

NORTH DAKOTA LEGISLATIVE MANAGEMENT

Minutes of the

BUDGET COMMITTEE ON GOVERNMENT FINANCE

Friday, July 25, 1997
Harvest Room, State Capitol
Bismarck, North Dakota

Senator David E. Nething, Chairman, called the meeting to order at 9:00 a.m.

Members present: Senators David E. Nething, Rod St. Aubyn, Bob Stenehjem, Harvey D. Tallackson; Representatives Rick Berg, Jeff W. Delzer, Bette Grande, Roy Hausauer, Keith Kempenich, Matthew M. Klein, Ronald Nichols, Elwood Thorpe

Members absent: Representatives William E. Kretschmar, Ben Tollefson, Gerry Wilkie

Others present: Gary J. Nelson, State Senator, Casselton

See Appendix "A" for other persons present

Mr. Chester E. Nelson, Jr., Legislative Budget Analyst and Auditor, reviewed the Legislative Council's rules of operation and procedure.

Chairman Nething commented on the studies assigned to the committee which include studies on the budgeting process, the state investment process, and transportation funding.

Chairman Nething announced that Representative Hausauer would be serving as vice chairman of the committee.

Senator Gary J. Nelson, Chairman, Legislative Council, commented on the committee's responsibility to study the budgeting process. Senator Nelson said the Legislative Assembly needs to consider the feasibility of developing a legislative budget. He said although the Legislative Assembly receives the executive budget and makes changes to it as it develops the state budget, the Legislative Assembly may benefit from being more involved in the budget development process either during the interim before a legislative session or during the legislative session.

Senator Nelson commented on the program-based performance budgeting pilot project. He said although the Legislative Assembly has been asked to expand the pilot project, it has chosen to maintain the current number of agencies involved and suggested that the committee review and make recommendations regarding the use of program-based performance budgeting for North Dakota state agencies.

Ms. Celeste Kubasta, Budget Analyst, Office of Management and Budget, presented a report on the status of the general fund. Ms. Kubasta said while the June 30, 1997, ending general fund balance remains at \$65 million as estimated by the 1997 Legislative Assembly, the transfer to the budget stabilization fund and subsequently to the Bank of North Dakota of the amount that the general fund balance exceeds

\$65 million on June 30, 1997, has increased by approximately \$4 million, from the \$7.5 million estimated at the close of the 1997 legislative session to the current estimate of \$11.6 million.

Ms. Kubasta said the current estimate of 1995-97 biennium revenues totals \$1,378.3 billion, \$1.5 million more than estimated at the close of the 1997 legislative session of \$1,376.8 billion.

A copy of the report is on file in the Legislative Council office.

Senator Nething asked the Legislative Council staff to review the number of oil wells currently eligible for the two-year oil extraction tax exemption and the dates when the wells no longer qualify for the exemption. Mr. Nelson said the Legislative Council staff prepares a report on the status of oil tax collections and will plan to present the report at future committee meetings.

BUDGET MONITORING

The Legislative Council staff presented a memorandum entitled [Monitoring the Status of State Agency and Institution Appropriations - Background Memorandum](#). The Legislative Council staff suggested the committee proceed with the monitoring responsibility similar to previous interims by:

1. Reviewing reports of estimated to actual expenditures for each six-month period of major state agency appropriations, including higher education, charitable and penal institutions, elementary and secondary education, and medical and economic assistance of the Department of Human Services.
2. Surveying remaining state agencies and institutions regarding actual to estimated expenditures and any special budget problems.
3. Reviewing reports on the status of state agencies implementing budget/programmatic changes and other legislative directives contained in appropriation bills and other legislation.

Chairman Nething asked that any agency experiencing major budgetary problems during the interim should be asked to be in attendance at the meeting when the monitoring report is presented to the committee to respond to questions.

Representative Delzer suggested that the committee monitor computer development costs of the Department of Human Services. Mr. Nelson indicated that the department is required to report on its data processing and computer development costs to other interim committees and this information could also be presented to this committee. Chairman Nething asked that the information be presented to this committee when available.

Representative Nichols suggested that the committee receive information on the status of the additional funding provided to the Department of Human Services to be used for additional funding for salaries of selected long-term care employees.

