

## NORTH DAKOTA LEGISLATIVE MANAGEMENT

## Minutes of the

**BUDGET SECTION**

Thursday, September 29, 2016  
Senate Chamber, State Capitol  
Bismarck, North Dakota

Senator Gary A. Lee, Chairman, called the meeting to order at 10:00 a.m.

**Members present:** Senators Gary A. Lee, Bill L. Bowman, Ron Carlisle, Robert Erbele, Joan Heckaman, Ray Holmberg, Ralph Kilzer, Jerry Klein, Tim Mathern, David O'Connell, Larry J. Robinson, Mac Schneider, Ronald Sorvaag, Rich Wardner; Representatives Wesley R. Belter, Al Carlson, Jeff Delzer, Kathy Hogan, Richard G. Holman, Keith Kempenich, Gary Kreidt, Bob Martinson, Corey Mock, David Monson, Kenton Onstad, Chet Pollert, Jim Schmidt, Peter F. Silbernagel, Blair Thoreson, Don Vigesaa

**Members absent:** Senators Karen K. Krebsbach, Terry M. Wanzek, Representatives Larry Bellew, Tracy Boe, Randy Boehning, Mike Brandenburg, Mark A. Dosch, Eliot Glassheim, Ron Guggisberg, Jon O. Nelson, Mark Sanford, Robert J. Skarphol, Roscoe Streyle

**Others present:** Brad Bekkedahl, State Senator, Williston  
Allen H. Knudson, Legislative Budget Analyst and Auditor, Legislative Council, Bismarck  
See [Appendix A](#) for additional persons present.

**It was moved by Senator Robinson, seconded by Senator O'Connell, and carried on a voice vote that the minutes of the June 27, 2016, meeting be approved as distributed.**

**ECONOMIC INDICATORS**

Ms. Pam Sharp, Director, Office of Management and Budget, presented information ([Appendix B](#)) on key economic indicators, including consumer prices, money markets, personal income, commodity prices, unemployment, employment growth, personal income, energy prices and production, and interest rates.

**2015-17 BIENNIUM ACTUAL AND REVISED REVENUES**

Ms. Sharp presented information ([Appendix C](#)) on actual and revised forecasted 2015-17 biennium general fund revenue compared to the July 2016 revised forecast. She said sales tax revenue collections were \$16.9 million, or 15.4 percent, less than the revised forecast for the month of August 2016. She presented the following comparison of the 2015-17 biennium July 2016 revised general fund revenue forecast to actual revenue collections through August 2016:

Tax Type	July 2016 Revised Forecast <sup>1</sup>	Actual Collections Through August 2016	Increase (Decrease) from Revised Forecast
Sales and use taxes	\$1,101,093,574	\$1,083,902,397	(\$17,191,177)
Motor vehicle excise tax	122,703,785	126,106,478	3,402,693
Individual income tax	401,229,749	405,165,258	3,935,509
Corporate income tax	97,580,800	98,282,109	701,309
Insurance premium tax	58,842,063	59,627,900	785,837
Financial institutions tax	324,145	1,151,863	827,718
Oil and gas gross production tax	83,379,176	83,379,176	
Oil extraction tax	116,620,823	116,620,823	
Gaming tax	4,291,145	4,145,469	(145,675)
Lottery	9,580,000	9,580,000	
Cigarette and tobacco tax	34,078,715	33,992,715	(86,000)
Wholesale liquor tax	10,633,988	10,665,162	31,174
Coal conversion tax	23,915,976	23,863,017	(52,959)
Mineral leasing fees	15,440,552	16,085,222	644,670
Departmental collections	44,916,012	44,686,709	(229,303)
Interest income <sup>2</sup>	12,887,204	12,687,296	(199,908)
State Mill profits - Transfer	4,434,894	4,434,894	
Major special funds - Transfer	657,000,000	657,000,000	
Other transfers	1,344,966	1,344,928	(39)
Total revenues and transfers	\$2,800,297,567	\$2,792,721,416	(\$7,576,151)

<sup>1</sup>The July 2016 revised forecast reflects actual revenue collections through June 30, 2016.

