

## NORTH DAKOTA LEGISLATIVE MANAGEMENT

## Minutes of the

**GOVERNMENT FINANCE COMMITTEE**

Wednesday, September 5, 2018  
Roughrider Room, State Capitol  
Bismarck, North Dakota

Senator Ronald Sorvaag, Chairman, called the meeting to order at 10:00 a.m.

**Members present:** Senators Ronald Sorvaag, John Grabinger, Jordan Kannianen, Gary A. Lee, Terry M. Wanzek; Representatives Joshua A. Boschee, Jeff Delzer, Ron Guggisberg, Craig Headland, Corey Mock, Mike Nathe, Gary Paur, Brandy Pyle, Shannon M. Roers Jones, Mike Schatz, Don Vigesaa

**Members absent:** Senator Lonnie J. Laffen and Representative Rick C. Becker

**Others present:** Allen H. Knudson, Legislative Council, Bismarck  
See [Appendix A](#) for additional persons present.

**It was moved by Representative Mock, seconded by Representative Guggisberg, and carried on a voice vote that the minutes of the June 7, 2018, meeting be approved as distributed.**

**STUDY OF REVENUE VOLATILITY**

At the request of Chairman Sorvaag, Mr. Ryan Rauschenberger, Tax Commissioner, presented information ([Appendix B](#)) regarding trends in sales and use tax collections, including the collections from Bismarck, Fargo, and Grand Forks, and trends in income tax collections, including the status of the income tax refund reserve accounts; the estimated impact of the federal income tax changes and the phase-in of the single sales factor corporate income tax apportionment method; the estimated impact regarding the decision in *South Dakota v. Wayfair, Inc.* Mr. Rauschenberger said historically sales and use tax collections for the eastern and western parts of the state trend similarly, but now are diverging. He said 104 corporate income tax filers have changed their weighted sales tax factor as authorized by the 2015 Legislative Assembly. He said these filers are estimated to have saved \$2 million in state income tax by changing the sales factor method.

In response to a question from Chairman Sorvaag, Mr. Rauschenberger said sales tax collections from the retail sector have decreased. He said the retail sector has had the most sales and use tax collections. He said a strong United States dollar leads to fewer Canadians shopping in North Dakota.

In response to a question from Representative Mock, Mr. Rauschenberger said the Tax Department estimates individuals will pay \$10.4 million more in individual income tax and businesses will pay \$39.2 million less in income tax as a result of the federal Tax Cuts and Jobs Act.

In response to a question from Representative Delzer, Mr. Rauschenberger said the estimates regarding the state impact of the federal Tax Cuts and Jobs Act do not include the impact of savings from the child credit and other credits available to income taxpayers when filing their federal income tax return.

In response to a question from Chairman Sorvaag, Mr. Rauschenberger said the Tax Department has been registering online companies to comply with the Supreme Court decision of *South Dakota v. Wayfair, Inc.* He said companies with \$100,000 in gross sales or 200 transactions in the state for online sales are required to register. He said 500 companies have registered to date.

In response to a question from Senator Wanzek, Mr. Rauschenberger said online retail companies are required to also collect the local portion of the sales and use tax and remit it to the Tax Department.

In response to a question from Chairman Sorvaag, Mr. Rauschenberger said the Tax Department estimates \$10 million to \$15 million in additional sales and use tax revenue will be collected in the 2019-21 biennium due to the *South Dakota v. Wayfair, Inc.*, decision. He said congressional action could result in standardized rules or a restriction on imposing sales and use taxes on online retailers.

In response to a question from Representative Paur, Mr. Rauschenberger said Amazon and Walmart already have been remitting sales and use taxes no changes are anticipated in sales and use tax collections from these companies.

At the request of Chairman Sorvaag, Mr. Lynn Helms, Director, Department of Mineral Resources, presented information ([Appendix C](#)) regarding the status of oil and gas development in the state and projected future development. He said currently 10 percent of conventional oil wells are being plugged annually. He said inactive wells peaked at over 1,600 wells. He said the lack of trained fracking crews is hindering production as the drilling of new wells is outpacing the fracking of wells. He said Moody's Analytics has reported that the nation is in the longest economic expansion in history and in the second half of 2020 or early 2021 they expect a recession. He said the goal is to have 70 rigs operating in the state by the end of the 2017-19 biennium and 75 rigs by the end of the 2019-21 biennium. He said it is estimated that a well generates \$57,000 in sales tax related to drilling and \$94,000 in sales tax related to completion.