It was moved by Senator St. Aubyn, seconded by Representative Delzer, and carried on a voice vote that the committee receive reports during the interim on:

- 1. Expenditures and major expenditure variances of major state agency appropriations, including higher education, charitable and penal institutions, Department of Public Instruction, and Department of Human Services.**
- 2. Special budgetary problems of other agencies.**
- 3. The status of state agencies and institutions implementing budget/programmatic changes and other legislative directives contained in appropriation bills and other legislation.**
- 4. The status of computer development costs of the Department of Human Services.**
- 5. The status of additional funding provided to the Department of Human Services for addressing salary needs of long-term care employees.**

BUDGET PROCESS STUDY

Senator Nething commented on the study of the budget process. Senator Nething distributed copies of information relating to 1981 Senate Bill No. 2426 which was considered but not approved by the 1981 Legislative Assembly. He said the bill would have provided for a legislative budget. A copy of the information is on file in the Legislative Council office.

Senator Nething indicated that legislators need budgetary information earlier to assist in making budgetary decisions. He said a legislative budget or other method may accomplish this.

Senator Nething suggested that other states may have budgeting methods and procedures that could be applicable in North Dakota to assist the Legislative Assembly in its budget development process.

Mr. Nelson reviewed the history of the fiscal process in North Dakota. Mr. Nelson said in the 1960s, the Legislative Assembly determined the state needed improved fiscal processes. As a result, he said, the Office of Management and Budget was established, the state accounting system was created, the Governor was given the opportunity to

recommend a budget to the Legislative Assembly, and the legislative budget analyst and auditor position of the Legislative Council was established to provide staff services to the Legislative Assembly on the budget.

Mr. Nelson said the major issues that led to the changes to the budgeting process in the 1960s included:

1. The number of agency expenditures made without legislative oversight.
2. Appropriations that continued beyond the end of each biennium.
3. The number of continuing appropriations. The Legislative Assembly preferred that appropriations be specific in time and amount as required by the constitution.

Mr. Nelson said the Budget Section has often asked for improvements in the supporting information included in budget requests and the executive budget. He said the Budget Section has stressed the need for budget changes to be categorized such as new program, workload change, inflationary increase, or by other categories to assist in analyzing the budget. He said the Legislative Assembly has stressed the importance of monitoring FTE position information of state agencies and state government in total.

Senator Tallackson asked for the number of states that have legislative budgets. Mr. Nelson said the staff will review other states' budgeting processes and provide the information to the committee at a future meeting.

Chairman Nething asked the chief sponsor of the study resolution, Representative Berg, to comment on the study. Representative Berg said two important aspects of budgeting are priority setting and accountability. He said program budgeting provides the mechanics for setting priorities of agencies, but the accountability aspect is lacking. He suggested the Legislative Assembly determine the priorities of government and that the agencies use these priorities to develop their budgets and provide their services.

The Legislative Council staff presented a memorandum entitled [*Budget Process - Background Memorandum*](#). The study is directed by House Concurrent Resolution No. 3045. The Legislative Council staff said the study is to address:

1. The results of the program-based performance budgeting pilot project.
2. Budgeting reforms in other states.
3. How agency and institution appropriation balances at the end of the biennium should be handled.
4. The benefits that new information technology could provide in budget development and budget presentation.
5. The effect of budget recommendations on future biennial budgets.
6. The detailed information supporting agency budget requests and the executive recommendation.

7. Alternative budgeting methods that use performance reviews to evaluate proposed agency budgets.
8. The feasibility of developing a legislative budget (Legislative Council directive).

The Legislative Council staff reviewed previous studies relating to the budget process and requirements included in statute for the budget process. The Legislative Council staff said the Office of the Budget is responsible for developing financial policies and plans as the basis for budget recommendations to the Legislative Assembly and for preparing detailed documents in accordance with the financial policies and plans for presentation to the Legislative Assembly.

