

NORTH DAKOTA LEGISLATIVE COUNCIL

Minutes of the

BUDGET COMMITTEE ON GOVERNMENT FINANCE

Tuesday and Wednesday, September 1-2, 1998
James River Correctional Center and Dakota Inn
Jamestown, North Dakota

Senator David E. Nething, Chairman, called the meeting to order at 1:00 p.m. at the James River Correctional Center.

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

Members absent: Representatives Keith Kempenich, Ben Tollefson, Gerry Wilkie

Others present: See attached appendix

BUDGET TOUR

Ms. Elaine Little, Director, Department of Corrections and Rehabilitation, welcomed the committee to the James River Correctional Center and distributed an article regarding incarcerations in the United States. A copy of the article is on file in the Legislative Council office.

Mr. Don Redmann, Director, James River Correctional Center, said the James River Correctional Center has 158 men and 53 women inmates. He said the center has a capacity of 160 men and 80 women. He said the center has hired 87 employees.

Mr. Redmann reviewed the programs of the James River Correctional Center, including recreation, law library, music room, addiction treatment program for women, and education.

Mr. Redmann said the center shares many services with the State Hospital, including maintenance, laboratory services, and x-ray. He said the center contracts for food service with a private company because of the lower cost.

Senator Nething asked if the State Hospital was consulted and offered the opportunity to provide food service to the correctional center. Ms. Little said the Department of Corrections and Rehabilitation staff met with representatives of the State Hospital to discuss the possibilities of the State Hospital providing food service to the correctional center. She said because inmates assist in preparing the food at the correctional center, the State Hospital was unable to match the cost of the center contracting with a private organization to prepare the food with the assistance of inmates.

Mr. Tim Schuetzle, Prison Division Director, Department of Corrections and Rehabilitation, commented on projected inmate population and funding needs. Mr. Schuetzle said the department's inmate population is projected to be 1,000 by January 1999, 109 more than the budget estimate for the population in January 1999 of 891. He said during the first year of the biennium, inmate population averaged 880 inmates, 120 more than the 760 projected in the department's 1997-99 budget.

Mr. Schuetzle said the department is currently projecting the need for a \$1,464,213 general fund deficiency appropriation request to meet its funding needs for the remainder of the 1997-99 biennium. He said for the 1999-2001 biennium, the department is projecting a 15 percent increase in inmates during the first year of the biennium and a 10 percent increase for the second year of the biennium. Based on these estimates, he said, the prison population would total 1,265 by June 2001.

To provide for these additional inmates, Mr. Schuetzle said, the department will be requesting funds to remodel the fifth and sixth floors of the James River Correctional Center which will provide space for an additional 110 inmates, 80 on the fifth floor and 30 on the sixth floor. He said this will reduce the need for contracting for inmate housing with county jails or out-of-state jails. He said the cost of the remodeling project is estimated at \$2,678,000, \$2,093,531 of which is federal funds and \$584,469 of which would be requested from the general fund. He anticipates the project will be completed by May 2000 if the funding is approved.

Senator St. Aubyn suggested that the funding be provided as an emergency which may enable the department to begin operating the facility prior to May 2000.

Ms. Little said the department hopes to reduce the projected increase in inmates by implementing additional field services programming during the 1999-2001 biennium.

Mr. Schuetzle reviewed the capital improvement requests for the James River Correctional Center as follows:

Fire protection in forensic unit and amusement building	\$181,000
Security improvements	121,000
Elevator	135,960
Parking lot	71,000
Window replacement on first through fourth floors	655,000
Total	\$1,163,960

Regarding staffing of the James River Correctional Center, Mr. Schuetzle said additional staff positions are needed to supervise inmate work details.

The committee conducted a tour of the James River Correctional Center and at the conclusion of the tour traveled to the State Hospital.

Mr. Alex Schweitzer, Superintendent, State Hospital, welcomed the committee to the State Hospital. He said the hospital is focusing its services in four buildings--the LaHaug building, the children and adolescent building, the chemical dependency unit building, and the learning resource center.

Mr. Schweitzer said the hospital has developed its sexual offender treatment program through budget reallocations. He said currently three sexual offenders are receiving treatment at the State Hospital.

