

## NORTH DAKOTA LEGISLATIVE MANAGEMENT

Minutes of the

**BUDGET SECTION**

Tuesday, June 16, 2015  
 Brynhild Haugland Room, State Capitol  
 Bismarck, North Dakota

Senator Gary A. Lee, Chairman, called the meeting to order at 9:30 a.m.

**Members present:** Senators Gary A. Lee, Bill L. Bowman, Ron Carlisle, Robert Erbele, Joan Heckaman, Ray Holmberg, Ralph Kilzer, Jerry Klein, Karen K. Krebsbach, Tim Mathern, David O'Connell, Larry J. Robinson, Mac Schneider, Ronald Sorvaag, Terry M. Wanzek, Rich Wardner; Representatives Larry Bellew, Wesley R. Belter, Tracy Boe, Randy Boehning, Mike Brandenburg, Al Carlson, Jeff Delzer, Mark A. Dosch, Ron Guggisberg, Kathy Hogan, Richard G. Holman, Keith Kempenich, Gary Kreidt, David Monson, Jon O. Nelson, Kenton Onstad, Chet Pollert, Mark Sanford, Jim Schmidt, Peter F. Silbernagel, Robert J. Skarphol, Roscoe Streyle, Blair Thoreson, Don Vigesaa

**Members absent:** Representatives Eliot Glassheim, Bob Martinson, Corey Mock

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

**BUDGET SECTION DUTIES AND RESPONSIBILITIES FOR THE 2015-17 BIENNIUM**

At the request of Chairman Lee, the Legislative Council staff presented a memorandum entitled [Budget Section Duties and Responsibilities for the 2015-17 Biennium](#) providing information on the duties and responsibilities of the Budget Section.

**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 May 31, 2015, 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 2015	\$5,604,349,821	
Forecasted general fund revenue for the remainder of the 2013-15 biennium	184,501,133	
Total revenues		5,788,850,954
Total available		\$7,440,287,801
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	
Supplemental appropriations	(6,284,026)	
Authorized carryover of 2013-15 biennium spending authority	(2,423,960)	
Estimated unspent authority/adjustments	55,000,000	
Total appropriations		(6,752,986,761)
Estimated ending general fund balance - June 30, 2015		\$687,301,040 <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 said the estimated 2013-15 biennium general fund ending balance as of May 31, 2015, is \$687.3 million, which is an increase of \$88.7 million compared to the \$598.6 million, estimated at the close of the 2015 legislative session. She said the increase results from revenues exceeding projections for February 2015 through May 2015.

Ms. Sharp said that the budget stabilization fund balance as of May 31, 2015, was \$583.5 million. She said with the \$6.026 billion total general fund appropriations made by the Legislative Assembly for the 2015-17 biennium, the maximum budget stabilization fund balance is \$572.5 million. She said the Office of Management and Budget (OMB) plans to reduce the budget stabilization fund balance to \$572.5 million by transferring the excess to the general fund.

Ms. Sharp presented information ([Appendix C](#)) on general fund revenue collections for May 2015 and the 2013-15 biennium to date. She said general fund revenues collected for the biennium to date are \$324.7 million, or 6.2 percent more than the 2013 original legislative forecast.

### 2013-15 BIENNIUM REVISED REVENUE FORECAST COMPARISON

Ms. Sharp presented information ([Appendix D](#)) regarding actual revenue collections for February through June 2015 to 2015 legislative estimates. She said Section 7 of Senate Bill No. 2015 provides for a \$20 million contingent transfer from the general fund to the highway fund if the Director of OMB determines actual general fund revenues for the period beginning February 1, 2015, and ending June 30, 2015, exceed the legislative estimates made at the close of the 2015 legislative session for general fund revenues during the same period by at least \$20 million. She said OMB anticipates the conditions will be met for the contingent transfer from the general fund to the highway fund for enhanced state highway investments.

Ms. Sharp said it appears the oil extraction tax trigger which lowers the tax rate (large trigger) will not take effect in June 2015 as anticipated during the 2015 legislative session. She provided the estimated oil tax revenue and allocations base for the May 2015 legislative forecast for the 2015-17 biennium and the estimated revenue allocations if the large trigger is not in effect for the 2015-17 biennium as shown on the schedule below.