The Legislative Council staff reviewed North Dakota's current budgeting method. The Legislative Council staff said agencies prepare their budget requests based on the previous biennium's authorized budget levels and changes to the previous level are identified and explained. Agencies' budget requests are prepared by program and by object code such as salaries and wages, operating expenses, etc., for each program. The Office of Management and Budget reviews the budget requests and revenue forecasts and develops the executive budget recommendation presented to the Legislative Assembly at the organizational session in December. The Office of Management and Budget also prepares the bills for introduction to the Legislative Assembly necessary to implement the executive budget recommendations, including agency appropriation bills, bills containing proposed revenue changes, and bills making organizational or other changes recommended in the executive budget.

The Legislative Council staff reviewed the history of the program-based performance budgeting pilot project. The Legislative Council staff said the 1993-94 interim Budget Section requested that the Office of Management and Budget ask all agencies and institutions to include, to the extent possible, service efforts and accomplishments in the 1995-97 budget request forms and to use this information to support the executive budget. The Office of Management and Budget developed a program-based performance budgeting pilot project to incorporate service efforts and accomplishments into the budgeting process. The Office of Management and Budget chose the 14 agencies listed below to be involved in the program-based performance budgeting pilot project for the 1995-97 biennium.

1. The Office of Management and Budget.
2. Information Services Division.
3. State Auditor.
4. Central Services.
5. Board of University and School Lands.
6. Department of Human Services Aging Services and Vocational Rehabilitation.
7. Insurance Department.
8. Securities Commissioner.
9. Highway Patrol.

10. Department of Corrections and Rehabilitation Parole and Probation.
11. Department of Economic Development and Finance.
12. Department of Tourism.
13. Parks and Recreation Department.
14. Department of Transportation.

Budget requests of these pilot agencies included information in support of meeting statewide and agency goals, objectives, and strategies. Under each major program of the agency, the agency goal, objective, and strategy are listed as well as the description and justification for the strategy and performance measures, including outcome, output, efficiency, effectiveness, and explanatory measures. The appropriation bills for these agencies included program line items rather than object code line items.

The 1995 Legislative Assembly chose to appropriate funds on a program basis for nine of the 14 pilot agencies as follows:

1. Office of Management and Budget.
2. Information Services Division.
3. State Auditor.
4. Central Services.
5. Board of University and School Lands.
6. Highway Patrol.
7. Department of Corrections and Rehabilitation Parole and Probation.
8. Parks and Recreation Department.
9. Department of Transportation.

The remaining five agencies received object code line item appropriations but were expected to continue to monitor and strive to achieve their performance measure goals and objectives. These agencies include:

1. Department of Human Services Aging Services and Vocational Rehabilitation.
2. Insurance Department.
3. Securities Commissioner.
4. Department of Economic Development and Finance.
5. Department of Tourism.

The 1995-96 interim Budget Section reviewed reports on the pilot project and asked the Office of Management and Budget to continue to work with only the nine agencies in the development of the 1997-99 biennium budget requests and executive recommendations and that those agencies be subject to program reviews. In addition, the Budget Section asked that the appropriation bills for the 1997 Legislative Assembly for the agencies with program line items include a separate section identifying the amounts for salaries and wages, equipment, and grants for each agency. The 1997 Legislative Assembly continued the program line item appropriations for the nine pilot agencies and object code line item appropriations for the remaining five agencies and asked that they continue to monitor their performance measures.

The Legislative Council staff reviewed the following proposed study plan for the budget process study:

1. Review current budgeting procedures, reports, budget requests, and supporting information.
2. Review budgeting methods and performance review evaluations used in other states.
3. Consider the feasibility of developing a legislative budget.
4. Review results of the program-based performance budgeting pilot project.
5. Consider alternative methods of addressing agencies' end of biennium unspent general fund appropriation authority.
6. Consider the possibility of using new information technology in the budget development process and budget presentations.
7. Review ways to analyze the effect budget recommendations may have on future biennial budgets, including information provided on fiscal notes.
8. Receive testimony from representatives of the Office of Management and Budget, the State Auditor's office, program-based performance budgeting pilot agencies, and other state agencies regarding the budget process.
9. Receive testimony from other interested persons.
10. Develop recommendations and proposed legislation necessary to implement the recommendations regarding North Dakota's budget process.
11. Prepare the committee's final report for presentation to the Legislative Council.