Mr. Schweitzer explained the structure and responsibilities of the governing body which provides direction for the State Hospital. He said the governing board meets four times each year and reviews budgets, programming, and planning for the State Hospital.

Representative Kretschmar asked for the current State Hospital population. Mr. Schweitzer said the current population is 200 patients, 124 who are in adult psychiatric services, 56 who are in the chemical dependency unit, and 20 who are receiving children and adolescent services.

Senator St. Aubyn asked for the status of inappropriate admissions to the State Hospital. Mr. Schweitzer said the State Hospital is receiving very few inappropriate admissions. He said the regions are serving more clients in the community, and most admissions to the State Hospital are now considered appropriate. Mr. Schweitzer anticipates the State Hospital's patient population will stabilize at 180 and will admit 1,200 to 1,300 patients per year.

The committee conducted a tour of the children and adolescent unit addition, the hospital's new admissions area, and the sexual offender treatment program area.

Mr. Jake Jacobson, Department of Transportation, commented on the Jamestown Bypass project. Mr. Jacobson said the department estimates the total cost of the project at \$4,750,000, \$3.8 million of which will be provided from federal funds and \$950,000 from the state highway fund. He said the department plans to begin the project's preliminary engineering in 1998

and complete the project by 2003. He said federal funding for the project is available as follows:

1998	\$120,000
1999	0
2000	320,000
2001	960,000
2002	1,600,000
2003	800,000
	\$3,800,000

Mr. Jacobson said the bypass is proposed to be built from Highway 52/281 to Interstate 94 on the west side of Jamestown.

Senator Nething asked whether the project would be completed earlier if funding for the entire project was provided by the 1999 Legislative Assembly in anticipation of the federal funds being received through 2003. Mr. Jacobson said if the funding was available earlier, the project may be completed one to one and one-half years earlier.

Mr. Charles Kourajian, Mayor, Jamestown, stressed the importance to the city of Jamestown of completing this bypass.

Ms. Eileen Monson, Jamestown Chamber of Commerce, commented on the project. She said increased safety is a major factor contributing to the need for the project.

Mr. Claire Vigesaa, Highway 281 Association, testified in support of the project.

The committee traveled to the proposed site of the Jamestown Bypass at Interstate 94 and to the proposed site on Highway 52/281.

The committee recessed at 5:15 p.m. and reconvened at 9:00 a.m. on Wednesday, September 2, in the Senator Room, Dakota Inn, Jamestown.

It was moved by Representative Kretschmar, seconded by Senator Stenehjem, and carried that the minutes of the previous meeting be approved.

TRANSPORTATION FUNDING STUDY

Mr. Ray Zink, Chief Engineer, Department of Transportation, commented on the status of federal highway funds available to North Dakota, state matching funds available, and other transportation issues.

Mr. Zink presented the following schedule showing North Dakota's federal highway fund allocation by major program under the Transportation Equity Act for the 21st Century (TEA21):

Year	(Amounts shown in millions)									
	Interstate Maintenance	National Highway System	Surface Transportation Program	Bridge	Congestion Management/Air Quality	Trails	Metro-politan Planning	High Priority Projects	Minimum Guarantee	Grand Total
1998	\$22.7	\$59.9	\$33.1	\$7.8	\$6.5	\$0.3	\$0.8	\$2.3	\$13.9	\$147.3
1999	26.1	69.6	38.4	8.9	7.3	0.4	0.9	3.1	15.1	169.8
2000	26.6	70.5	38.9	9.0	7.4	0.5	0.9	3.7	15.6	173.1
2001	27.0	72.0	39.7	9.2	7.6	0.5	1.0	3.7	15.6	176.3
2002	27.5	73.4	40.5	9.4	7.7	0.6	1.0	3.9	15.6	179.6
2003	28.1	75.1	41.3	9.5	7.9	0.6	1.0	3.9	15.5	182.9
	\$158.0	\$420.5	\$231.9	\$53.8	\$44.4	\$2.9	\$5.6	\$20.6	\$91.3	\$1,029.0