<sup>2</sup>The biennium to date amounts shown for interest income revenues have been reduced by \$56,273.35 to reflect an adjustment that was made in June.

### STATUS OF THE 2015-17 BIENNIUM GENERAL FUND

Ms. Sharp presented information ([Appendix D](#)) on the status of the general fund for the 2015-17 biennium, including the following schedule on the status of the general fund as of August 31, 2016:

Unobligated general fund balance - July 1, 2015		\$729,529,389
Balance obligated for authorized carryover from the 2013-15 biennium		147,653,143
Total beginning general fund balance - July 1, 2015		\$877,182,532
Add		
General fund collections through August 2016	\$2,792,721,416	
Forecasted general fund revenue for the remainder of the 2015-17 biennium	1,455,230,744	
Total revenues		4,247,952,160
Total available		\$5,125,134,692
Expenditures		
Legislative appropriations - One-time	(\$1,173,663,758)	
Legislative appropriations - Ongoing	(4,852,498,920)	
4.05% budget allotment (executive branch only)	239,120,391	
4.05% budget allotment (legislative branch and Supreme Court)	5,749,197	
2.50% allotment all branches	151,154,067	
Restore Department of Human Services and Department of Corrections and Rehabilitation	(36,535,880)	
Department of Transportation contingent appropriation	(20,000,000)	
Authorized carryover from the 2013-15 biennium	(147,653,143)	
2015-17 emergency appropriations utilized in the 2013-15 biennium	9,858,196	
Total appropriations		(5,824,469,850)
Estimated ending balance before transfer from budget stabilization fund		(\$699,335,158)
Transfer from budget stabilization fund		572,485,453
Known turnback:		
Adjutant General - Firefighter Training Center	400,000	
Department of Public Instruction - State school aid	17,300,000	
Office of Management and Budget (OMB)	1,546,000	
Total turnback		19,246,000
Estimated ending balance - June 30, 2017 - Before additional transfer from other fund sources		(\$107,603,705)
Transfer from Bank of North Dakota		100,000,000
Estimated ending general fund balance - June 30, 2017 - After transfer from budget stabilization fund		(\$7,603,705)

Ms. Sharp said the Legislative Assembly authorized the transfer of the \$572 million balance in the budget stabilization fund as well as a contingent transfer of \$100 million from the Bank of North Dakota. She said based on revenue collections through August 31, 2016, OMB anticipates a revenue shortfall of \$7.6 million. She said OMB will be reviewing revenue collections, agency turnback, and deficiency requests and will determine if any further action is necessary to balance the 2015-17 budget.

In response to a question from Chairman Lee, Ms. Sharp said the Department of Public Instruction's anticipated general fund turnback is the result of student enrollment being less than projected.

In response to a question from Senator Mathern, Ms. Sharp said the \$6 million loan from the Bank of North Dakota authorized by the Emergency Commission on September 21, 2016, is not reflected in the general fund status statement because that deficiency funding needed to repay the loan will likely be provided from the state disaster relief fund.

In response to a question from Senator Schneider, Ms. Sharp said OMB is in the process of collecting agency deficiency requests. She said the State Treasurer's office did request \$16 million from the general fund for the property tax relief credit program because of the 6.55 percent appropriation reduction; however, the actual amount needed will likely be less and not known until the 2017 legislative session. She said OMB is aware that there will be a \$1 million deficiency request from North Dakota State University for the Minard Hall project.

### PRELIMINARY 2015-17 BIENNIUM REVENUE FORECAST

Ms. Sharp presented information ([Appendix E](#)) regarding the revised 2015-17 biennium revenue forecast and the preliminary 2017-19 biennium revenue forecast. She said the preliminary 2017-19 biennium revenue forecast estimates total general fund revenues of \$3.8 billion, \$175.5 million more than the 2015-17 biennium revised forecast, but \$1.2 billion less than the original 2015-17 biennium forecast of \$5 billion.

