

NORTH DAKOTA LEGISLATIVE MANAGEMENT

Minutes of the

GOVERNMENT ADMINISTRATION COMMITTEE

Thursday, November 16, 2017
Roughrider Room, State Capitol
Bismarck, North Dakota

Representative Scott Louser, Chairman, called the meeting to order at 10:00 a.m.

Members present: Representatives Scott Louser, Kim Koppelman, Marvin E. Nelson, Dan Ruby, Roscoe Streyle; Senators Randall A. Burckhard, Joan Heckaman, Dave Oehlke

Members absent: Representatives Lawrence R. Klemin and Christopher D. Olson; Senator Ronald Sorvaag

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

Chairman Louser asked committee members whether there are any changes, additions, or deletions to the August 29, 2017, meeting minutes. Seeing none, Chairman Louser announced the minutes are approved as distributed.

STUDY OF STATUTORY AND REGULATORY REQUIREMENTS RELATING TO FEDERAL FUNDING

Mr. Joshua C. Gallion, State Auditor, presented information ([Appendix B](#)) regarding the state of North Dakota single audit for the 2-year period ending June 30, 2016, including the auditor's responsibilities for determining agency compliance with federal funding requirements, and findings and recommendations relating to agency compliance with federal funding requirements. He said the statewide single audit reviews federal funds expended by the state. He said compliance requirements are determined by the federal government and the State Auditor's office is required to test all applicable federal compliance requirements, which may include:

- Allowable activities or costs;
- Cash management;
- Eligibility;
- Equipment and real property;
- Matching funds, level of effort, and earmarking;
- Period of performance;
- Procurement;
- Program income;
- Reporting;
- Subrecipient monitoring; and
- Other tests.

Mr. Gallion said 46 state agencies or institutions expended \$1.83 billion of federal funding in fiscal year 2015 and \$1.89 billion of federal funding in fiscal year 2016. He said 28 of approximately 645 total federal programs were audited in the 2015-16 statewide single audit. He said the 2015-16 statewide single audit resulted in 74 reported audit findings, of which 15 were repeat findings from the prior single audit. He said 8 of the findings were considered material noncompliance, which resulted in an adverse opinion on the Medicaid program and qualified opinions on the child care development fund cluster, children's health insurance program, and mathematics and science partnership program.

In response to a question from Representative Koppelman, Mr. Gallion said he would like to be more proactive by reviewing new federal funding before it is accepted and spent, rather than waiting until after the federal funding has been spent.

In response to a question from Representative Streyle, Mr. Gallion said North Dakota University System institutions are not audited to the same extent as other state agencies due to limited resources.

In response to a question from Senator Heckaman, Mr. Gallion said the programs to be audited in the statewide single audit are determined by the amount of federal funding and the risk associated with the program.

In response to a question from Representative Koppelman, Mr. Gallion said the federal funding for the State Auditor's office relates to federal mineral royalties audits.

In response to a question from Representative Koppelman, Mr. Gallion said the State Auditor's office does not have the authority to penalize an agency for any findings; however, the federal government and the Legislative Assembly may use the State Auditor's findings to justify penalizing an agency.

Ms. Becky Deichert, Budget Analyst, Office of Management and Budget, presented information ([Appendix C](#)) regarding federal funds appropriated by the Legislative Assembly for the 2015-17 biennium compared to the amounts spent by each agency. She said of the \$3.68 billion of federal funding appropriated by the Legislative Assembly for the 2015-17 biennium, \$3.28 billion was actually spent during the 2015-17 biennium. She said of the \$405.3 million of unspent federal funding authority, \$138.2 million related to the Department of Human Services, \$86.8 million to the Adjutant General, and \$67.5 million to the Department of Transportation.

In response to a question from Senator Burckhard, Ms. Deichert said the State Water Commission spent less federal funding than appropriated because it received less federal funding than expected from the Dakota Water Resources Act.