The Legislative Council staff presented a report on changes being considered to the Legislative Council's budget status system. The Legislative Council staff said its computerized system for monitoring the development of the state budget during the legislative session is being considered for enhancements to be compatible with the Office of Management and Budget's SIBR system, the Legislative Assembly's personal computer (PC) based system, and to provide additional information to legislators and others in the development of the state budget.

It was moved by Senator St. Aubyn, seconded by Senator Tallackson, and carried on a voice vote that the committee approve the following study plan:

1. **Review current budgeting procedures, reports, budget requests, and supporting information.**
2. **Review budgeting methods and performance review evaluations used in other states.**
3. **Consider the feasibility of developing a legislative budget.**
4. **Review results of the program-based performance budgeting pilot project.**
5. **Consider alternative methods of addressing agencies' end of biennium unspent general fund appropriation authority.**
6. **Consider the possibility of using new information technology in the budget development process and budget presentations.**
7. **Review ways to analyze the effect budget recommendations may have on future biennial budgets, including information provided on fiscal notes.**
8. **Receive testimony from representatives of the Office of Management and Budget, State Auditor's office, program-based performance budgeting pilot agencies, and other state agencies regarding the budget process.**
9. **Receive testimony from other interested persons.**
10. **Develop recommendations and proposed legislation necessary to implement the recommendations regarding North Dakota's budget process.**
11. **Prepare the committee's final report for presentation to the Legislative Council.**

Ms. Sheila Peterson, Fiscal Management Division Director, Office of Management and Budget, commented on the budget process study. Ms. Peterson stressed the importance of reviewing the results of the program-based performance budgeting pilot project and budgeting reforms in other states. She indicated that the Office of Management and Budget needs direction regarding the future of program-based performance budgeting.

Ms. Peterson suggested that, regarding the pilot project, the committee address the following issues:

1. Educational needs for legislators on how to use program-based performance budgeting.
2. Which agencies should be added or removed from the project.
3. If the project is to continue, how quickly it should expand.
4. How the program-based performance budgeting process may be simplified and the paper reduced.
5. What should be audited, when, and by whom.
6. Should the Legislative Assembly be involved in the development of measures.
7. Should the Legislative Assembly be involved in developing program definitions.

A copy of the report is on file in the Legislative Council office.

Mr. Ron Tolstad, Technical Specialist, State Auditor's office, commented on the budget process study. Mr. Tolstad suggested the committee consider the following in its budget process study:

1. The Legislative Assembly should consider working with the executive branch to develop a statewide strategic plan to be used to guide and evaluate state agency strategic plans and state agency performance.
2. A standardized system of strategic planning should be developed for state agencies to meet the budgetary and program evaluation

needs of the Legislative Assembly and the executive branch.

3. Appropriation bills should include the agency's mission, goals, and objectives and, when applicable, performance measures.
4. The powers and duties of the legislative budget analyst and auditor should be expanded to include more comprehensive program reviews of agencies' missions, goals, and objectives and, when applicable, performance measures to ensure compliance with legislative intent.
5. The Legislative Assembly should establish a process for program authorization reviews.
6. The Legislative Assembly should assume the responsibility for allocating state resources to state programs by appropriating moneys by program.
7. The Legislative Assembly should direct the Office of Management and Budget to develop guidelines for state agencies to systematically allocate costs to programs in such a manner that they reflect their true cost.

A copy of the presentation is on file in the Legislative Council office.

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

INVESTMENT PROCESS STUDY

The Legislative Council staff presented a memorandum entitled [State Investment Process - Background Memorandum](#). The study is directed by House Concurrent Resolution No. 3002. The Legislative Council staff said the study relates specifically to investments of the bonding fund and fire and tornado fund and, in addition, provides that the committee monitor the performance of all investments of the State Investment Board and the Board of University and School Lands. The 1995-96 interim Budget Committee on Government Finance studied the investment process and recommended this study because of the potential to generate larger returns on the bonding fund and fire and tornado fund and to continue monitoring the investment processes of the State Investment Board and the Board of University and School Lands.