In response to Representative Carlson's concern regarding the projected 10 percent increase in sales tax collections for the 2017-19 biennium, Ms. Sharp said the revenue advisory committee and Moody's Analytics, Inc. determined a 10 percent increase in sales and use tax revenue collections for the 2017-19 biennium from the 2015-17 biennium is appropriate. She said the 10 percent increase reflects inflation and some revenue growth.

In response to a question from Senator Schneider, Ms. Sharp said corporate income tax revenues are projected to decrease because oil corporations' revenues have declined. She said as a result of legislation passed during the 2015 legislative session, which allows corporations to choose a single sales tax factor in place of the apportionment factor, corporate income tax revenues are expected to decrease as corporations will likely choose to utilize the single sales tax method to reduce their corporate income tax liability.

Ms. Sharp provided the estimated oil tax revenue and revenue allocations for the revised 2015-17 biennium forecast and the preliminary 2017-19 biennium forecast as shown on the schedule below. She said the July 2016 preliminary forecast for the 2015-17 biennium estimates an average North Dakota price of \$42 per barrel and production ending at 900,000 barrels per day for the 2015-17 biennium. She said the 2017-19 preliminary forecast is based on an average North Dakota price of \$52 for the first year of the biennium and \$58 per barrel for the second year and production is estimated to average 900,000 barrels per day for the entire biennium.

	2015-17 Biennium (Amounts Shown in Millions)	2017-19 Biennium (Amounts Shown in Millions)
Estimated oil revenue allocations		
General fund	\$300.0	\$300.0
Legacy fund	810.7	994.3
Property tax relief fund	300.0	300.0
Strategic investment and improvements fund	130.7	434.0
Political subdivisions	525.2	517.4
Political subdivision allocation fund	13.2	0
Tribal allocations	201.1	190.9
Foundation aid stabilization fund	123.4	155.2
Common schools trust fund	123.4	155.2
Resources trust fund	242.7	306.2
Renewable energy development fund	3.0	3.0
Energy conservation fund	1.2	1.2
Oil and gas impact grant fund	74.4	100.0
State disaster relief fund	14.6	0
North Dakota outdoor heritage fund	19.6	25.1
Well plugging and site reclamation fund	10.1	12.6
Oil and gas research fund	10.0	10.0
Estimated state oil tax revenue	\$2,903.3	\$3,505.1

### AGENCY BUDGET REQUESTS

Ms. Sharp presented information ([Appendix F](#)) regarding the number of agency budget requests submitted by the July 15, 2016, statutory deadline, the number submitted to date, the number of extensions granted, and new submission deadlines. She said 12 of the 73 agency budgets were submitted by the July 15, 2016, deadline and 61 of the 73 agency budgets have been submitted as of September 29, 2016. She said 9 agency budget requests have not been submitted and have been granted extensions as follows:

Agency	Extension Date Granted as of September 29, 2016
Governor's office	October 3
Office of Management and Budget	October 3
Information Technology Department	September 30
Department of Public Instruction	September 30
Department of Human Services	October 3
North Dakota Mill and Elevator	September 30
Department of Corrections and Rehabilitation	October 14
Adjutant General	September 30
Department of Transportation	September 30

## IRREGULARITIES IN THE FISCAL PRACTICES OF THE STATE

Pursuant to North Dakota Century Code 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 May 2016 through July 2016:

Agency	Fiscal Irregularity	Amount
Attorney General	Employee paid \$277 each month over the maximum salary range	\$3,047
North Dakota Vision Services/School for the Blind	Summer contracts for additional hours	\$8,362
Tax Department	Additional workload due to coworker on extended leave	\$500
Department of Trust Lands	Temporary workload increase (3 months) due to two vacancies	\$3,000
Commission on Legal Counsel of Indigents	Additional workload while transitioning from supervising attorney in Bismarck office to Deputy Director of the Commission	\$1,000
Indian Affairs Commission	Severance pay for reductions in force due to budget allotment	\$4,742
Department of Commerce	Severance pay for downsizing due to pending budget cuts	\$3,565

## EMPLOYEE BONUSES

Ms. Sharp presented information ([Appendix H](#)) 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 the Retirement and Investment Office provided performance bonuses to 7 of its 18 full-time equivalent (FTE) positions, or 39 percent, during fiscal year 2016.