In response to a question from Representative Koppelman, Ms. Deichert said the majority of funding appropriated and not spent is federal funding appropriated by the Legislative Assembly that the agency did not receive from the federal government.

In response to a question from Senator Oehlke, Ms. Deichert said state budget reductions may affect federal funding due to a loss of matching funds.

Mr. Allen H. Knudson, Legislative Budget Analyst and Auditor, said federal funding for the State Treasurer's office relates primarily to mineral royalties on federal land within the state.

Mr. Tom Bodine, Deputy Agriculture Commissioner, Department of Agriculture, presented information ([Appendix D](#)) regarding programs supported with federal funding, statutory and regulatory requirements relating to the federal funding, and the potential effects of noncompliance with statutory or regulatory requirements. He said federal funding of \$12,089,336 comprises 37 percent of the Department of Agriculture's total 2017-19 biennium budget. He said the department evaluates the costs and benefits to the agriculture industry before accepting any federal funding. He said significant federally funded programs include livestock pollution prevention, meat inspection, pesticide inspection, and the specialty crop block grant.

In response to a question from Senator Burckhard, Mr. Bodine said federal funding has recently surpassed special funding as a source of funds for the Department of Agriculture. He said the increase in federal funding has been due primarily to the specialty crop block grant.

In response to a question from Representative Nelson, Mr. Bodine said the Department of Agriculture enforces state and federal regulations for the programs under the department's control, including pesticide enforcement.

Ms. Sandy McMerty, Co-Deputy Commissioner, Department of Commerce, presented information ([Appendix E](#)) regarding programs supported with federal funding, statutory and regulatory requirements relating to the federal funding, and the potential effects of noncompliance with statutory or regulatory requirements. She said the Division of Workforce Development and the Division of Community Services receive federal funds within the Department of Commerce. She said the Division of Workforce Development issues \$650,000 per year in federally funded grants under the AmeriCorps program. She said federally funded programs under the Division of Community Services include the community development block grant, the HOME program, the emergency solutions grant, the continuum of care grant, state energy programs, the low income heating energy assistance program (LIHEAP), and community services block grants.

In response to a question from Senator Heckaman, Ms. McMerty said, in addition to the Department of Human Services, the Department of Commerce also receives federal LIHEAP funding.

In response to a question from Representative Ruby, Ms. McMerty said certain AmeriCorps programs in the state have existed for more than 10 years and receive 50 percent matching funds.

In response to a question from Chairman Louser, Ms. Bonnie Malo, Director, Division of Community Services, Department of Commerce, said regional councils review community development block grant funding and determine allocations locally. She said matching requirements may vary by region.

In response to a question from Senator Heckaman regarding differences in the amount awarded and the amount funded for certain grants identified on the Department of Commerce transparency website, Ms. Malo said she would provide the committee with additional information regarding the department's transparency website.

Mr. Jamie Mertz, Director of Fiscal Management, Department of Public Instruction, presented information ([Appendix F](#)) regarding programs supported with federal funding, statutory and regulatory requirements relating to the federal funding, and the potential effects of noncompliance with statutory or regulatory requirements. He said the Department of Public Instruction (DPI) received total federal grant awards of \$140.7 million for the 2016-17 fiscal year, an increase of \$5.5 million from the \$135.2 million received in the 2015-16 fiscal year. He said significant federal programs include Title I, the Striving Readers Comprehensive Literacy Program, special education, and school nutrition programs.

In response to a question from Representative Koppelman regarding Head Start, Mr. Mertz said DPI only recently began administering the Head Start program. He said the program was previously administered by the Department of Human Services.

Ms. Ann Ellefson, Director of Academic Support, Department of Public Instruction, said the funding for Head Start flows directly from the federal government to the individual Head Start associations. She said the funding received by DPI is for administrative costs and the North Dakota Head Start Association.

In response to a question from Chairman Louser, Mr. Mertz said he does not recall a cost analysis being performed for a program already in existence.