Mr. Zink said although TEA21 apports to North Dakota the amounts listed on the schedule above, Congress imposes obligational spending limits which allow states to spend only a part of the funds apportioned under the highway bill. The schedule below compares the funds apportioned to North Dakota through 2001 and the amount that the Department of Transportation anticipates being able to spend during each of those years:

Year	North Dakota's Apportions (In millions)	North Dakota's Obligational Limitations (In millions)
1998	\$147.3	\$130.8
1999	169.8	154.5
2000	173.1	159.4
2001	176.3	162.3
	\$666.5	\$607.0

Based on historic funding distributions, Mr. Zink anticipates that cities and counties will continue to receive about 25 percent of the federal funds available for roadway preservation and improvements. He said 16.57 percent of federal funds are provided to urban areas and 8.44 percent to counties. Mr. Zink compared the federal funding provided to the state, cities, and counties during fiscal year 1997 to the projected distributions in fiscal year 1999 under TEA21:

Year	(Amounts shown in millions)			
	State	Cities	Counties	Total
1999	\$123.4	\$25.4	\$17.6	\$166.4
1997	81.3	17.2	10.7	109.2
Increase (Decrease)	\$42.1	\$8.2	\$6.9	\$57.2

Mr. Zink said the Department of Transportation is in the final stages of preparing its budget request for the 1999-2001 biennium. He said he anticipates the budget request will include a \$20 million increase in funding from the state highway fund. He said the additional funding will be used to match additional federal highway funds during the 1999-2001 biennium to provide for additional highway maintenance projects, to continue salary increases, and other

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

Senator Nething asked for the increase that would be needed in the motor vehicle fuel tax if that was the only source used to generate the requested increase of \$20 million. Mr. Zink said to generate \$20 million for a biennium, motor vehicle fuel taxes would need to increase by 3.3 cents over the current level of 20 cents per gallon. He said this assumes the current 20 cent per gallon tax rate would continue and not revert to 17 cents on January 1, 2000.

Chairman Nething asked that the Legislative Council staff work with the Department of Transportation to provide information to the committee for its next meeting regarding the increased state funding needed to match federal funds and other increases being requested by the department for the 1999-2001 biennium.

Mr. Chester E. Nelson, Jr., Legislative Budget Analyst and Auditor, asked whether the department has information available on the ability of political subdivisions to match the increased federal funds available under the new federal highway bill. Mr. Zink said the department does not have current information on the ability of cities and counties to match the increased federal funds.

Chairman Nething asked the department to meet with representatives of cities and counties to determine their need for additional funding to match federal highway funds and report to the committee at its next meeting.

Senator Stenehjem asked that information be provided to the committee at its next meeting on the current amount of matching funds that cities and counties provide for their highway-related and street-related projects.

The Legislative Council staff presented a memorandum entitled *Major Sources of Funding for Highways in North Dakota and Surrounding States*. The Legislative Council staff reviewed sources of funding for highways in North Dakota, South Dakota, Montana, and Minnesota. The Legislative Council staff said that major sources of funding for highways in North Dakota and Minnesota are motor vehicle fuel taxes and motor vehicle registration fees. These funds are distributed to cities, counties, and the state based on a percentage formula. The Legislative

Council staff said South Dakota's major sources of funding for highways include motor vehicle fuel taxes, motor vehicle excise taxes, motor vehicle registration fees, and county wheel taxes.

The Legislative Council staff said Montana's major sources of funding for highways include motor vehicle fuel taxes and gross vehicle weight fees which are a component of motor vehicle registration fees.

The Legislative Council staff presented a chart comparing motor vehicle fuel tax rates and motor vehicle registration fees among these states. The report indicated that North Dakota fuel tax rates are the same as Minnesota, slightly less than South Dakota, and substantially less than Montana. The schedule showed that motor vehicle registration fees in North Dakota are less than in Montana and Minnesota and, depending upon the type of vehicle, may be more or less than South Dakota.

Senator St. Aubyn asked for information on the amount of funds collected annually from motor vehicle registration fees by major category, including passenger car, pickup, tractor/trailer, and farm truck. Chairman Nething asked that this information be provided at the next meeting.