## 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 July 2016 through September 29, 2016, the following agencies have applied for a federal grant estimated to be \$25,000 or more:

Agency	Time Period of Grant	Amount
State Department of Health	September 2016 through August 2020	\$300,000
Game and Fish Department	September 2016 through September 2018	\$300,000

## ATTORNEY GENERAL SALARY SAVINGS

Ms. Sharp presented information ([Appendix J](#)) on the Attorney General's 2015-17 biennium targeted market equity increases and general fund savings through August 2016. She said the Attorney General's office reports general fund savings of \$992,564 related to salaries and wages for the period of July 1, 2015, through August 31, 2016. She said the savings is due to vacancies in FTE positions, but the savings was not realized because of a \$1 million general fund budget reduction approved during the August 2016 special legislative session.

## STATE BOARD OF HIGHER EDUCATION REPORTING

Ms. Sharp presented information ([Appendix K](#)) on the change in the number of FTE employees and special funding reported due to the new reporting requirement for the State Board of Higher Education. She said the number of FTE's reported will increase by 4,294.36, from 2,297.00 to 6,591.36, and the special funds amount reported will increase by \$1.8 billion dollars.

In response to a question from Senator Holmberg, Ms. Sharp said the change in reporting does not reflect new FTE positions nor additional special funds spending. She said the amounts already existed within the State Board of Higher Education, but the amounts will now be reported as part of the North Dakota University System budget.

## STATE BOARD OF HIGHER EDUCATION - SEMIANNUAL PROJECT VARIANCE REPORTS

Ms. Sharp presented semiannual project variance reports ([Appendix L](#)) on State Board of Higher Education projects pursuant to Section 15-10-47. She said the report includes project variances for the period June 2015 through June 2016.

## AGENCY REQUESTS APPROVED BY THE EMERGENCY COMMISSION

Chairman Lee directed the Budget Section to consider agency requests ([Appendix M](#)), 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:

- **Attorney General (Request #1883)** - Request is to transfer \$70 from the abortion litigation fees line item and \$121,644 from the higher education legal services fees line item to the operating expenses line item for a total transfer of \$121,714 for prosecution witness fees.
- **Veterans' Home (Request #1884)** - Request to increase special funds spending authority by \$360,000, of which \$225,000 is in the operating expenses line item, and \$135,000 in the capital assets line item. The request is to offset general fund budget reductions of \$569,701 approved during the August 2016 special legislative session. Funding is from available Veterans' Home special funds.
- **Secretary of State (Request #1887)** - Request to increase special funds spending authority by \$200,000 from the Secretary of State's general service operating fund. The number of contractor licenses issued has been more than anticipated resulting in additional expenses.

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

- **Attorney General (Request #1883)** - Request is to transfer \$70 from the abortion litigation fees line item and \$121,644 from the higher education legal services fees line item to the operating expenses line item for a total transfer of \$121,714 for prosecution witness fees.
- **Veterans' Home (Request #1884)** - Request to increase special funds spending authority by \$360,000, of which \$225,000 is in the operating expenses line item, and \$135,000 in the capital assets line item. The request is to offset general fund budget reductions of \$569,701 approved during the August 2016 special legislative session. Funding is from available Veterans' Home special funds.
- **Secretary of State (Request #1887)** - Request to increase special funds spending authority by \$200,000 from the Secretary of State's general service operating fund. The number of contractor licenses issued has been more than anticipated resulting in additional expenses.

Senators Lee, Bowman, Carlisle, Erbele, Heckaman, Holmberg, Kilzer, Klein, Mathern, O'Connell, Robinson, Schneider, Sorvaag, and Wardner and Representatives Belter, Carlson, Delzer, Hogan, Kempenich, Kreidt, Martinson, Mock, Monson, Onstad, Pollert, Schmidt, Silbernagel, Thoreson, and Vigesaa voted "aye." No negative votes were cast.

