



BUDGET SECTION

Wednesday, September 28, 2022
 Senate Chamber, State Capitol
 Bismarck, North Dakota

Representative Don Vigesaa, Chairman, called the meeting to order at 9:00 a.m.

Members present: Representatives Don Vigesaa, Bert Anderson, Joshua A. Boschee, Mike Brandenburg, Jeff Delzer, Michael Howe, Keith Kempenich, Kim Koppelman, Gary Kreidt, Scott Louser, Bob Martinson, Lisa Meier, Alisa Mitskog*, Corey Mock, David Monson*, Mike Nathe, Chet Pollert, Mark Sanford*, Mike Schatz, Randy A. Schobinger, Michelle Strinden; Senators Brad Bekkedahl, Dick Dever, Joan Heckaman, Kathy Hogan, David Hogue, Jerry Klein, Karen K. Krebsbach, Tim Mathern, Nicole Poolman, David S. Rust, Ronald Sorvaag, Rich Wardner

Members absent: Representatives Larry Bellew, Tracy Boe, Jon O. Nelson, Jim Schmidt; Senators Kyle Davison, Robert Erbele, Dave Oehlke, Terry M. Wanzek

Others present: Representative Glenn Bosch, Bismarck, member of the Legislative Management

Levi Kinnischtzke, Legislative Council, Bismarck

See [Appendix A](#) for additional persons present.

*Attended remotely

STATE BUDGET INFORMATION

General Fund Status

Mr. Joe Morrisette, Director, Office of Management and Budget, presented a report ([Appendix B](#)) on the status of the general fund, balances of selected special funds, general fund revenue collections, oil prices and production, and the status of state agency budget requests. He presented the following information on the status of the general fund for the 2021-23 biennium:

| | | |
|--|-----------------|-----------------|
| Unobligated general fund balance - July 1, 2021 | | \$1,122,353,345 |
| Balance obligated for authorized carryover from the 2019-21 biennium | | 72,766,911 |
| Total beginning general fund balance - July 1, 2021 | | \$1,195,120,256 |
| Add | | |
| General fund collections to date | \$3,145,739,918 | |
| Remaining forecasted general fund collections | 1,495,329,366 | |
| Total estimated general fund collections | | 4,641,069,284 |
| Total estimated revenues available | | \$5,836,189,540 |
| Less | | |
| Legislative appropriations - One-time | (\$114,923,493) | |
| Legislative appropriations - Ongoing | (4,878,033,837) | |
| Authorized carryover from previous biennium | (72,766,911) | |
| Contingent appropriation for Theodore Roosevelt Presidential Library | (17,500,000) | |
| 2021-23 authority spent in 2019-21 pursuant to emergency clause | 100,000 | |
| Total appropriations | | (5,083,124,241) |
| Estimated ending general fund balance - June 30, 2023 - Before transfers | | \$753,065,299 |
| Transfer to budget stabilization fund ¹ | | 0 |
| Estimated ending general fund balance - June 30, 2023 | | \$753,065,299 |

¹Pursuant to North Dakota Century Code Chapter 54-27.2, any end-of-biennium balance in excess of \$65 million must be transferred to the budget stabilization fund, up to a maximum of 15 percent of general fund appropriations. The budget stabilization fund is estimated to be at the maximum balance at the end of the 2021-23 biennium.

STATE AGENCY APPLICATIONS FOR FEDERAL GRANTS

Mr. Morrissette presented information ([Appendix C](#)) regarding state agencies that applied for federal grants estimated to be \$25,000 or more pursuant to Section 54-27-27. He reported the following agencies have applied for a federal grant estimated to be \$25,000 or more:

| Agency | Time Period of Grant | Amount |
|---|------------------------------|--------------|
| Department of Commerce | October 2022 - August 2024 | \$250,000 |
| Department of Commerce | July 2023 - June 2025 | \$803,570 |
| Department of Agriculture | November 2022 - June 2025 | \$52,500 |
| Game and Fish Department | July 2023 - June 2025 | \$5,000,000 |
| Parks and Recreation Department (2 transportation alternative grants) | June 2024 - June 2026 | \$1,187,086 |
| Parks and Recreation Department | September 2022 - August 2024 | \$27,478 |
| Department of Transportation (5 transportation project grants) | September 2022 - June 2028 | \$21,740,000 |