The Legislative Council staff distributed a memorandum entitled *Highway Revenue Distributions - 1997-99* showing anticipated highway revenues and distributions of those revenues for the 1997-99 biennium.

The Legislative Council staff presented a memorandum entitled *Funding for Public Transportation Programs*. The Legislative Council staff said 47 public transportation systems operate in North Dakota. The Legislative Council staff said the major sources of funding for these programs include federal funds, state public transportation funds, city or county mill levy revenues, fees, and donations. The Legislative Council staff said sources of federal funds distributed to the public transportation providers include urban transit grants which are distributed directly from the federal government to Bismarck, Fargo, and Grand Forks and rural transit grants which are distributed through the Department of Transportation and allocated to individual programs based on need, ridership, geographic size, and funding history.

Chairman Nething asked that when available, the committee would be provided information on the federal transit funds that will be available to public transportation providers in North Dakota under the new federal highway bill each year.

Ms. Raylynn Hapip, People First of North Dakota, Bismarck, commented on public transportation system funding in North Dakota. She expressed concern that some smaller transportation providers are not receiving federal funds. She suggested that the increased federal transit funds anticipated to be available under TEA21 be used to reduce fees charged to consumers for rides.

Ms. Darcy Andahl, Bismarck, commented on public transportation systems. She said North Dakota serves the most people with disabilities per capita of any state in the nation; however, she said many people with disabilities remain unserved in the state. She expressed concern regarding the cost of transportation services for people with low income in the state.

Mr. Rick Thoms, Souris Basin Transportation Board, Minot, commented on public transportation systems. He stressed the importance of the public transportation funds provided by the state to public transportation providers. He asked the committee to consider recommending an increase in the public transportation aid fee from \$1 to \$2 per vehicle registration. He said these additional funds could be used by public transportation providers to match the additional federal funds that will be available to the state under the new federal highway bill. A copy of his testimony is on file in the Legislative Council office.

Mr. Nelson asked whether the transportation providers have considered consolidating in order to receive additional federal funding. Mr. Thoms said the Department of Transportation is currently working on a reorganization plan for public transportation in North Dakota.

Chairman Nething distributed the testimony of Ms. Carol Wright, Director, James River Senior Citizen's Center, Inc., regarding transportation programs in the Jamestown area. A copy of the testimony is on file in the Legislative Council office.

BUDGET MONITORING

Mr. Rod Backman, Director, Office of Management and Budget, presented a report on the status of the general fund. Mr. Backman said the June 30, 1999, balance is now estimated at \$61.2 million, \$50.2 million more than the estimate made by the 1997 Legislative Assembly of \$11 million. Mr. Backman said through July 1998, revenues have exceeded the legislative forecast by \$46.9 million.

Mr. Backman presented the revised revenue forecast for the remainder of the 1997-99 biennium and the preliminary forecast for the 1999-2001 biennium. Mr. Backman said the revised forecast for the 1997-99 biennium anticipates revenues exceeding the legislative forecast by \$50.2 million. He said the preliminary forecast for the 1999-2001 biennium projects revenues of \$1,525,000,000, \$90 million more than the 1997-99 legislative forecast of \$1,435,000,000.

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

BUDGET PROCESS STUDY

The Legislative Council staff reviewed the major provisions included in the bill draft providing for a "legislative budget" as follows:

1. The Legislative Council would create a legislative budget committee to coordinate and

- direct activities involved in the development of budget recommendations to assist the Legislative Assembly as it develops the final legislative budget. The legislative budget committee composition would be determined by the Legislative Council. With the advice of the legislative budget committee, the Legislative Council would create additional committees to assist the legislative budget committee in performing its duties and responsibilities. This will allow for greater involvement by the Legislative Assembly and allow more legislators to have input in the budgeting process of state government.
2. The legislative budget committee would:
 - a. Develop budget guidelines and parameters, subject to Legislative Council approval, for the interim budget committees to utilize in the development of their budget recommendations.
 - b. Advise the Legislative Council on the interim budget committee structure needed to address legislative budget issues.
 - c. Assign budget-related studies identified by the Legislative Assembly (in a concurrent resolution or section of a bill) to the interim budget committees. The legislative budget committee could assign other budget-related studies it determines necessary to interim budget committees during the interim.
 - d. Assign program reviews it determines necessary to other committees designated by the Legislative Council to have budget responsibilities.
 - e. Review, analyze, and evaluate budgets, budget requests, programs, and activities of state agencies, institutions, and departments.
 - f. Monitor agency performance by utilizing performance measures when appropriate.
 - g. Develop budget forms, guidelines, or requests for supporting data that agencies would have to include in their budget requests. These forms, guidelines, or other requests would be incorporated by the Office of Management and Budget (OMB) into the budget request forms and budget guidelines issued by OMB for the agencies to use when preparing their budget requests. Agencies would continue to prepare only one request.
 - h. Conduct hearings it determines necessary to perform its duties and responsibilities. Interim committees designated by the Legislative Council to have budget responsibilities would also hold hearings necessary to assist the legislative budget committee in performing its duties and responsibilities. Hearings could be held jointly with OMB's executive budget hearings.
 - i. Review and approve any reports or recommendations of the interim committees as designated by the Legislative Council.
 - j. Develop budget-related recommendations to assist the Legislative Assembly as it develops policy and provides appropriations for the operations of state government. The recommendations may relate to the state budget or any part of the state budget, including general fund revenues and appropriations, special funds or federal funds, funding or operations of state agencies, and assistance to political subdivisions.
 - k. Present a report on its budget-related recommendations to the Legislative Council in November and to the Legislative Assembly.
 - l. Provide assistance during the legislative session as requested by legislative leadership.
 3. Agencies, including OMB and the Tax Department, would be required to cooperate with legislative committees and provide requested information, including economic and revenue projection information.
 4. The Governor will continue to present the executive budget at the organizational session.
 5. The appropriation bills would be prepared by the Appropriations Committees during the session rather than being introduced in support of the executive budget recommendations. A section is added providing that the Legislative Assembly adopt rules to provide for the consideration of budget recommendations made by the Governor and the Legislative Council and to provide for preparation of appropriation bills by the Appropriations Committees based on hearings during the legislative session on agency budget requests.
 6. The fiscal staff, under the supervision of the Legislative Budget Analyst and Auditor, would provide staff services to the legislative budget committee and associated committees to assist these committees in performing their duties and responsibilities. Services by other members of the Legislative Council staff would also be available to provide such assistance as may be necessary for the Legislative Council to carry out these provisions. The fiscal staff would continue to

analyze the executive budget and would provide comparisons to the budget recommendations resulting from the interim work prior to the start of the legislative session and at the close of the legislative session would prepare a report on the legislative budget as approved by the Legislative Assembly.

Representative Delzer expressed concern that under the current budget process, the Legislative Assembly reacts to budget issues and recommendations rather than being proactive in developing budget recommendations to address budget issues. He suggested the bill draft be amended to provide that the Legislative Council develop a preliminary legislative budget report in June prior to each legislative session that would include goals for revenues, major appropriations, and an ending general fund balance for the next biennium.

Senator St. Aubyn expressed concern that the budget process would be expanded to include two sets of guidelines or two different budget scenarios if the Legislative Assembly, in addition to the Governor, would provide guidelines or budget limits. Mr. Nelson said the goals developed by the legislative budget committee could be considered targets for revenues, appropriations, and ending general fund balance for major categories or the total state budget rather than identifying specific amounts for agency budget requests.

It was moved by Representative Delzer, seconded by Representative Grande, and carried on a voice vote that the bill draft be amended to provide that the legislative budget committee develop by June 1 of the year preceding the regular session of the Legislative Assembly a preliminary legislative budget report, subject to Legislative Council approval. The report must include goals for revenues, major appropriations, and ending general fund balance for the next biennium.

Senator St. Aubyn asked whether the budget reports received by legislators during the session will include comparisons to both the legislative and executive budgets. Mr. Nelson anticipates that executive budget recommendation reports will remain unchanged; however, he said, the fiscal staff, when preparing reports and information for committees, will include comparisons to both the executive recommendation and the Legislative Council recommendation if the Legislative Council has made a recommendation pertaining to the subject matter.