In response to a question from Chairman Sorvaag, Mr. Helms said North Dakota is lacking workforce to complete more wells. He said the Permian basin currently is attracting available workers.

In response to a question from Representative Boschee, Mr. Helms said efficiencies have been realized in drill bit technology along with down hole motor technology. He said the industry has developed technology that allows real time communication with the drill bit which decreases the time to drill a well.

In response to a question from Chairman Sorvaag, Mr. Helms said in the past, 80 percent of the oil and gas industry workers commute from other states with no intention of staying in North Dakota. Today, he said, companies promote local workers and local housing.

In response to a question from Chairman Sorvaag, Mr. Helms said a major constraint on the oil industry is gas capture requirements. On October 1, he said, the capture rate will increase from 85 to 88 percent. He said the price for natural gas is low, which makes investment in natural gas processing currently unattractive.

In response to a question from Representative Nathe, Mr. Helms said although gas capture requirements are constraining oil production, the industry is developing innovative methods to produce, store, and utilize gas.

In response to a question from Representative Headland, Mr. Helms said exporting liquified natural gas (LNG) is being explored through the Gulf Coast which ships to Asia and some pipelines are being considered to transport LNG through Wyoming to the Pacific Coast to ship to Asia. He said Asia has a shortage of LNG.

**STATE BUDGET INFORMATION**

Mr. Joe Morrisette, Director, Office of Management and Budget, presented information ([Appendix D](#)) regarding the status of the general fund, anticipated deficiency appropriation requests for the 2017-19 biennium, preliminary estimates of 2019-21 biennium general fund, anticipated general fund turnback for the 2017-19 biennium, and oil tax revenues and other state budget information. He presented the following information on the preliminary status of the general fund for the 2017-19 biennium to date through August 2018:

Unobligated general fund balance - July 1, 2017		\$65,000,000
Add		
Revenues collected to date		2,835,925,983
Remaining forecasted revenues		1,600,526,932
Balance obligated for authorized carryover from the 2015-17 biennium		99,271,093
Total estimated available		\$4,600,724,008
Less		
2017-19 biennium general fund ongoing appropriations	(\$4,295,624,415)	
2017-19 biennium general fund one-time appropriations	(14,638,226)	
Balance obligated for authorized carryover from the 2013-15 biennium	(99,271,093)	
Total appropriations and adjustments		(4,409,533,734)
Estimated general fund balance - June 30, 2019		\$191,190,274 <sup>1</sup>

<sup>1</sup>North Dakota Century Code Section 54-27.2-02 provides that any end of the biennium balance in excess of \$65 million must be transferred to the budget stabilization fund, up to a cap of 15 percent of general fund appropriations.

Mr. Morrissette said preliminary general fund revenue collections for August 2018 are \$34 million more than forecasted. He said the preliminary balance of the budget stabilization fund is \$113.3 million and the legacy fund balance is \$5.71 billion as of August 2018. He said as of August 2018, oil and gas tax revenues are \$323.6 million more than the May 2017 legislative forecast.

In response to a question from Representative Nathe, Mr. Morrissette said corporate income taxes being 70.7 percent more than legislative forecast could be the result of companies anticipating increased income tax liability as a result of the strength of the overall economy. However, he said, oil companies have been claiming net operating losses in recent years.

In response to a question from Representative Mock, Mr. Morrissette said the oil extraction tax collections are 5 to 6 months ahead of the forecast.