## **DEPARTMENT OF HUMAN SERVICES**

Ms. Deb McDermott, Chief Financial Officer, Department of Human Services, presented information ([Appendix N](#)) on transfers between line items or subdivisions in excess of \$50,000 pursuant to Section 3 of 2015 Senate Bill No. 2012. She said the largest transfer was comprised of 21.5 FTE's transferred from the Field Services Division to the Management Division along with \$3.2 million in funding relating to the centralization of supervision of human resource and fiscal administration functions.

Ms. Maggie D. Anderson, Executive Director, Department of Human Services, presented information ([Appendix O](#)) on a request for Budget Section approval to authorize public use of certain services at the Collette Fitness Center at the Life Skills and Transition Center pursuant to Section 25-04-02.2. She said Section 25-04-02.2 allows, subject to approval of the Budget Section, the Life Skills Transition Center may provide, at a rate established by the Life Skills Transition Center, any service not otherwise authorized by law under contract with a governmental or nongovernmental person. She said the section authorizes Budget Section to approve the provision of service only after determining that the service is not otherwise being provided by either the private or public sector. She said the Collette Fitness Center opened to the public in 1990 and the department closed the center to public use after it was found that no documentation existed of Budget Section approval for the public use of the center.

In response to a question from Representative Delzer, Mr. Tag Anderson, Director, Risk Management Division, Office of Management and Budget, said risk management would cover the fitness center's liability to the state and its employees. He said if a member of the public is hurt at the fitness center, the state could be held liable like any other state agency offering services.

In response to a question from Senator Bowman, Ms. Anderson said the fitness center has been charging a membership fee to the public to provide for operating costs for the additional use. If the center is not allowed for public use, the Department of Human Services would still incur operational costs to support the activities of the Life Skills Transition Center.

In response to a question from Representative Pollert, Ms. Anderson said a privately owned gym is operating in Grafton that offers weight lifting, cardio equipment, and classes, but it does not offer Collette Fitness Center services, such as the swimming pool, racquetball, and walking path.

In response to a question from Chairman Lee, Ms. Anderson said that if the private center were to expand, the Department of Human Services would discuss its options with that center and if the department was approached by individuals who wanted to operate the Collette Fitness Center privately, the department would consider the proposal.

In response to a question from Representative Kreidt, Ms. Anderson said the Collette Fitness Center charges the following monthly membership fees--\$30 for single membership, \$52 for family membership, \$16 for youth membership, \$22 for student membership, and \$20 for senior membership. She said the private center offers a single membership at \$50 per month. She said the Department of Human Services has not considered raising the monthly membership fees for the fitness center.

In response to a question from Chairman Lee, Ms. Anderson said if the fitness center was not allowed to be used for public use, the center would likely only need 2.5 FTE positions, which would be a reduction of 2 FTE positions.

**It was moved by Senator Holmberg, seconded by Representative Thoreson, and carried on a roll call vote that, pursuant to Section 25-04-02.2, the Budget Section approve the public use of the Collette Fitness Center at the Life Skills Transition Center.** Senators Lee, Bowman, Erbele, Heckaman, Holmberg, Kilzer, Klein, Mathern, O'Connell, Robinson, Schneider, Sorvaag, and Wardner and Representatives Belter, Carlson, Delzer, Hogan, Kempenich, Kreidt, Martinson, Mock, Monson, Onstad, Pollert, Schmidt, Silbernagel, Thoreson, and Vigesaa voted "aye." No negative votes were cast.

## LEGISLATIVE HEARINGS FOR FEDERAL BLOCK GRANTS

Mr. Levi Kinnischtzke, Fiscal Analyst, Legislative Council, distributed a memorandum entitled [Federal Block Grants - 2017 Legislative Hearings](#), which provides information regarding block grant hearings required during the 2015 legislative session. He distributed a concurrent resolution draft [17.3013.01000] authorizing the Budget Section to hold any legislative block grant hearings required during the 2017-19 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 2017 legislative session. The required public hearing will be held as part of the appropriations hearing for the Department of Commerce during the 2017 legislative session.