The Legislative Council staff provided information on the state bonding fund. The Legislative Council staff said the state bonding fund was created in 1915 and is maintained for bond coverage of public employees. The state bonding fund is managed by the Insurance Commissioner and the amount of coverage provided to each state agency is determined by the commissioner based on the amount of money and property handled and the opportunity for default. North Dakota Century Code Section 26.1-21-09 provides that premiums for bond coverage are to be determined by the Insurance Commissioner but may be waived if the state bonding fund balance is in excess of \$2.5 million. No premiums have been charged possibly since 1953 because the bonding

fund's balance has exceeded \$2.5 million. The Legislative Council staff said the bonding fund balance at the end of the 1997-99 biennium is estimated to be \$4.1 million.

The Legislative Council staff provided information on the fire and tornado fund. The Legislative Council staff said the fire and tornado fund originated in 1919 and is maintained to insure various political subdivisions and state agencies against loss to public buildings and permanent fixtures. North Dakota Century Code Section 26.1-22-14 requires that if the fire and tornado fund balance is less than \$12 million, the Insurance Commissioner must increase assessments on policies. The Legislative Council staff said the July 1, 1997, estimated balance is approximately \$14.1 million but is projected to decrease to \$8.1 million by June 30, 1999. The primary reason for the reduction is potential claims payments of \$6 million relating to damages caused by the 1997 Red River Valley flood.

The Legislative Council staff presented the following schedule showing the funds managed by the State Investment Board, the fund values, and average returns:

Fund Name	March 31, 1997, Market Value	Annualized Return July 1, 1996 - March 31, 1997	Fiscal 1996 Annual Return
Bonding fund	\$3,793,000	5.18%	6.98%
Fire and tornado fund	\$15,865,000	5.14%	6.45%
Teachers' Fund for Retirement	\$897,479,000	7.91%	15.63%
Public employees' retirement fund	\$810,572,000	8.20%	16.09%
Job Service North Dakota pension fund	\$23,199,000	10.36%	24.70%
City of Bismarck employees' pension fund	\$14,898,000	7.52%	14.50%
City of Bismarck police pension fund	\$7,198,000	7.58%	14.45%
Workers' compensation fund	\$500,361,000	6.48%	9.50%
Insurance regulatory trust fund	\$2,069,000	6.22%	9.05%
Petroleum tank release compensation fund	\$5,570,000	5.87%	8.18%
State risk management fund*	\$3,218,000	N/A	N/A

Fund Name	March 31, 1997, Market Value	Annualized Return July 1, 1996 - March 31, 1997	Fiscal 1996 Annual Return
National Guard tuition waiver fund	\$213,000	4.66%	5.60%
Veterans Home improvement fund	\$459,000	4.63%	5.65%
Public Employees Retirement System retiree health insurance fund	\$14,608,000	8.07%	16.45%

* Began October 1, 1996

The Legislative Council staff said the Land Department administers the permanent education trust funds which include the common schools trust fund, and permanent funds of North Dakota State University, School for the Blind, School for the Deaf, State Hospital, Ellendale, Valley City State University, Mayville State University, Youth Correctional Center, State College of Science, School of Mines, Veterans Home, and the University of North Dakota. The schedule below shows the types of investments, the value, and the average return of these permanent trust funds:

Type of Investment	March 31, 1997, Allocation	Percentage of Assets	Fiscal Year-to-Date Yield or Total Return
Fixed income	\$249,514,769	61.3%	7.55%
Cash equivalents	10,383,779	2.5%	5.38%
Convertible securities	32,624,084	8.0%	7.34%
United States equities	82,384,746	20.2%	12.85%
International equities	32,490,741	8.0%	0.32%
Total/Average	\$407,398,119	100.0%	7.97%

The Legislative Council staff said the Land Department also administers investments of the Capitol building fund, coal development trust fund, and lands and minerals trust fund. The schedule below presents the balances and returns of these funds:

	March 31, 1997, Balance	Fiscal Year-to-Date Return
Capitol building fund	\$1,067,567	5.07%
Coal development trust fund	\$50,672,244	4.55%
Lands and minerals trust fund	\$5,487,158	5.91%

The Legislative Council staff presented the following proposed study plan for the investment process study:

1. Receive testimony from representatives of the Insurance Department and State Investment Board regarding the objectives and purposes of the bonding fund and fire and tornado fund, the types of investments currently being utilized, current returns on investments of these funds, and investments available but not being utilized.
2. Receive testimony from representatives of the State Investment Board and the Board of University and School Lands regarding the objectives and purpose of funds administered by these agencies, the types of investments currently being utilized, and current returns on investments being held by the various funds.
3. Review possibilities of increasing investment income of the bonding fund and fire and tornado fund.
4. Receive testimony from interested persons, including investment professionals, regarding possible investment options.
5. Consider changes to improve the investment process.
6. Develop recommendations and prepare legislation necessary to implement the recommendations.
7. Prepare the committee's final report for submission to the Legislative Council.

