mr. Laschkewitsch said the City of Fargo has incurred costs in excess of the amount SWC has reimbursed. He said SWC has reimbursed the City of Fargo for all expenditures requested.

In response to a question from Chairman Pollert, Mr. Laschkewitsch said funds authorized during the 2013-15 biennium do not continue and will need to be requested during the 2015-17 biennium to continue support for the city of Fargo flood control.

### **F-M AREA FLOOD DIVERSION BOARD OF AUTHORITY - UPDATE ON THE DIVERSION PROJECT**

Mr. Darrell Vanyo, Chairman, F-M Area Diversion Authority, presented information ([Appendix X](#)) regarding an update on congressional authorization of the diversion project and on the status of the self-insured crop insurance pool; mitigation efforts, alternatives, and costs; easements; and the project budget pursuant to Section 15 of 2013 House Bill No. 1020. He said the F-M Area Diversion Project was 1 of 26 water projects specifically named in the federal Water Resources Reform and Development Act signed into law by the President in June 2013. He said the board has contracted with NDSU to develop a formal policy on crop insurance. He said the impact to land in Richland County in North Dakota and Wilkin County in Minnesota has been reduced by project changes including a one-mile alignment move to the north, increasing the natural flow of the river through town, and adding adjustable weir gates to reduce staging water levels during a possible summertime flood. He said the priorities for the 2015-17 biennium include in-town levees; ring levees in Oxbow, Bakke, and Hickson; and diversion preconstruction engineering, land acquisition, and construction. He said the board anticipates a budget of \$314.1 million for fiscal year 2016, which includes \$100 million for land acquisition, \$189.6 million for construction, \$10.5 million for design and permitting, \$9 million for technical oversight and project management, and \$5 million for other obligations. He said this is an increase of \$103.3 million from the anticipated budget for fiscal year 2015.

Mr. Vanyo said a technical study and developmental process developed by the board included a temporary water retention feature that will hold water for a week-and-a-half during large flood events. He said the new staging area will only operate in events larger than a 35-foot flood.

In response to a question from Representative Brandenburg, Dr. Tim Mahoney, Deputy Mayor, Fargo, said wetland mitigation costs include a 1-to-1 buyout option per acre of land.

In response to a question from Senator Wanzek, Mr. Vanyo said there are federal requirements that are followed in cases in which the Army Corps of Engineers is involved with wetland mitigation.

### **MNDAK UPSTREAM COALITION - UPDATE ON IMPACTS OF THE FARGO FLOOD CONTROL AND MITIGATION EFFORTS, ALTERNATIVES, AND COSTS**

Mr. Craig Hertsgaard, MNDak Upstream Coalition, presented information ([Appendix Y](#)) on the impacts of the Fargo flood control project and mitigation efforts, alternatives, and costs pursuant to Section 15 of House Bill No. 1020. He said the potential upstream impacts include farmland flooding, damage to roads and infrastructure, flooding of cemeteries, and relocation of residents and farmsteads.

**Farmland Flooding**

Mr. Hertsgaard said residents of Hickson and Bakke have expressed concern with the ring dike being constructed around the two communities. He said residents are concerned the ring dike will reduce the value of homes and increase the risk of a catastrophic failure if the cities are surrounded by water from the proposed diversion project.

Mr. Hertsgaard said the F-M Area Diversion Authority has been exploring a supplemental insurance plan to compensate farmers for losses as a result of the project and not covered by traditional crop insurance. He said the insurance would provide 65 percent coverage. He said the farmer could incur a loss up to 35 percent. He said the Army Corps of Engineers has outlined easements as mitigation for impacts. He said flowage easements would be a one-time payment for 25 percent of the appraised value of the land. He said the Army Corps of Engineers maps indicate the staging area will include 50,000 acres. He said the Army Corps of Engineers anticipates 32,000 acres will be mitigated. He said 18,000 acres is anticipated to flood with less than one foot of water.

In response to a question from Representative Brandenburg, Mr. Hertsgaard said there are concerns with the supplemental crop insurance and the potential that a farmer could still incur a loss of up to 35 percent.

**Damage to Roads and Infrastructure**

Mr. Hertsgaard said residents, schools, emergency personnel, and townships have expressed concern about damage to infrastructure. He said the cemetery authority expressed concerns regarding over 3,000 graves located in the staging area. He said many cemeteries cannot be ring diked because of the depth of the water or proximity to land features. He said burials would be restricted during certain times of the year because of hydraulic pressure on recent interments.