Mr. Morrissette reported the following state agencies have been awarded federal grants of \$25,000 or more:

| Agency | Time Period of Grant | Amount |
|------------------------------|---------------------------------|--------------|
| Industrial Commission | May 2022 - June 2023 | \$25,000,000 |
| Department of Agriculture | March 2022 - June 2022 | \$48,556 |
| Department of Agriculture | September 2022 - August 2023 | \$100,000 |
| Department of Agriculture | October 2022 - August 2023 | \$52,500 |
| Game and Fish Department | September 2022 - September 2023 | \$96,300 |
| Department of Transportation | December 2021 - June 2024 | \$1,449,000 |
| Department of Transportation | August 2022 - September 2026 | \$19,500,000 |

IRREGULARITIES IN THE FISCAL PRACTICES OF THE STATE

Mr. Morrissette presented information ([Appendix D](#)) regarding irregularities in the fiscal practices of the state pursuant to Section 54-14-03.1. He presented the following fiscal irregularities for the period June 2022 through August 2022:

| Agency | Fiscal Irregularity | Amount |
|---|---|----------|
| North Dakota Vision Services - School for the Blind | Additional teacher summer contract days | \$14,979 |
| North Dakota Vision Services - School for the Blind | Retired employee contract payout | \$5,164 |
| Department of Environmental Quality | Temporary workload adjustment | \$500 |
| Attorney General | Equity increases | \$4,565 |
| Retirement and Investment Office | Workload adjustments | \$10,044 |
| Department of Human Services | Workload adjustments | \$13,203 |
| Department of Human Services | Retroactive leave payout | \$2,788 |
| Department of Human Services | Shift differential pay | \$577 |
| Department of Corrections and Rehabilitation | Equity increase | \$712 |

2021-23 BIENNIUM REVISED REVENUE FORECAST AND PRELIMINARY 2023-25 BIENNIUM REVENUE FORECAST

Mr. Morrissette presented information ([Appendix E](#)) regarding the 2021-23 biennium revised revenue forecast and the 2023-25 biennium preliminary revenue forecast. He noted:

- Sales and use tax collections are estimated to increase from \$980 million in fiscal year 2022 to \$1.11 billion in fiscal year 2024.
- Individual income tax collections are estimated to decrease from \$465.5 million in fiscal year 2021 to \$414.5 million in fiscal year 2023 due to a tax credit approved by the 2021 Legislative Assembly. If the tax credit had not been approved, fiscal year 2023 collections would be an estimated \$521.5 million.
- Oil prices are estimated to be \$70 per barrel in fiscal year 2024 and \$65 per barrel in fiscal year 2025. Oil production is estimated to remain at approximately 1.1 million barrels per day through fiscal year 2025.

STATE BOARD OF HIGHER EDUCATION PROJECT VARIANCE REPORTS

Mr. Morrissette distributed higher education project variance reports ([Appendix F](#)) submitted to the Office of Management and Budget pursuant to Section 15-10-47.

AGENCY REQUESTS APPROVED BY THE EMERGENCY COMMISSION

Chairman Vigasaa directed the Budget Section to consider agency requests ([Appendix G](#)) which have been authorized by the Emergency Commission and forwarded to the Budget Section pursuant to Chapter 54-16.