**It was moved by Senator Robinson, seconded by Senator Mathern, 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 65<sup>th</sup> Legislative Assembly through September 30, 2019, be approved and recommended to the Legislative Management.** Senators Lee, Bowman, Erbele, Heckaman, Holmberg, Kilzer, Klein, Mathern, O'Connell, Robinson, Schneider, Sorvaag, and Wardner and Representatives Belter, Carlson, Delzer, Hogan, Kempenich, Kreidt, Martinson, Mock, Monson, Onstad, Pollert, Schmidt, Silbernagel, Thoreson, and Vigesaa voted "aye." No negative votes were cast.

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

The Legislative Budget Analyst and Auditor said that because the Legislative Assembly, during the August 2016 special legislative session, reduced 2015-17 biennium general fund appropriations for all agencies, the appropriation bills introduced for consideration during the 2017 legislative session, should reflect the adjusted appropriations as each agency's base level in section 1 of the appropriation bills.

In response to a question from Senator Mathern, the Legislative Budget Analyst and Auditor said the 2017 legislative session appropriation bills would not identify the original 2015-17 biennium appropriations.

In response to a question from Representative Carlson, the Legislative Budget Analyst and Auditor said the newly elected Governor will likely make recommendations affecting the 2017-19 biennium budget. The Legislative Council staff will prepare reports comparing appropriations to each Governor's budget recommendations.

Senator Mathern suggested the appropriation bills reflect the original 2015-17 biennium ongoing appropriations as each agency's base level amount identified in section 1 of the bills.

It was moved by Representative Carlson, seconded by Representative Pollert, and carried on a roll call vote that, pursuant to Section 54-44.1-07, proposed agency and institution appropriations bills introduced for consideration by the 65<sup>th</sup> Legislative Assembly include, as the agency or institution's base level funding, the agency or institution's original ongoing appropriations for the 2015-17 biennium adjusted by changes to ongoing appropriations made as a result of legislative action during the August 2016 special legislative session. Senators Lee, Bowman, Carlisle, Erbele, Holmberg, Kilzer, Klein, Sorvaag, and Wardner and Representatives Belter, Carlson, Delzer, Kempenich, Kreidt, Martinson, Monson, Pollert, Schmidt, Silbernagel, Thoreson, and Vigesaa voted "aye." Senators Heckaman, Mathern, O'Connell, Robinson, and Schneider and Representatives Hogan, Mock, and Onstad voted "nay."

## STATE BUDGET ACTIONS SUPPLEMENT FOR THE 2015-17 BIENNIUM

At the request of Chairman Lee, the Legislative Budget Analyst and Auditor presented the Legislative Council report entitled [64<sup>th</sup> Legislative Assembly State Budget Action Supplement for the 2015-17 Biennium](#). The publication reflects legislative actions from the August 2016 special legislative session.

## 2016 NORTH DAKOTA FINANCE FACTS

At the request of Chairman Lee, the Legislative Budget Analyst and Auditor presented the Legislative Council publication entitled [2016 North Dakota Finance Facts](#). The publication is a pocket brochure that 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.

## REPORT ON FEDERAL FUNDS

Mr. Kinnischtzke presented a memorandum entitled [Analysis of Federal Funds for Bienniums Ending June 30, 2017, and June 30, 2019](#), which provides information regarding federal funds estimated to be received by state agencies during the 2015-17 and 2017-19 bienniums. Agencies estimate \$3.5 billion of federal funds will be received during the 2015-17 biennium, \$94.8 million less than appropriated. Agencies estimate \$3.7 billion of federal funds will be received for the 2017-19 biennium, \$234.3 million more than is estimated to be received during the 2015-17 biennium.