It was moved by Senator St. Aubyn, seconded by Representative Nichols, and carried on a voice vote that the committee approve the following study plan:

1. **Receive testimony from representatives of the Insurance Department and State Investment Board regarding the objectives and purposes of the bonding fund and fire and tornado fund, the types of investments currently being utilized, current returns on investments of these funds, and investments available but not being utilized.**
2. **Receive testimony from representatives of the State Investment Board and the Board of University and School Lands regarding the objectives and purpose of funds administered by these agencies, the types of investments currently being utilized, and current returns on investments being held by the various funds.**
3. **Review possibilities of increasing investment income of the bonding fund and fire and tornado fund.**
4. **Receive testimony from interested persons, including investment professionals, regarding possible investment options.**

5. Consider changes to improve the investment process.
6. Develop recommendations and prepare legislation necessary to implement the recommendations.
7. Prepare the committee's final report for submission to the Legislative Council.

Mr. Scott Engmann, Executive Director, State Investment Board, commented on the committee's study of the state investment process. Mr. Engmann introduced Mr. Steve Cochran who was recently hired as the investment officer for the State Investment Board. Mr. Engmann said the State Investment Board has rewritten the investment goals and objectives of Insurance Department-related funds in order to improve investment returns on these funds.

Mr. Bob Olheiser, Commissioner, Board of University and School Lands, commented on the committee's study of the state investment process. Mr. Olheiser suggested that to accommodate the committee's requirement to monitor investments of the Land Board, that he present the board's quarterly investment reports and the most recent monthly status report to the committee at each of its meetings. Chairman Nething said submission of these reports would be satisfactory but asked that an executive summary be included for presentation to the committee.

Representative Klein asked for the management fees that the Land Board pays on its investments. Mr. Olheiser said the fees vary from four basis points for certain investments at the Bank of North Dakota to 70 basis points on certain international investments. He said the fees average between 30 and 40 basis points. Mr. Olheiser explained that one basis point is one-hundredth of a percent; therefore 35 basis points would be .35 percent.

Mr. Nelson indicated that the 1995-96 interim committee that studied the investment process learned that the reason the bonding fund receives low investment returns is because primarily only short-term investments are being utilized to accommodate any legislative transfers of bonding fund moneys to the general fund. He suggested the committee may want to review options to receive better returns on these investments.

Senator Tallackson suggested a bill be introduced to preclude transfers from the bonding fund to the general fund.

Mr. Olheiser indicated that a similar problem occurs with the coal development trust fund. He suggested loan provisions be established which would allow the fund balances to be used as collateral for loans to the general fund rather than for cash transfers from the fund to the general fund.

Mr. Nelson said the Legislative Council staff would review changes necessary to allow longer term investments of bonding fund moneys.

Representative Berg asked whether there are other funds being invested that this committee should monitor. Mr. Nelson said the staff would provide a

listing to the committee at its next meeting of other funds invested by state agencies; however, because these funds were reviewed by the previous interim committee, approval by the Legislative Council chairman may be needed in order to expand this study to include funds not identified in the resolution.