In response to a question from Representative Streyle, Mr. Bob Marthaller, Assistant Superintendent, Educational Success and Community Support, Department of Public Instruction, said DPI would provide the committee with student enrollment numbers.

STUDY OF THE DUTIES AND ROLE OF THE NORTH DAKOTA FIREFIGHTER'S ASSOCIATION

Mr. Rob Knuth, Training Director, North Dakota Firefighter's Association, presented information ([Appendix G](#)) regarding the number of firefighters in the state by location. He said there are over 8,800 firefighters in the state.

In response to a question from Senator Oehlke, Mr. Knuth said the fire departments identified as having zero firefighters have not submitted their certificate of existence to the State Fire Marshal's office.

In response to a question from Senator Heckaman, Mr. Ken Sisk, State Fire Marshal, said a minimum number of firefighters are not necessary to form a fire department.

Ms. Kelli Flermoen, North Dakota Fire Chief's Association, presented information ([Appendix H](#)) regarding fire district needs, potential for changes to North Dakota Firefighter's Association (NDFFA) duties, and funding issues. She said the North Dakota Fire Chief's Association suggests consideration be given to evaluating the feasibility of consolidating NDFFA into a larger, well-established educational model. She said the Minnesota state model for firefighter training includes oversight from a 16-member board comprised of a multitude of stakeholders, including the chancellor of the Minnesota State University system.

Ms. Flermoen said the insurance premium tax has been a source of revenue for fire departments and fire districts for many years. She said 100 percent of the money collected from the insurance premium tax on fire-related insurance used to be distributed to fire departments and fire districts. She said only 67 percent of the insurance premium tax on fire-related insurance is currently appropriated for distributions to fire districts and NDFFA. She said of the amount appropriated, NDFFA receives 5.5 percent and the fire departments and fire districts receive 94.5 percent. She said the local fire districts and departments are in need of the insurance premium tax revenue from fire-related insurance lines and do not wish to compete for funding with NDFFA.

In response to a question from Senator Burckhard, Ms. Flermoen said she was unsure how the insurance premium tax amount relating to fire was determined.

Chairman Louser requested the Legislative Council staff provide information regarding the insurance premium tax, including the determination of the premium tax amount relating to fire insurance and the amounts distributed to fire departments in recent bienniums.

Representative Streyle suggested the Legislative Council staff be asked to provide additional information regarding historical insurance premium tax receipts.

In response to a question from Representative Nelson, Ms. Flermoen said NDFA provides fire inspection training; however, most fire districts defer to the State Fire Marshal.

In response to a question from Chairman Louser, Ms. Flermoen said she is not aware of any minimum qualifications to allow an instructor to teach a firefighter training class.

Mr. Knuth said NDFA is accredited up to fire officer 1 certification, which includes fire 1, fire 2, fire instructor 1, and fire officer 1. He said in the past, the fire school instructors completed a 16-hour course. He said now there is a certification, but noncertified instructors who completed the 16-hour course were not required to become certified in order to continue teaching at the state fire school. He said NDFA classes are taught to National Fire Protection Association standards.

In response to a question from Chairman Louser, Ms. Flermoen said fire districts and departments may have different standards or requirements for training.

In response to a question from Chairman Louser, Ms. Flermoen said she would provide the committee with a copy of a Minnesota firefighter training study. Chairman Louser requested that she provide a copy of the study to the Legislative Council staff for distribution to the committee members.

Ms. Stephanie Gullickson, Budget Analyst, Office of Management and Budget, presented information ([Appendix I](#)) regarding the disposition of all money received by NDFA. She said NDFA had expenses totaling \$1.58 million in calendar year 2016. She said significant expenses included those relating to equipment, payroll, grants, and the state fire school.

In response to a question from Representative Ruby, Ms. Gullickson said she could provide the committee with additional information regarding federal reimbursement through the Federal Emergency Management Agency.

In response to a question from Representative Koppelman, Mr. Knuth said the use of volunteers and paid firefighters depends on population of the area served by the fire department or fire district and available funding.