**Alternatives**

Mr. Hertsgaard said the Red River Basin Commission completed a study on the long-term flood solutions which provides a solution that would distribute water storage in streams and tributaries which could reduce the flow of the Red River at Fargo by 20 percent. He said the City of Fargo is constructing dikes and levees to a level of 43 feet. He said the city of Moorhead is protected to 44 feet. He said the Red River Basin study indicated that the Red River would not exceed 40 feet if distributed storage is developed on a valleywide basis.

**DEPARTMENT OF COMMERCE - ANNUAL AUDITS OF RENAISSANCE FUND ORGANIZATIONS**

Ms. Rikki Roehrich, Program Specialist, Division of Community Services, Department of Commerce, presented information ([Appendix Z](#)) regarding annual audits of renaissance fund organizations pursuant to Section 40-63-07(9). She said 8 of the 55 renaissance zone cities have established a renaissance fund organization. She said three of the renaissance fund organizations have submitted independent auditor's reports to the Department of Commerce with no findings. She said the remaining renaissance fund organizations are in the process of submitting reports. She said four renaissance fund organizations including Casselton, Jamestown, West Fargo, and Fargo have closed and do not require an audit. She provided the following tax credit summary:

	Total Credits Authorized	Total Credits Claimed	Total Credits Available <sup>4</sup>	
			Committed	Uncommitted
Category 1 - (0 to 5,000 population)	\$985,866	\$520,866 <sup>1</sup>	\$465,000	
Category 2 - (5,001 to 30,000 population)	250,000	250,000 <sup>2</sup>		
Category 3 - (Over 30,000 population)	7,264,134	4,835,000 <sup>3</sup>	1,763,750	\$665,384
Total	\$8,500,000	\$5,605,866	\$2,228,750	\$665,384

<sup>1</sup>Category 1 cities - Casselton (\$37,500), Hazen (\$15,000), Mayville (\$145,150), Hope (\$322,716).

<sup>2</sup>Category 2 cities - Jamestown (\$150,000), West Fargo (\$100,000).

<sup>3</sup>Category 3 cities - Fargo (\$4,835,000).

<sup>4</sup>Of the \$2,894,134 credits available, \$563,750 is reserved for Fargo, \$465,000 is reserved for Hope, and \$1.2 million is reserved for Grand Forks. If not claimed in a timely manner, the reserved credits can be used by other renaissance fund organization cities.

**DEPARTMENT OF COMMERCE AND INDIAN AFFAIRS COMMISSION - GRANTS PROVIDED TO TRIBALLY CONTROLLED COMMUNITY COLLEGES**  
**Department of Commerce**

Mr. Wayne Sick, Director, Workforce Development Division, Department of Commerce, presented information ([Appendix AA](#)) regarding an update on the tribal college grants pursuant to 2013 Senate Bill No. 2218. He said the grants are available to the state's five tribal colleges for creation or enhancement of programs and courses of study

to prepare students. He said the maximum grant amount was \$2 million per institution for the 2013-15 biennium. He said the \$5 million appropriated in Senate Bill No. 2218 has been awarded and as of September 2014, \$2.6 million has been disbursed.

### Indian Affairs Commission

Mr. Scott J. Davis, Executive Director, Indians Affairs Commission, presented an update ([Appendix BB](#)) on the tribal college grants pursuant to Senate Bill No. 2218. He said the grant amount awarded to each of the five tribal colleges includes:

- Turtle Mountain Community College - \$1,248,100
- Fort Berthold Community College - \$165,000
- Cankdeska Cikana Community College - \$1,250,069
- Sitting Bull College - \$804,474
- United Tribes Technical College - \$1,532,357

Mr. Davis said accomplishments resulting from the funds provided from the grant program include:

- Allowing colleges to add new associate degrees, certificates, and training programs.
- Adding more workshop and short-term training opportunities for students.
- Purchasing new equipment including a welding simulator, a semi-truck and trailer, a truck driving simulator, and truck driving simulator expanded training module.
- Renovating the trade center at Sitting Bull College and the community business development center at Cankdeska Cikana Community College.

### COMMITTEE DISCUSSION AND STAFF DIRECTIVES

Chairman Pollert said this will be last Budget Section meeting for the 2013-14 interim prior to the Legislative Management meeting in November 2014.

**It was moved by Senator Robinson, seconded by Representative Devlin, and carried on a voice vote that the Chairman and the Legislative Council staff be requested to prepare a report and the resolution draft recommended by the Budget Section and to present the report and recommended resolution draft to the Legislative Management.**

Chairman Pollert announced the next Budget Section meeting is tentatively scheduled for Wednesday, December 3, 2014.

No further business appearing, Chairman Pollert adjourned the meeting at 2:50 p.m.

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Michael C. Johnson  
Fiscal Analyst

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Allen H. Knudson  
Legislative Budget Analyst and Auditor

ATTACH:28