

NORTH DAKOTA LEGISLATIVE MANAGEMENT

Minutes of the

GOVERNMENT FINANCE COMMITTEE

Wednesday, October 7, 2015
 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, Rick C. Becker, Joshua A. Boschee, Glen Froseth, Eliot Glassheim, Jessica Haak, Jim Kasper, Kim Koppelman, Vernon Laning, Mike Lefor, Scott Louser, Chet Pollert, Jim Schmidt, Don Vigesaa, Kris Wallman; Senators Ron Carlisle, Ralph Kilzer, Richard Marcellais, Ronald Sorvaag

Members absent: Representatives Craig Headland and Vicky Steiner

Others present: Senator Donald Schaible, member of the Legislative Management

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

It was moved by Representative Glassheim, seconded by Senator Marcellais, and carried on a voice vote that the minutes of the July 27, 2015, meeting be approved as distributed.

STATE BUDGET INFORMATION

Ms. Pam Sharp, Director, Office of Management and Budget (OMB), presented information ([Appendix B](#)) regarding general fund revenues, unexpended general fund appropriations for the 2013-15 biennium, oil and gas tax revenue, balances of major state funds, and appropriation authority transferred from the targeted market equity pool. She said the June 30, 2015, general fund balance was \$729,529,389, \$130 million more than 2013-15 biennium ending balance estimated by the 2015 Legislative Assembly. She said unspent general fund appropriation authority (turnback) totaled over \$92 million, or approximately 1.36 percent of total 2013-15 general fund appropriations. She said significant individual agency turnback amounts included:

- Office of Management and Budget - \$2.7 million primarily relating to the temporary employee health insurance pool;
- Office of the State Treasurer - \$2.9 million primarily relating to township distribution funds;
- Tax Department - \$10.6 million primarily relating to the homestead tax credit program;
- Department of Public Instruction - \$42.1 million primarily relating to rapid enrollment grants and state school aid payments;
- Department of Human Services - \$9.5 million due primarily relating to the long-term care caseload and Medicaid management information system post-production costs; and
- Department of Transportation - \$3.3 million primarily relating to unused capital construction carryover funding.

Ms. Sharp said the estimated June 30, 2017, general fund balance is currently projected to be \$290 million. She said the Legacy Fund had an August 31, 2015, balance of approximately \$3.4 billion. She said the State Department of Health, the Veterans' Home, the Department of Human Services, the Protection and Advocacy Project, and the Adjutant General received funding from the targeted market equity pool.

In response to a question from Senator Carlisle regarding the homestead tax credit, Mr. Ryan Rauschenberger, Commissioner, Tax Department, said the Tax Department promotes the credit to ensure eligible persons have a chance to apply. He said it is possible for applicants to qualify for the tax credit in one year and not qualify the next year.

In response to a question from Representative Haak, Ms. Sharp said corporate income tax collections are not anticipated to be deposited in the general fund for the first 3 months of the biennium due to the need to deposit these collections in the refund reserve account.

In response to a question from Representative Froseth, Ms. Sharp said actual revenues from the individual income tax may be lower than anticipated due to reductions in oil and gas royalty payments.

In response to a question from Representative Kasper, Ms. Sharp provided an updated oil tax cash flow forecast ([Appendix C](#)) that reflects the oil tax trigger not being in effect.

In response to a question from Chairman Delzer, Ms. Sharp said OMB would consider preparing a new forecast if actual revenues continue to be lower than the forecast for 4 to 6 months. She said OMB would consider agency allotments to cover the first 2.5 percent of a general fund deficit and a transfer from the budget stabilization fund for the remainder.

Representative Glassheim said \$1.1 billion of 2015-17 general fund appropriations were one-time appropriations, so even if general fund revenues decline, the revenues should be sufficient to provide for ongoing appropriations for the 2017-19 biennium.