	Amounts Shown in Millions	
	2015-17 Biennium Legislative Forecast With Trigger	Estimated Revenue With No Trigger
Estimated oil revenue allocations		
General fund	\$300.0	\$300.0
Legacy fund	950.6	1,097.5
Tax relief fund	300.0	300.0
Strategic investment and improvements fund	202.7	316.2
Political subdivisions	630.5	636.3
Tribal allocations	265.1	301.9
Political subdivisions allocation fund	44.0	92.7
Foundation aid stabilization fund	134.2	177.0
Common schools trust fund	134.2	177.0
Resources trust fund	264.3	349.7
Renewable energy development fund	3.0	3.0
Energy conservation fund	1.2	1.2
Oil and gas impact grant fund	140.0	140.0
State disaster relief fund	16.4	16.4
North Dakota outdoor heritage fund	27.0	27.4
Well plugging and site reclamation fund	10.0	14.0
Oil and gas research fund	10.0	10.0
Estimated state oil tax revenue	\$3,433.2	\$3,960.3

In response to a question from Representative Onstad, Ms. Sharp said the 2015-17 oil tax revenue allocation estimates with no trigger in effect, is based on oil production at 1.1 million barrels per day for the 2015-17 biennium, and an average price per barrel of oil increasing from \$42 to \$53.

### TOBACCO SETTLEMENT PROCEEDS

Ms. Sharp presented information ([Appendix E](#)) on the status of tobacco settlement proceeds received by North Dakota. She said total payments received to date are \$463.98 million. She said the April 2015 and May 2015 payments totaled \$30.65 million, of which \$19.47 million was deposited in the tobacco settlement trust fund and \$11.18 million was deposited in the tobacco prevention and control trust fund. A summary of the 2013-15 biennium 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 2013	\$20.11	\$11.40	\$31.51
April 2014	22.76	11.21	33.97
April 2015	19.47	11.18	30.65
Total	\$62.34	\$33.79	\$96.13

### STATE AGENCY APPLICATIONS FOR FEDERAL GRANTS

Ms. Sharp presented information ([Appendix F](#)) 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 2014 through June 16, 2015, the following agencies have applied for a federal grant estimated to be \$25,000 or more:

Agency	Time Period of Grant	Amount
Department of Public Instruction	3 years	\$125,000/yr
State Library	9 months	\$40,000

### 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 irregularities for the period November 2014 through April 2015:

Agency	Fiscal Irregularity	Amount
Parks and Recreation Department	Settlement agreement with Keith Orth	\$13,080
Department of Public Instruction	Temporary workload adjustment	\$554
Office of Administrative Hearings	Expenditures for the accrued leave line item exceeded 75 percent in first 18 months	

### AGENCY REQUESTS APPROVED BY THE EMERGENCY COMMISSION

Chairman Lee directed the Budget Section to consider agency requests ([Appendix H](#)), which have 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 requests that have been authorized by the Emergency Commission and require consideration by the Budget Section:

- **State Auditor (Request #1859)** - Request to transfer \$80,000 from the operating expenses line item to the capital assets line item for a remodeling project on the third floor of the Capitol tower.
- **Adjutant General (Request #1860)** - Request to authorize the expenditure of \$5 million from the state disaster relief fund for the 2013-15 biennium to pay off Bank of North Dakota loans which were used for state match for presidentially declared disasters that occurred during the 2013-15 biennium as appropriated in 2015 Senate Bill No. 2023. In accordance with the provisions of Section 37-17.1-27, legislative appropriation, Emergency Commission approval, and Budget Section approval are required prior to spending state disaster relief fund dollars.
- **Adjutant General (Request #1861)** - Request to authorize the expenditure of \$27,307,427 from the state disaster relief fund for the state share of previous disasters still being processed and other disaster-related expenses for the 2015-17 biennium as appropriated in 2015 Senate Bill No. 2016. In accordance with the provisions of Section 37-17.1-27, legislative appropriation, Emergency Commission approval, and Budget Section approval are required prior to spending state disaster relief fund dollars.
- **Attorney General (Request #1864)** - Request for \$70,000 from the state contingencies appropriation for the operating expenses line item to reimburse counties and cities for prosecution witness fees in cases heard in district and juvenile court.
- **State Treasurer (Request #1865)** - Request to transfer \$500,000 from the township allocation line item to the property tax relief credits line item to allow full payments to counties under the 12 percent property tax relief credit program for the 2013-15 biennium.