Mr. Kinnischtzke presented a memorandum entitled [Largest Variances by Agency - 2015-17 Biennium - Federal Funds Appropriated and Federal Funds Estimated to Be Received](#). The memorandum provides information regarding the major variances experienced by agencies during the 2015-17 biennium relating to federal funds appropriated and federal funds estimated to be received and the major variances estimated for the 2017-19 biennium compared to the 2015-17 biennium.

## DEPARTMENT OF CORRECTIONS AND REHABILITATION - INMATE REPORT

Ms. Leann Bertsch, Director, Department of Corrections and Rehabilitation, presented information ([Appendix P](#)) on the department's prison population management plan, inmate admissions, and the number of inmates not admitted after sentencing pursuant to Section 6 of 2013 Senate Bill No. 2015. She said the department has not refused to admit any inmates to date. She said the average female population for the 2015-17 biennium is 223, which is 1 inmate more than projections and the average male population for the 2015-17 biennium is 1,567, which is 57 inmates fewer than projections.

In response to a question from Senator Mathern, Ms. Bertsch said the Legislative Management's interim Incarceration Issues Committee and its Commission on Alternatives to Incarceration Committee have recommended two bills. She said there is a provision in both bills which would award good time to individuals who are in county jails and later transferred to state facilities. She said the average length of time individuals are in county jails is 90 days.

In response to a question from Chairman Lee, Ms. Bertsch said approximately 7,600 individuals are under supervision, of which roughly 900 are on parole.

## USE OF OIL AND GAS IMPACT GRANT FUNDS

Mr. Gerry Fisher, Administrator, North Dakota Energy Infrastructure and Impact Office, presented a report ([Appendix Q](#)) on the oil and gas impact grant fund, the amounts awarded from the fund, 2015-17 biennium amounts spent to date, and the amounts anticipated to be continued into the 2017-19 biennium pursuant to Section 5 of 2015 House Bill No. 1176. He said the 2015 Legislative Assembly made \$139.3 million in funds available for oil and gas impact grants. He said as of September 29, 2016, the fund has received \$38.4 million in revenue from oil and gas gross production tax collections.

In response to a question from Representative Onstad, Mr. Fisher said projects that are not under suspension can submit invoices for reimbursement. He said if revenues meet the total funding necessary to meet all grant obligations, the projects in suspense will be allowed to submit for reimbursement.

### **DEPARTMENT OF TRANSPORTATION - REPORT ON ONE-TIME FUNDING**

Mr. Grant Levi, Director, Department of Transportation, presented information ([Appendix R](#)) on one-time state funding for road improvements for the 2015-17 biennium. He said \$112 million from the general fund, provided in 2015 House Bill No. 1176, was reduced by 6.55 percent because of legislative action during the August 2016 special legislative session. He said the \$112 million provided was reduced by \$7,336,000 to \$104,664,000. He said of the \$104.7 million available from 2015 House Bill No. 1176, \$56.9 million remains to be expended. He said of the \$352 million from the strategic investment and improvements fund, provided in 2015 Senate Bill No. 2103, \$47.8 million remains to be expended.

In response to a question from Representative Silbernagel, Mr. Levi said the Department of Transportation is anticipating \$40 million more in additional federal highway funds through the federal Fixing America's Surface Transportation Act for the 2017-19 biennium. He said the department is anticipating the increase based on the state's allotted amount within the Fixing America's Surface Transportation Act.

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

Ms. Rikki Roehrich, Program Administrator, Community Services, Department of Commerce, presented information ([Appendix S](#)) regarding annual audits of renaissance fund organizations pursuant to Section 40-63-07(9). She said of the 58 cities with a renaissance zone, 8 cities have renaissance fund organizations. She said approximately \$5.6 million of tax credits have been claimed, and approximately \$4.9 million of tax credits are still available.

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

Ms. Kelly L. Schmidt, State Treasurer, presented information ([Appendix T](#)) on warrants and checks outstanding for more than 90 days and less than 3 years pursuant to Section 54-11-01. She said the number of checks outstanding increased by 12.1 percent from state fiscal year 2015 to state fiscal year 2016. She said the dollar value of checks outstanding totaled \$5,137,308, which is an increase of 1.75 percent from state fiscal year 2015 to state fiscal year 2016.