The Legislative Council staff presented a memorandum entitled [*Contingent Transfers from the Bank of North Dakota to the General Fund*](#). The memorandum includes information regarding prior legislation providing for transfers from the Bank of North Dakota to the general fund, contingent upon revenue shortfalls. The Legislative Assembly, from the 1995-97 through the 2003-05 biennium, provided for transfers from the Bank of North Dakota's earnings and accumulated and undivided profits to the general fund, contingent upon revenue shortfalls. Except for the 2001-03 biennium, the contingencies were not met and no contingent transfers were made. A transfer of approximately \$18.7 million was made pursuant to the contingency during the 2001-03 biennium.

In response to a question from Representative Wallman, Mr. Tim Porter, Chief Financial Officer, Bank of North Dakota, said the infrastructure revolving loan fund includes \$100 million from the Bank of North Dakota and \$50 million from the strategic investment and improvements fund.

In response to a question from Senator Carlisle, Mr. Porter said the bank's tier 1 capital rate is just over 9 percent. He said the \$157 million appropriated for various programs from Bank of North Dakota earnings will affect that rate during the 2015-17 biennium.

The Legislative Council staff presented a memorandum entitled [*2013-15 Accrued Leave Payments Line Item*](#). The memorandum provides information regarding state agency use of funding appropriated in the accrued leave payments line item for the 2013-15 biennium. The accrued leave payments line item was created in agency appropriation bills by shifting a percentage of funds from the salaries and wages line item to a separate line item for paying accrued annual leave and sick leave of retiring or resigning employees. Of the \$39.1 million appropriated for the accrued leave payments line item, nearly \$1 million was transferred to salaries and wages line items, nearly \$4 million was used for annual leave payments, and over \$1.4 million was used for sick leave payments during the 2013-15 biennium.

Chairman Delzer suggested the committee select a few agencies for further review the use of funding from the salaries and wages and accrued leave payments line items during the 2013-15 biennium.

Mr. Adam Mathiak, Fiscal Analyst, Legislative Council, presented [memorandums](#) regarding oil and gas tax revenues and allocations. He said 2015-17 oil tax revenue collections are estimated to total approximately \$3.4 billion. He said September oil and gas tax collections were \$166.7 million, a decrease of \$22.4 million from the \$189.1 million collected in August.

In response to a question from Representative Froseth, Mr. Mathiak said the 2015 Legislative Assembly estimated oil prices to range from \$42 to \$53 per barrel during the 2015-17 biennium.

Dr. Mark Hagerott, Chancellor, North Dakota University System (NDUS), presented information ([Appendix D](#)) regarding higher education finance and governance. He said the NDUS Fall 2015 headcount enrollment is 47,513, down from 47,660 in Fall 2014. He said changes in full-time undergraduate tuition and mandatory fees ranged from a decrease of 1.7 percent at Mayville State University to an increase of 17.8 percent at Williston State College.

In response to a question from Chairman Delzer, Dr. Hagerott said he would provide graduation rate information to the committee.

Representative Kasper commented on qualifications of K-12 graduates and the need for remedial courses. Dr. Hagerott said there are issues relating to writing, reading, and mathematics skills for incoming students and NDUS is studying options to address the issues.

Representative Kasper questioned why the Chancellor did not become involved in the process of choosing a new University of North Dakota (UND) nickname. He said he did review the situation, but found UND had done nothing illegal. He said other NDUS issues took precedence.

In response to a question from Senator Marcellais, Dr. Hagerott said he has had meetings with tribal college leadership.

Chairman Delzer said Chancellor Hagerott will be asked to provide additional information to the committee at a future meeting.

Ms. Cheri Giesen, Executive Director, Job Service North Dakota, provided an outline of the presentation ([Appendix E](#)) regarding unemployment rates and other labor market information.

Mr. Darren Brostrom, Director of Unemployment Insurance, Job Service North Dakota, presented information regarding the unemployment insurance trust fund status, unemployment insurance tax rates, and changes in processes in unemployment insurance. Mr. Brostrom said the unemployment insurance trust fund had a September 2015 balance of approximately \$130 million, compared to \$166 million in September 2014. Mr. Brostrom said the current average weekly benefit amount is \$450 and the average duration of claims is 10.95 weeks. He said unemployment insurance claims are 43 percent higher than last year and the noticeable increase in claims began in April 2015. Mr. Brostrom said unemployment insurance rates have been reduced in each of the last 3 years, but a modest rate increase is expected this year.

