

## NORTH DAKOTA LEGISLATIVE MANAGEMENT

## Minutes of the

**LEGISLATIVE REVENUE ADVISORY COMMITTEE**

Thursday, August 15, 2019  
Roughrider Room, State Capitol  
Bismarck, North Dakota

Senator Ray Holmberg, Chairman, called the meeting to order at 1:00 p.m.

**Members present:** Senators Ray Holmberg, Dwight Cook, Joan Heckaman, Rich Wardner; Representatives Josh Boschee, Jeff Delzer, Chet Pollert

**Member absent:** Representative Lawrence R. Klemin

**Others present:** Representative Scott Louser, Minot, member of the Legislative Management  
Senator Jessica Unruh, Beulah  
See [Appendix A](#) for additional persons present.

The Legislative Council staff reviewed the [Supplementary Rules of Operation and Procedure of the North Dakota Legislative Management](#).

**BACKGROUND INFORMATION**

The Legislative Council staff presented a memorandum entitled [State Revenues and State Revenue Forecasts Study - Background Memorandum](#). He said the Legislative Revenue Advisory Committee was appointed by the Legislative Management with the same responsibilities as the prior biennium. He said the committee selected IHS Markit to provide consulting services during the 2017-19 biennium. He said IHS Markit developed custom models to forecast the major general fund revenue taxes. He said the proposed study plan for the 2019-20 interim includes monitoring state revenues, receiving information from industry representatives, and contracting for consulting services.

The Legislative Council staff presented a memorandum entitled [Income Tax Collections](#), providing information trends in individual income tax collections. He said the two primary sources of income taxes are estimated payments, which include estimated quarterly payments and taxes submitted with tax returns, and withholdings, which include taxes withheld from employees' paychecks and nonresident royalty withholdings. He said the estimated payments tend to be more volatile than the withholdings because the estimated payments are generally associated with business income and capital gains.

In response to a question from Representative Delzer, the Legislative Council staff said nonresident royalty withholdings were required beginning in tax year 2014 with the first payments reported in April 2014.

The Legislative Council staff presented a memorandum entitled [Major General Fund Tax Revenues - Comparison of Actuals and IHS Markit Estimates](#). He said the 2019 legislative revenue forecast was based on information from both the IHS Markit estimates and the Office of Management and Budget's forecast. He said the actual sales and use tax collections for the last 6 months of the 2017-19 biennium exceeded IHS Markit's estimates by \$16.2 million, or 3.8 percent. He said the actual motor vehicle excise tax collections were less than IHS Markit's estimates by \$2.9 million, or 4.5 percent, during the last 6 months of the 2017-19 biennium. He said the actual corporate income tax collections for the last 6 months of the 2017-19 biennium exceeded IHS Markit's estimates by 36.6 percent.

**REVENUE COLLECTIONS**

Mr. Joe Morrisette, Director, Office of Management and Budget, presented information ([Appendix B](#)) regarding 2017-19 and 2019-21 biennium general fund revenues. He said the June 30, 2019, unobligated balance of the general fund is \$65 million after adjustments for unspent 2017-19 biennium appropriations and a transfer of \$546 million to the budget stabilization fund. He said the balance of the budget stabilization fund after the transfer from the general fund totals approximately \$660 million, or \$67 million less than the limit of \$727 million. He said the transfer of \$546 million exceeded the \$285 million estimate made at the end of the 2019 legislative session, primarily related to additional legacy fund earnings and additional corporate income tax collections. He said the

2017-19 biennium general fund revenues totaled \$4.91 billion, which was \$250 million more than the revised estimate at the close of the 2019 legislative session. He said general fund revenues for July 2019, the 1<sup>st</sup> month of the 2019-21 biennium, exceeded the forecast by \$42.4 million, or 7.6 percent.

In response to a question from Senator Cook, Mr. Morrisette said the excess corporate income tax collections from the 2017-19 biennium may be offset by future refunds if corporations claim refunds on amended tax returns related to net operating losses.