Senator Mathern expressed concern that the Budget Section is acting on these Emergency Commission requests. He suggested these requests be considered by the Legislative Assembly, since the Legislative Assembly is currently in session. Chairman Lee said the requests have complied with the process established in law with the expectations that Budget Section will consider these requests.

In response to a question from Representative Skarphol, Ms. Peterson said the Attorney General's office was appropriated \$100,000 from the general fund by the 2013 Legislative Assembly for prosecution witness fees. In addition, she said the Attorney General received Emergency Commission approval in November 2014 for \$50,000 from the state contingencies appropriating for additional prosecution witness fees. She also said the Attorney General's office received a deficiency appropriation of \$40,000 for prosecution witness fees in 2015 Senate Bill No. 2023. She said the Attorney General's office did review its operating expenses line item but determined funding was not available to pay these reimbursements.

**It was moved by Senator Robinson, seconded by Senator Krebsbach, and carried on a roll call vote that the Budget Section approve the following requests, which have been approved by the Emergency Commission:**

- **State Auditor (Request #1859)** - Request to transfer \$80,000 from the operating expenses line item to the capital assets line item for a remodeling project on the third floor of the Capitol tower.
- **Adjutant General (Request #1860)** - Request to authorize the expenditure of \$5 million from the state disaster relief fund for the 2013-15 biennium to pay off Bank of North Dakota loans which were used for state match for presidentially declared disasters that occurred during the 2013-15 biennium as appropriated in 2015 Senate Bill No. 2023.
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- **State Treasurer (Request #1865)** - Request to transfer \$500,000 from the township allocation line item to the property tax relief credits line item to allow full payments to counties under the 12 percent property tax relief credit program for the 2013-15 biennium.

Senators Lee, Bowman, Carlisle, Erbele, Heckaman, Holmberg, Kilzer, Klein, Krebsbach, Mathern, O'Connell, Robinson, Schneider, Sorvaag, Wanzek, and Wardner; and Representatives Bellew, Belter, Brandenburg, Carlson, Delzer, Dosch, Guggisberg, Hogan, Holman, Kreidt, Monson, Nelson, Onstad, Pollert, Sanford, Schmidt, Silbernagel, Streyle, Thoreson, and Vigesaa voted "aye." Representatives Boe, Boehning, Kempenich, and, Skarphol voted "nay."

### **LEGACY AND BUDGET STABILIZATION FUND ADVISORY BOARD REPORT**

Representative Kempenich, Chairman, Legacy and Budget Stabilization Fund Advisory Board, presented a status report ([Appendix I](#)) regarding the investment of funds in the legacy fund and budget stabilization fund pursuant to Section 21-10-11. He said the balance of the budget stabilization fund for the 2015-17 biennium will be \$572.5 million, of which \$200 million is invested in certificate of deposits (CD) with the Bank of North Dakota. He said the remaining balance is invested in short-term investments, but some of the CD's with the Bank of North Dakota have longer terms. He said the Retirement and Investment Office is in discussions with the Bank of North Dakota about making the funds invested in CD's more readily available in the event funds may need to be transferred from the fund due to a future revenue shortfall.

Representative Kempenich said as of January 2015, the board's recommended asset allocation plan was fully implemented for the Legacy Fund as follows:

- Broad United States equity - 30 percent;
- Broad international equity - 20 percent;
- Fixed income - 35 percent;
- Core real estate - 5 percent; and
- Diversified real assets - 10 percent.

Representative Kempenich said the legacy funds one year net return as of March 31, 2015, was 5.72 percent compared to approximately a 1 percent return when it was previously invested in fixed income. He said the balance as of June 30, 2015, is estimated to be \$3.3 billion.

**COMMITTEE DISCUSSION AND STAFF DIRECTIVES**

Representative Brandenburg suggested the Game and Fish Department be asked to present information at the next Budget Section meeting, regarding funds it provides to other organizations, and the status of Game and Fish Department employees working in other entity offices.

Chairman Lee announced the next meeting of the Budget Section is tentatively scheduled for mid to late September 2015.

No further business appearing, Chairman Lee adjourned the meeting at 10:05 a.m.

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Chris Kadmas  
Fiscal Analyst

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Allen H. Knudson  
Legislative Budget Analyst and Auditor

ATTACH:9