Mr. Morrissette said the 2017-19 biennium revised general fund revenue forecast estimates total revenues to be \$136.5 million more than the 2017-19 legislative forecast as follows:

<b>2017-19 Revised Revenue Forecast Comparison to May 2017 Legislative Forecast for the 2017-19 Biennium</b>				
<b>Tax Types</b>	<b>2017-19 Legislative Forecast</b>	<b>2017-19 Revised Forecast</b>	<b>Change from Legislative Forecast</b>	<b>Percent Change</b>
Sales and use tax	\$1,701,747,285	\$1,722,635,206	\$20,887,921	1.2%
Motor vehicle excise tax	220,003,000	231,144,237	11,141,237	5.1%
Individual income tax	698,728,000	757,683,125	58,955,125	8.4%
Corporate income tax	102,088,415	164,894,170	62,805,755	61.5%
Insurance premium tax	129,637,121	109,325,897	(20,311,224)	(15.7%)
Gaming tax	7,301,480	6,528,321	(773,159)	(10.6%)
Cigarette and tobacco tax	53,247,000	52,054,548	(1,192,452)	(2.2%)
Wholesale liquor tax	18,083,000	17,877,575	(205,425)	(1.1%)
Coal conversion tax	39,564,000	41,937,227	2,373,227	6.0%
Mineral leasing fees	30,500,000	31,930,066	1,430,066	4.7%
Departmental collections	81,983,864	83,429,676	1,445,812	1.8%
Interest income	8,000,000	7,944,852	(55,150)	(0.7%)
<b>Total revenues before transfers</b>	<b>\$3,090,883,165</b>	<b>\$3,227,384,900</b>	<b>\$136,501,735</b>	<b>4.4%</b>

Mr. Morrissette said the 2019-21 biennium preliminary general fund revenue forecast estimates total revenues to be \$156.4 million more than the 2017-19 revised revenue forecast as follows:

<b>2019-21 Preliminary Revenue Forecast Comparison to September 2018 Revised Forecast for the 2017-19 Biennium</b>				
<b>Tax Types</b>	<b>2017-19 Revised Forecast</b>	<b>2019-21 Preliminary Forecast</b>	<b>Change from Revised Forecast</b>	<b>Percent Change</b>
Sales and use tax	\$1,722,635,206	\$1,894,204,000	\$171,568,794	10.0%
Motor vehicle excise tax	231,144,237	245,972,000	14,827,763	6.4%
Individual income tax	757,683,125	806,483,000	48,799,875	6.4%
Corporate income tax	164,894,170	95,486,000	(69,408,170)	(42.1%)
Insurance premium tax	109,325,897	105,500,000	(3,825,897)	(3.5%)
Gaming tax	6,528,321	6,850,000	321,679	4.9%
Cigarette and tobacco tax	52,054,548	48,281,000	(3,773,548)	(7.2%)
Wholesale liquor tax	17,877,575	18,757,000	879,425	4.9%
Coal conversion tax	41,937,227	38,032,000	(3,905,227)	(9.3%)
Mineral leasing fees	31,930,066	32,000,000	69,934	0.2%
Departmental collections	83,429,676	84,000,000	570,324	0.7%
Interest income	7,944,852	8,200,000	255,150	3.2%
<b>Total revenues before transfers</b>	<b>\$3,227,384,900</b>	<b>\$3,383,765,000</b>	<b>\$156,380,100</b>	<b>4.8%</b>

In response to a question from Representative Mock, Mr. Morrissette said 2019-21 biennium oil tax revenue projections are based on \$53 per barrel of oil (North Dakota price) and oil production starting in July 2019 of 1.23 million barrels per day increasing to the end of June 2021 to 1.31 million barrels per day.

In response to a question from Representative Mock, Mr. Morrissette said a 10 percent general fund reduction to Higher Education budgets from institutions subject to the formula would be an estimated \$50 million for the 2019-21 biennium.

Mr. Allen H. Knudson, Legislative Budget Analyst and Auditor, Legislative Council, presented the [2017-19 Biennium Report on Compliance With Legislative Intent](#) and updated [trust fund analyses](#) reports.

In response to a question from Representative Mock, Mr. Knudson said the strategic investment and improvements fund estimated ending balance with the revised revenue forecast provided by the Office of Management and Budget would provide an estimated June 30, 2019, balance of approximately \$850 million, which is \$400 million more than the 2017 legislative forecast.