Mr. Ryan Rauschenberger, Tax Commissioner, presented information ([Appendix C](#)) regarding the status of the phase-in of the single sales factor method of apportioning corporate income and the status of sales tax collections related to online retail sales. He said the phase-in of the single sales factor method began with tax year 2016 with a double-weighting sales factor. He said the phase-in will be complete by tax year 2019. He said 116 corporate tax filers elected to use the double-weighting sales factor method in tax year 2016 resulting in \$2.2 million of savings for the taxpayers and a corresponding reduction in tax collections. He said 168 corporate tax filers elected to use the double-weighting sales factor method in tax year 2017 resulting in \$4.2 million of savings for the taxpayers and a corresponding reduction in tax collections. He said information is not yet available for tax year 2018 or 2019. He said 4,823 remote sellers are registered with the Tax Department as of August 2019. He said sales tax collections from July 2018 to early August 2019 related to online sales total \$15.4 million, including \$11.8 million attributed to the state's 5 percent tax and \$3.6 million attributed to local sales taxes.

In response to a question from Senator Cook, Mr. Rauschenberger said the specific reasons why fewer corporations have elected to use the single sales factor method are unknown. He said some corporations may have decided to wait until the phase-in is complete. He said other corporations may be waiting until their net operating losses have been fully used before making the election. He said corporations must use the single sales factor for at least 5 years after the election is made, which may affect their decision to elect the single sales factor method. He said the single sales factor method is optional in North Dakota, but is required by most of the other states that use the single sales factor method.

Mr. Jon Godfread, Insurance Commissioner, presented information ([Appendix D](#)) regarding a summary of House Bill No. 1106 (2019) relating to an invisible reinsurance pool. He said the invisible reinsurance pool is a program for health insurance providers, in which some of the claims from individuals are reimbursed from the pool. He said the individuals are unaware that a portion of their claim is paid from the pool, but the pool helps to limit the financial burden for insurance providers. He said the program covers 75 percent of the claims that range from \$100,000 to \$1,000,000 with the insurance provider covering the remaining 25 percent. He said the reinsurance pool program will provide rate reductions for insurance plans obtained through the individual marketplace. He said the reductions are estimated to be 20 percent and will benefit farmers, ranchers, and other small business owners. He said the Insurance Department received actuarial estimates regarding the estimated cost of the program, which are anticipated to be less than the original estimates included in the fiscal note.

In response to a question from Chairman Holmberg, Mr. Godfread said the invisible reinsurance pool program has been well received in North Dakota. He said North Dakota was the ninth state to receive federal approval for the program. He said representatives from Oklahoma have been reviewing North Dakota's program as a model for their state.

In response to a question from Representative Delzer, Mr. Godfread said approximately 42,000 North Dakotans have health insurance from the individual marketplace. He said of the 42,000, 21,000 receive federal assistance toward the cost of their insurance premiums while the remaining 21,000 must cover the full cost of the premiums without federal assistance. He said the reinsurance pool program will cover claims for approximately 0.25 percent of the individuals in the marketplace. He said a very small portion of the individuals have very high health-related expenses. He said reducing the financial burden for insurance providers through the reinsurance pool helps lower the insurance premiums for all the other individuals in the marketplace.

In response to a question from Representative Boschee, Mr. Godfread said the implementation of association health plans has been delayed due to a recent court case.

## REQUEST FOR PROPOSAL

The Legislative Council staff presented a draft of a request for proposal ([Appendix E](#)) relating to consulting services for economic forecasting data. He said the request for proposal requires the consultant to forecast the major general fund tax revenues, oil prices, and oil production levels. He said some provisions were updated for clarity compared to the provisions from last biennium.

In response to a question from Representative Delzer, Mr. Morrissette said the Office of Management and Budget's contract with Moody's Analytics is approximately \$160,000 per biennium.

Chairman Holmberg suggested the Legislative Council staff add a requirement for the consultant to present the reports in person.

**It was moved by Senator Cook, seconded by Senator Wardner, and carried on a roll call vote that the Legislative Council staff distribute the request for proposal relating to consulting services for economic forecasting data with the additional requirement for the consultant to present the reports in person.** Senators Holmberg, Cook, Heckaman, and Wardner, and Representatives Boshee, Delzer, and Pollert voted "aye." No negative votes were cast.

Chairman Holmberg said the committee's next meeting will be Tuesday, December 17, 2019.

No further business appearing, Chairman Holmberg adjourned the meeting at 2:20 p.m.

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Adam Mathiak  
Senior Fiscal Analyst

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Allen H. Knudson  
Legislative Budget Analyst and Auditor

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