STUDY OF OFFICE SPACE COST AND VALUE OF PROPERTIES OWNED BY JOB SERVICE NORTH DAKOTA

Ms. Michelle Kommer, Interim Director, Job Service North Dakota, presented information ([Appendix J](#)) regarding the ability to relocate staff from the Bismarck central office to the Bismarck regional office and federal restrictions relating to the sale or lease of excess space. She said Job Service North Dakota has determined it is not feasible to relocate employees from the central office building to its Bismarck regional office due to capacity and security concerns. She said Job Service North Dakota is in the process of leasing excess space in its central office and regional offices to other entities.

In response to a question from Representative Streyle, Ms. Kommer said Job Service North Dakota still plans to sell the Rolla office location after receiving legislative authority during the 2019 legislative session.

In response to a question from Chairman Louser, Mr. Darren Brostrom said federal rules allow vacated Job Service North Dakota buildings to be sold for fair market value.

STUDY OF THE STATE'S EMERGENCY MEDICAL SERVICE SYSTEM

The Legislative Council staff presented a memorandum entitled [Ambulance Service District Mill Levies](#). The memorandum provides information regarding statutory provisions relating to ambulance service district mill levies. He said North Dakota Century Code Chapter 11-28.3 includes statutory provisions regarding rural ambulance service districts, including the creation, organization, and boundaries of a rural ambulance service district. Section 11-28.3-09 provides a board of directors or a rural ambulance service district seeking approval of a property tax levy must file with the county auditor a financial report for the preceding calendar year showing the ending balances

of each fund held by the rural ambulance service district during that year. He said Section 11-28.3-09 also provides a maximum rate of 10 mills for the maintenance of the rural ambulance service district.

Ms. Kelli Sears, Director, Emergency Medical Services and Trauma, State Department of Health, presented information ([Appendix K](#)) regarding the number of emergency medical service (EMS) providers, EMS funding, and rural EMS assistance grant Tier II funding. She said 119 ground ambulance services currently operate primarily in North Dakota. She said those services collectively respond to over 77,000 calls annually. She said ambulance services in Bismarck, Fargo, Grand Forks, and Minot account for 56 percent of the responses, while some ambulance services respond to less than 10 calls per year.

Ms. Sears said in the fall of 2016, 78 EMS agencies reported receiving revenue from property tax mill levies. She said a total of \$5.87 million per year was reported as being collected by the 78 agencies. She said 15 EMS agencies reported receiving other tax collections totaling \$1.15 million.

Ms. Sears said \$875,000 is available for rural EMS assistance grant Tier II funding distributions. She said the Division of Emergency Medical Systems received applications from 34 funding areas, comprising 44 ambulance services with a total funding request of \$3,176,000. She said after a preliminary scoring process, 11 ambulance services with a total funding request of \$910,195 have been determined eligible for the Tier II funding. She said the Tier II funding is expected to be available for distribution to the ambulance services in December 2017.

The representatives of the University of North Dakota School of Medicine and Health Sciences Center for Rural Health were unable to attend the meeting.

Mr. Patrick Tracy, Maddock Ambulance Service, commented ([Appendix L](#)) regarding the changes to the rural EMS assistance grant program. He expressed concern regarding the changes made to the grant program. He said that although the total funding available for rural EMS grants was reduced by 10 percent, the Maddock Ambulance Service received \$13,734 from the initial 2017 grant cycle, an 80 percent reduction from the \$69,193 it received in 2016.

Representative Nelson suggested the Legislative Council staff be asked to provide the committee with additional information regarding mill levy maximums, as a result of recent changes made by the Legislative Assembly.

Chairman Louser announced the next committee meeting would be tentatively scheduled to begin at 9:00 a.m. on Thursday, February 22, 2018.

No further business appearing, Chairman Louser adjourned the meeting at 3:05 p.m.

Alex J. Cronquist
Fiscal Analyst

ATTACH:12