TRANSPORTATION FUNDING STUDY

The Legislative Council staff presented a memorandum entitled [Transportation Funding Study - Background Memorandum](#). The study is directed by Senate Concurrent Resolution No. 4019. The Legislative Council staff reviewed provisions of Senate Bill No. 2012, approved by the 1997 Legislative Assembly, affecting transportation funding. The Legislative Council staff said the bill includes sections that:

1. Provide for the deposit of \$282,200 of motor vehicle excise tax revenue in the highway fund rather than the general fund. This funding is intended to reimburse the Department of Transportation for expenses incurred in the collection of motor vehicle excise taxes that are deposited in the general fund.
2. Authorize the director to cooperate with other states to establish, maintain, and operate a multistate infrastructure bank for highway project funding. The director may transfer up to 10 percent of eligible federal highway construction funds and the required state match to the bank and the funding may be used as determined by members of the multistate infrastructure bank as authorized by law.
3. Establish minimum special permit fees for oversized and overweight vehicles in statute. The fees are currently set by administrative rule.
4. Discontinue, on July 1, 1997, the deposit of interest earned on the highway fund into the special road fund. The earnings will be retained in the highway fund and be available for highway purposes. This change will result in an additional \$2.2 million of estimated revenue to the highway fund for the 1997-99 biennium.

The Legislative Council staff said House Bill No. 1163, approved by the 1997 Legislative Assembly, continues the current motor vehicle and special fuels tax rate of 20 cents per gallon through December 31, 1999. Under current law, the tax would have decreased to 17 cents per gallon on January 1, 1998. If the Legislative Assembly would not have approved this bill, an estimated \$13.3 million of highway fund revenue would not have been projected to be collected during the 1997-99 biennium nor would cities and counties receive an estimated \$7.9 million of highway revenue during the 1997-99 biennium.

The Legislative Council staff reviewed information included on the chart attached as Appendix "B" which

illustrates the sources, transfers, and uses of state funds for highway purposes for the 1997-99 biennium.

The Legislative Council staff said estimates of federal funds available for highway purposes during the 1997-99 biennium total \$234 million, \$19 million less than the \$253 million estimated to be received for the 1995-97 biennium.

The schedule below presents the various federal funding sources available to the Department of Transportation for the 1997-99 biennium and the amounts received in fiscal years 1995 and 1996:

Federal Funds	Amounts Shown in Millions		
	Estimated 1997-99	Fiscal Year 1996	Fiscal Year 1995
Highway planning and construction	\$222.6	\$122.3	\$131.2
Local rail freight assistance	5.6	0.2	0.5
Federal transit technical studies grants	0.5		
Federal transit capital and operating assistance formula grants	1.2	0.7	0.8
Public transportation for nonurbanized areas	3.8	0.6	0.4
State and community highway safety	0.5	1.3	1.3
Total	\$234.2	\$125.1	\$134.2

The Legislative Council staff said the Department of Transportation's 1997-99 biennium appropriation totals \$465.6 million. The sources of funds for the appropriation are:

	Amount	Percentage
Highway fund	\$199.2 million	42.8%
Federal funds	234.2 million	50.3%
Public transportation fund	1.5 million	0.3%
Fleet services fund	30.7 million	6.6%
Total	\$465.6 million	100.0%

The Legislative Council staff presented the following proposed study plan for the transportation study:

1. Receive testimony from representatives of the Department of Transportation regarding transportation funding and programs.
2. Receive information from the Department of Transportation, cities, and counties regarding present and future transportation infrastructure needs and projected funding requirements to meet these needs.
3. Receive information from the Department of Transportation, cities, and counties regarding

projected funding available for future transportation infrastructure needs.

4. Review surrounding states' methods of financing highway-related programs.
5. Consider alternative funding methods for financing North Dakota's transportation infrastructure.
6. Develop recommendations and prepare legislation necessary to implement the recommendations.
7. Prepare the committee's final report for submission to the Legislative Council.

Senator St. Aubyn said during the previous legislative session, the Governor indicated that the Department of Transportation was being asked to conduct an evaluation of its roads in order to set priorities for North Dakota's transportation infrastructure. Senator St. Aubyn suggested that the committee receive reports from the department on its evaluation and priority-setting process.

Senator Stenehjem suggested that the committee review highway-related revenue sources and the disposition of all funds collected. He suggested that if certain highway-related revenue is being used for non-highway-related purposes, additional funding for highways could be generated if this revenue was returned.

Representative Berg suggested the committee monitor the status of the multistate infrastructure bank.