Mr. Backman commented on the proposed bill draft providing for a legislative budget. Mr. Backman reviewed the current system. He said the Legislative Council staff is now involved in a number of budget-related reviews prior to the release of the executive budget. He said the Legislative Council staff receives agency budget requests, attends executive budget hearings, and is involved in reviewing revenue

forecast assumptions. In addition, he said, the Budget Section is currently involved in reviewing and approving budget forms that are used in agency budget requests.

Mr. Backman expressed concern regarding the potential for future costs of developing a legislative budget. He said over time a more detailed legislative budget may be developed which will cost more in staff time and other resources than the committee envisions today.

Representative Berg expressed support for the bill draft and indicated that the bill draft will enable Appropriations Committee members to have more time to deal with budget data and major agency budgets.

Representative Berg expressed concern regarding the lack of specifics on performance budgeting that he would like included in the bill draft. He suggested that language be added involving the development of performance measure guidelines, such as benchmarks, to assist the Legislative Assembly in determining the efficiency and effectiveness of agency programs.

The committee recessed for lunch at 12:15 p.m. and reconvened at 1:15 p.m.

It was moved by Representative Berg, seconded by Representative Grande, and carried on a voice vote that the bill draft be amended on page 1, line 20, to insert after "government." "A goal of the budgeting process is to include historic and anticipated agency performance as supporting information for budget recommendations."

It was moved by Senator St. Aubyn, seconded by Senator Tallackson, and carried on a roll call vote that the bill draft, as amended, providing for a legislative budget be approved and recommended to the Legislative Council. Senators Nething, St. Aubyn, Stenehjem, and Tallackson and Representatives Berg, Delzer, Grande, Hausauer, Kretschmar, and Nichols voted "aye." Representatives Klein and Thorpe voted "nay."

The Legislative Council staff distributed information provided by the Tax Department on a point of taxation survey regarding motor fuel tax collections in other states. A copy of the report is on file in the Legislative Council office.

INVESTMENT PROCESS STUDY

Mr. Steve Cochrane, Investment Director, Retirement and Investment Office, presented information on the bonding fund and fire and tornado fund investment returns. Mr. Cochrane said the bonding fund's total return for fiscal year 1998 was 14.33 percent while the fire and tornado fund total return was 14.38 percent.

Mr. Cochrane presented information on the market value of the funds and minimum balance requirements. Mr. Cochrane said the bonding fund had a market value of \$4,256,000 on June 30, 1998,

\$1,756,000 more than the minimum balance requirement of \$2.5 million.

Mr. Cochrane said the fire and tornado fund had a \$15,227,000 market value on June 30, 1998, \$3,227,000 more than the minimum balance requirement of \$12 million. A copy of the report is on file in the Legislative Council office.

The Legislative Council staff said this study was approved because of the Legislative Assembly's concern regarding the low investment returns these funds had been experiencing. The staff said that because of investment changes made by the Insurance Department and the Retirement and Investment Office the investment returns on these funds have increased substantially. The staff said in fiscal year 1996, the fire and tornado fund and bonding fund had returns between six and seven percent, in fiscal year 1997 returns were between 9 and 10 percent, and as reported by Mr. Cochrane, the returns for fiscal year 1998 have been over 14 percent.

Mr. Robert J. Olheiser, Executive Director, Board of University and School Lands, presented a report on the status of investments of the Land Department. Mr. Olheiser reported an average yield on all of its fixed income investments of 7.77 percent for fiscal year 1998, .27 percent more than the yield requirement per the asset allocation schedule of 7.5 percent.

Mr. Olheiser said the net returns on the Land Department's combined equity and convertible securities was 16.78 percent in fiscal year 1998.

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

Chairman Nething asked the Land Department and the State Investment Board to provide a summary report of all their investments for the committee at its next meeting.

Chairman Nething announced the final committee meeting will be held on Monday, October 12, 1998, in Bismarck. The committee adjourned subject to the call of the chair at 2:05 p.m.

Allen H. Knudson
Senior Fiscal Analyst

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

ATTACH:1