### OTHER DUTIES

Mr. Ron Henke, Deputy Director of Engineering, Department of Transportation, presented information ([Appendix E](#)) regarding the results of the Department of Transportation's (DOT) study on the manner in which DOT provides snow and ice control services on the state highway system, pursuant to Section 10 of 2017 Senate Bill No. 2012. He said DOT looked at existing locations of population centers, public health facilities, and schools, and applied a 25-mile radius around existing section locations to help identify redundancies and to identify potential improvements. He said the study found the need for 327 routes and the optimization model created uniform cycle times based on levels of service across the state, resulting in an estimated 19 percent reduction in mileage and an 8 percent reduction in plowing time in comparison to the DOT's previous cycle times and routes.

In response to a question from Chairman Sorvaag, Mr. Henke said variable snow conditions were not considered in this study.

In response to a question from Representative Paur, Mr. Henke said the survey cost \$200,000 to \$210,000 and the state owns the program to conduct further modeling as it determines necessary.

In response to a question from Representative Grabinger, Mr. Henke said the highway maintenance sections closed during the 2017-19 biennium were not included in this study.

In response to a question from Representative Schatz, Mr. Henke said the interstates have the highest priority during snow events, followed by district corridors and collector routes.

### STUDY OF TRANSPORTATION-RELATED FUNDING

At the request of Chairman Sorvaag, Mr. Shannon Sauer, Chief Financial Officer, Department of Transportation, presented information ([Appendix F](#)) regarding areas of budgeting reductions to comply with the Governor's budget guidelines, optional adjustment requests, estimated federal highway construction funds and required state match, estimated state highway fund revenues, any anticipated shortfall in highway fund revenues to meet the department's 2019-20 budget needs and proposals to address any shortfall. He said the state highway fund is estimated to receive \$20 million more revenue in the 2019-21 biennium than the 2017-19 biennium.

In response to a question from Chairman Sorvaag, Mr. Sauer said DOT is considering proposals to change fees and other alternatives to align costs of providing services to the revenues generated from the services.

In response to a question from Representative Guggisberg, Mr. Sauer said the Governor's budget guidelines require DOT to reduce full-time equivalent (FTE) positions by 5 percent (10 FTE positions) and reduce special funds, excluding federal funds by \$50 million at DOT's discretion.

In response to a question from Senator Lee, Mr. Sauer said DOT is reviewing electric vehicles and fees related to electric vehicles.

### STUDY OF STATE FLEET SERVICES

Ms. Robin Rehborg, Director, State Fleet Services Division, Department of Transportation, presented information ([Appendix G](#)) regarding discussions with Enterprise Holdings, Inc., (EHI) relating to State Fleet Services (SFS) operations. She said SFS and EHI detailed costs on a per-mile basis and determined the break-even point for utilizing EHI services is 100 miles. She said SFS determined one-half the trips in which SFS is used are 100 miles or less and cost-savings would not be as significant as though previously estimated. She said some limited savings could occur in some areas of the fleet.

Ms. Erin Kramarich, Director, Business Rental Sales, Enterprise Holdings Inc., provided comments ([Appendix H](#)) regarding its discussions with DOT and its analysis of the current state of the motor pool. She said 60 percent of the state's fleet is driven less than 10 days per month and the average length of rental is 4.14 days compared to other similar states at 2.74 days. She said areas of opportunity for savings include a reduction of the motor pool to eliminate nonused vehicles, flexibility in fleet size, and vehicle choice.

In response to a question from Chairman Sorvaag, Ms. Kramarich said the state would have priority and EHI would adjust its fleet to meet the state's needs.

**It was moved by Representative Mock, seconded by Representative Guggisberg, and carried on a voice vote that the Chairman and the Legislative Council staff be requested to prepare a report and to present the report to the Legislative Management.**

**It was moved by Representative Mock, seconded by Senator Wanzek, and carried on a voice vote that the committee be adjourned sine die.**

No further business appearing, Chairman Sorvaag adjourned the committee sine die at 1:55 p.m.

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Chris Kadrmias  
Fiscal Analyst

ATTACH:8