It was moved by Senator St. Aubyn, seconded by Senator Stenehjem, and carried on a voice vote that the committee approve the following study plan for the transportation study:

1. Receive testimony from representatives of the Department of Transportation regarding transportation funding and programs.
2. Review the Department of Transportation's evaluation of North Dakota's transportation system and proposed priorities for maintaining and improving the highway system...)
3. Receive information from the Department of Transportation, cities, and counties regarding present and future transportation infrastructure needs and projected funding requirements to meet these needs.
4. Receive information from the Department of Transportation, cities, and counties regarding projected funding available for future transportation infrastructure needs.
5. Review total revenues collected relating to highway purposes and the uses of these collections.
6. Review surrounding states' methods of financing highway-related programs.
7. Consider alternative funding methods for financing North Dakota's transportation infrastructure.

8. **Monitor the development of the multistate infrastructure bank as approved by the 1997 Legislative Assembly.**
9. **Develop recommendations and prepare legislation necessary to implement the recommendations.**
10. **Prepare the committee's final report for submission to the Legislative Council.**

Mr. Marshall Moore, Director, Department of Transportation, commented on the committee's study of transportation funding. Mr. Moore said North Dakota has more miles of public roads per capita than any other state. He said there are 167 miles of public roads for every 1,000 people in the state. He said the Department of Transportation is responsible for maintaining and improving 7,379 miles of state highways, including 2,723 miles of state highways that are on the national highway system. He said the North Dakota state highway system consists of seven percent of the total public road miles in the state but carries approximately 61 percent of the total vehicle miles traveled.

Mr. Moore said the department spent \$5.7 million on winter-related maintenance activities during the 1996-97 winter compared to an average annual expenditure of \$2.1 million during the three previous winters. He said an estimated \$6.6 million of state funds will be required to match federal funds for flood-related road projects. He said the harsh winters and flood-related damage has placed additional strain on funding available for general highway construction projects.

Mr. Moore suggested the committee consider ways to incorporate an inflation factor into highway revenue sources. He said because of improved fuel efficiency over the years, highway revenues have not increased as vehicle miles have increased.

Mr. Moore said the department generally designs roads for a 20-year life. He said the current average age of the North Dakota highway system is 17 years. He said approximately 40 percent of the state's highways are over 20 years old. He said to maintain the 20-year cycle of surface improvements to the state's system, the department would need to resurface or reconstruct approximately 400 miles each year. During the past five years, he said, the department has resurfaced or reconstructed approximately 180 miles per year.

Mr. Moore said a one-cent motor fuel and special fuels tax increase generates approximately \$9.4 million per biennium, \$5.8 million of which is deposited in the state highway fund and \$3.6 million of which is distributed to cities and counties.

A copy of the report is on file in the Legislative Council office.

Representative Berg asked whether the state should consider reducing the number of miles of paved roads in the state which would improve the maintenance cycle on remaining roads in the system. Mr. Moore said this option could be considered and indicated that some counties have already done this in their areas.

Representative Berg asked for the status of the development of the multistate infrastructure bank. Mr. Moore said Nebraska, Wyoming, South Dakota, and North Dakota have jointly established the infrastructure bank and that the federal government has provided \$2.5 million of additional highway construction funding for deposit in the bank.

Ms. Robin Werre, Transit Coordinator for the Bismarck Transit System, commented on the transportation funding study. Ms. Werre said transit systems in the state are a vital part of North Dakota's transportation system. She said the transit system serves the elderly and disabled. She estimated that only one-third of the eligible population is receiving services of the transit system. She suggested the committee consider additional funding for public transit systems in the state.

Mr. Wayne Prigge, Director, James River Transit Systems, commented regarding the committee's study of transportation funding. Mr. Prigge said a major obstacle for transit systems is adequate funding for the programs. Of particular concern, he said, is the increasing minimum wage on September 1, and how to provide funding for these increases. He said transit systems in the state provide for the transportation needs of many state residents. He asked the committee to consider providing additional funding for transit systems.

Chairman Nething announced the committee's next meeting is tentatively scheduled for Tuesday, October 21, 1997.

The committee adjourned subject to the call of the chair at 3:00 p.m.

Allen H. Knudson
Senior Fiscal Analyst

Chester E. Nelson, Jr.
Legislative Budget Analyst and Auditor

ATTACH:2