In response to a question from Chairman Delzer, Mr. Brostrom said there is not an upper or lower limit on the balance of the unemployment insurance trust fund, but there is a target balance which is updated each year.

In response to a question from Representative Becker, Mr. Brostrom said recipients of unemployment insurance benefits are not required to be residents of North Dakota, but they need to have earned wages in the state in at least four quarters of the last 18 months.

In response to a question from Chairman Delzer, Mr. Brostrom said individuals receiving unemployment benefits are required to apply for four jobs per week.

In response to a question from Representative Louser, Mr. Brostrom said unemployment insurance benefits, including those received by individuals outside of North Dakota, are subject to the North Dakota state income tax.

Mr. Michael Ziesch, Manager of the Labor Market Information Center, Job Service North Dakota, presented information regarding the North Dakota unemployment rate. Mr. Ziesch said the state unemployment rate may not accurately reflect the large number of commuter workers who live outside North Dakota but worked in the state. He said in September 2015, there were 5,777 unemployment insurance claimants, of which approximately 4,000 were out-of-state recipients. He said there were 2,487 unemployment insurance claimants in September 2014. Mr. Ziesch said September 2015 data indicates there are still over 17,400 job openings in the state.

In response to a question from Representative Koppelman, Mr. Ziesch said including out-of-state unemployment benefit claimants in the calculation of the state's unemployment rate would have a minimal effect on the state unemployment rate.

Mr. Dave Krebsbach, Manager of Finance, Job Service North Dakota, presented information regarding Job Service North Dakota operations funding. He said the agency operations are 97 percent federally funded. He said funding from the federal government has remained stable since 2001 and the agency has reduced staffing from 387 employees in 2001 to 238 in 2015. He said Job Service North Dakota is currently anticipating a \$4.1 million operations funding shortfall. He said the agency is offering voluntary separation incentives to staff and is continuing to pursue the use of technology to assist with the delivery of services to address the funding shortfall.

In response to a question from Representative Delzer, Mr. Krebsbach said Job Service North Dakota employees are considered state employees.

In response to a question from Representative Boschee, Mr. Brostrom said unemployment insurance paid by employers may not be used for Job Service North Dakota operations.

In response to a question from Representative Becker, Mr. Krebsbach said the federal funding for Job Service North Dakota operations is subject to a number of federal requirements.

Mr. Jon Godfread, Vice President of Government Affairs, Greater North Dakota Chamber of Commerce, presented information ([Appendix F](#)) regarding economic activity in the state. He said the state continues to experience a relatively low unemployment rate of 2.9 percent, with 17,483 available jobs in August 2015. He said the healthcare industry is experiencing some of the largest worker shortages. He said the current statewide average hotel occupancy percentage is 67 percent, compared to a national average hotel occupancy rate of 64 percent. He said Dickinson hotel occupancy is 56 percent and Williston hotel occupancy is 55 percent.

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

STUDY OF STATUTORY AND REGULATORY REQUIREMENTS RELATING TO FEDERAL FUNDING

Ms. Cindi Peterson, Audit Manager, Office of the State Auditor, presented information ([Appendix G](#)) regarding the state of North Dakota single audit and the auditor's responsibilities for determining agency compliance with federal funding requirements. She said most states undergo a single audit on an annual basis, but North Dakota is one of two states who qualify for an exemption to the annual audit requirement and is on a biennial basis. She said in fiscal year 2014, the state of North Dakota spent \$1.6 billion of federal funds. She said over 70 percent of the federal funds were spent by three agencies, the Department of Human Services, the Department of Transportation, and the Department of Public Instruction. She said that when performing a single audit, auditors are required to obtain an understanding of the internal control over compliance for each major program and test the effectiveness of those controls.

Chairman Delzer said the committee will select certain agencies for further review at a future meeting. Representative Becker suggested committee members review the single audit report and inform the Chairman of suggestions for agencies or programs for further review.

STUDY OF THE FUNCTIONS OF THE BUDGET SECTION

The Legislative Council staff presented a memorandum entitled [*2015-17 Biennium Budget Section Functions*](#). The memorandum includes information regarding ongoing and one-time duties of the Budget Section. The memorandum identifies 84 duties assigned to the Budget Section for the 2015-17 biennium.