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

Mr. Mike Ressler, Chief Information Officer, Information Technology Department, presented information ([Appendix U](#)) regarding a summary of the Information Technology Department (ITD) annual report pursuant to Section 54-59-19. He said primary areas of focus for ITD currently include:

- "Cloud" services - He said many agencies contract with private vendors for "cloud" services. He said ITD assists the agencies by reviewing the security at the vendor's data center, the backup policies, and disaster recovery.
- Security - He said ITD is involved in investigating security breaches. He said in regard to the May 2015 breach, ITD found during its investigation that two agencies (Retirement Investment office and the State Department of Health) had personally identifiable data on the affected server. He said ITD and its federal partner completed the forensic investigation and found that no information was copied from the server.
- Business process analysis - He said ITD has started conducting business process analysis for IT projects in order to better control the expectations of its clients, develop a better project plan, and develop a more accurate completion date.

### **K-12 STUDENT ENROLLMENTS AND PROJECTED STATE SCHOOL AID FOR THE 2017-19 BIENNIUM**

Mr. Jerry Coleman, Director of School Finance and Organization, Department of Public Instruction, presented information ([Appendix V](#)) on student enrollments for the 2015-16 academic year. He said the Department of Public Instruction's preliminary estimate of average daily membership for the 2016-17 academic year is 106,866, which is an increase of 796 students from the 2015-16 academic year. He said the department is projecting enrollments to increase by 1,800 students annually during the next biennium. He said the department is anticipating \$30 million of unspent state school aid from the general fund for the 2015-17 biennium.

### STATE FIRE MARSHAL EXPENDITURES

Mr. Jeff Huber, State Fire Marshal, presented information ([Appendix W](#)) 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 is mailed in August of each year to each fire service within the state. He said information for 2014 funding was received in September 2015, which identified 35 fire departments had \$160,044 of uncommitted funds out of the \$6,780,299 that was available for 2014. He said only 59 of the 321 fire departments reported 2014 data to the State Fire Marshal's office.

In response to a question from Senator Klein, Mr. Huber said grant funds may be withheld from fire departments that fail to report required data.

In response to a question from Chairman Lee, Mr. Huber said the Fire Marshal's office is working on making the fire departments aware of reporting requirements.

### HOUSING FINANCE AGENCY - HOUSING INCENTIVE FUND UPDATE

Ms. Jolene Kline, Executive Director, Housing Finance Agency, presented information ([Appendix X](#)) on progress being made to address the housing needs of essential service workers in the oil-impacted areas of the state. She said through June 27, 2016, the number of housing units owned by political subdivisions decreased by 80, master leased units decreased by 179, and an additional 10 rent subsidies are being provided compared to the report on September 23, 2015. She said the 2016 statewide housing needs assessment study indicates the needs will increase by 21 percent or by 76,490 housing units from 2014 to 2029. She said the study indicated an acceptable cost burden for low-income individuals is 30 percent of their income. For example, she said an individual would need to make \$15.66 per hour in North Dakota to pay for a two-bedroom apartment at a cost of \$814 per month to be within the 30 percent guideline.

In response to a question from Senator Mathern, Ms. Kline said that without state funding it may not be possible to meet the states need for housing units as only 150 to 175 units can be produced per year at current funding levels. She said the Housing Finance Agency would prefer to provide incentives to developers as its long-term benefit is cheaper than providing direct subsidies to renters.

### COMMITTEE DISCUSSION AND STAFF DIRECTIVES

**It was moved by Representative Silbernagel, seconded by Senator Holmberg, 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 Lee announced the next meeting of the Budget Section is tentatively scheduled for Wednesday, December 7, 2016.

No further business appearing, Chairman Lee adjourned the meeting at 1:51 p.m.

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Allen H. Knudson  
Legislative Budget Analyst and Auditor

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Chris Kadmas  
Fiscal Analyst

ATTACH:24