Chairman Delzer said the Budget Section considers and acts on certain issues that should be addressed by the full Legislative Assembly. As an example, he said funding for a new Agriculture Department program relating to animal feed containing medicine was recently approved by the Budget Section.

Chairman Delzer asked for committee discussion of Budget Section duty No. 1, relating to a status report from the State Board of Agricultural Research and Education (SBARE). He suggested there may be potential to change how the SBARE report is presented to the Legislative Assembly.

Representative Glassheim questioned the purpose of having the Budget Section receive the SBARE status report and other similar reports. He suggested it may be more appropriate for a legislative committee to receive the reports during the legislative session.

Chairman Delzer suggested the SBARE status report could instead be presented to the appropriations committees during the agricultural research and extension budget hearings.

Chairman Delzer asked for committee discussion of Budget Section duty No. 2, relating to higher education campus improvements and building construction. He suggested it may not be appropriate for the Budget Section to approve spending requests.

Senator Kilzer commented on donations for the UND School of Medicine and Health Sciences. Senator Carlisle suggested the Legislative Council staff be asked to provide additional information regarding the donations. Chairman Delzer asked the Legislative Council staff to identify how donations for the new UND School of Medicine and Health Sciences building are to be used.

Chairman Delzer asked the Legislative Council staff to provide information to the committee regarding the history of changes made to the minimum amounts of various items that require Budget Section approval.

Representative Becker suggested the committee consider legislation to require all new construction projects to be approved by the full Legislative Assembly.

Representative Pollert questioned whether the Budget Section had ever approved new construction projects financed by donations. Chairman Delzer asked the Legislative Council staff to identify these types of projects approved by the Budget Section.

Chairman Delzer asked for committee discussion of Budget Section duty No. 3, relating to a biennial report identifying the source of funds received for construction projects of entities under the State Board of Higher Education. Chairman Delzer expressed support for the Budget Section receiving this report.

Representative Koppelman expressed support for the Budget Section to have some authority due to the Legislative Assembly meeting once every two years.

Chairman Delzer asked for committee discussion of Budget Section duty No. 4, relating to State Board of Higher Education construction project variance reports. Chairman Delzer suggested the committee consider increasing the minimum amount to \$1 million.

Chairman Delzer asked for committee discussion of Budget Section duty No. 5, relating to audits of funds awarded to the centers of excellence.

Representative Pollert suggested the duty could be amended to have the audit reports presented to a committee during the legislative session.

Chairman Delzer asked for committee discussion of Budget Section duty No. 6, relating to a State Fire Marshal report on fire department funding. Chairman Delzer expressed support for the Budget Section receiving this report. Chairman Delzer asked the Legislative Council staff to provide information regarding fire department funding at the next meeting.

Representative Pollert suggested the fire department report be provided to all legislators via email, rather than only to the Budget Section.

Chairman Delzer asked for committee discussion of Budget Section duty No. 7, relating to Game and Fish Department land acquisitions.

Senator Carlisle suggested the minimum land value be increased.

Chairman Delzer asked for committee discussion of Budget Section duty No. 8, relating to the Legacy Fund and Budget Stabilization Fund Advisory Board semiannual reports. Chairman Delzer suggested the committee consider changing the timing of the reports. He said there is also potential to change the requirement from a verbal presentation to a report filed with the Budget Section.

Chairman Delzer asked for committee discussion of Budget Section duty No. 9, relating to approval of expenditures from the state disaster relief fund. Chairman Delzer expressed support for this responsibility. He suggested that appropriations from the state disaster relief fund be made notwithstanding North Dakota Century Code Section 37-17.1-27 so the appropriation would not need to be approved by the Emergency Commission and the Budget Section in addition to the Legislative Assembly.

Chairman Delzer asked that representatives of the Department of Public Instruction present information at the next meeting on enrollment changes and projected changes. Chairman Delzer said other agencies would be asked to discuss their budgets before the committee as well.

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

Alex J. Cronquist
Fiscal Analyst

ATTACH:7