Mr. Morrissette provided information regarding the following requests authorized by the Emergency Commission and which require consideration by the Budget Section:

- **Department of Commerce (Request #2070)** - The request is to increase federal funds spending authority by \$1.55 million in the operating expenses line item for marketing costs encouraging outdoor enthusiasts and leisure travelers to explore North Dakota outdoor activities (\$1.3 million) and to develop a digital information system to be a one-stop online system for all North Dakota outdoor experiences (\$250,000).
- **Department of Commerce (Request #2071)** - The request is to increase federal funds spending authority by \$250,000--\$75,000 in the salaries and wages line item, \$132,000 in the operating expenses line item, and \$43,000 in the grants line item--to create an outdoor recreation and rural placemaking plan to attract businesses, promote economic activity, and retain and attract workers to North Dakota.
- **Department of Public Instruction (Request #2072)** - The request is to transfer \$500,000 of general fund spending authority from the integrated formula payments line item to the grants - program and passthrough line item to increase funding available for the leveraging the senior year program.
- **Department of Commerce (Request #2075)** - The request is to increase federal funds spending authority by \$19,036,625 in a new federal Infrastructure Investment and Jobs Act line item for the state energy program and energy weatherization program to promote energy efficiency and conservation activities.
- **Department of Commerce (Request #2076)** - The request is to increase federal funds spending authority in the COVID-19 response line item by \$14,222,975 from funds transferred from the Department of Health and Human Services to develop state energy conservation policy and manage federal energy conservation program activities between public and private sectors.
- **Department of Commerce (Request #2077)** - The request is to increase federal funds spending authority by \$1,306,112 from funds transferred from the Department of Health and Human Services to support furnace repair and cooling contracts with community action partners and to expand cooling programs for qualifying citizens.
- **Governor's office (Request #2078)** - The request is to approve the acceptance of \$65,000 of other funds from the Dakota Medical Foundation for expenses of the recovery reinvented program which would result in the Governor's office receiving more than \$150,000 from the Dakota Medical Foundation during the 2021-23 biennium. The request is due to the Governor's office continuing appropriation authority which requires Budget Section approval to accept other funds in excess of \$150,000 from a single source.
- **Agriculture Commissioner (Request #2079)** - The request is to increase federal funds spending authority by \$420,000 for a local food purchase assistance grant program to enhance food and agriculture supply chain resiliency in the state.
- **State Library (Request #2081)** - The request is to transfer \$138,000 of general fund spending authority from the salaries and wages line item to the operating expenses line item to be used to increase funding for online resources to meet maintenance of effort requirements for federal funding.

It was moved by Senator Mathern, seconded by Senator Bekkedahl, and carried on a roll call vote to approve Requests #2070, #2071, #2072, #2078, #2079, and #2081. Representatives Vigesaa, Anderson, Boschee, Brandenburg, Delzer, Howe, Kempenich, Koppelman, Kreidt, Louser, Martinson, Meier, Mitskog, Mock, Monson, Nathe, Pollert, Sanford, Schatz, Schobinger, and Strinden and Senators Bekkedahl, Dever, Heckaman, Hogan, Hogue, Klein, Krebsbach, Mathern, Poolman, Rust, Sorvaag, and Wardner voted "aye." No negative votes were cast.

Ms. Maria Effertz Hanson, Director, Division of Community Services, Department of Commerce, responded to questions regarding the Department of Commerce Emergency Commission requests.

It was moved by Senator Wardner and seconded by Senator Klein to approve Requests #2075, #2076, and #2077. Senators Wardner and Klein withdrew their motion and second.

It was moved by Representative Delzer and seconded by Representative Martinson to provide a substitute motion to approve Requests #2076 and #2077 and to disapprove Request #2075. Representatives Delzer and Martinson withdrew their motion and second.

It was moved by Senator Wardner, seconded by Senator Klein, and failed on a roll call vote to approve Request #2075. Representatives Boschee, Martinson, Mitskog, Mock, and Sanford and Senators Bekkedahl,

Dever, Heckaman, Hogan, Klein, Krebsbach, Mathern, Poolman, Rust, and Wardner voted "aye." Representatives Vigesaa, Anderson, Brandenburg, Delzer, Howe, Kempenich, Koppelman, Kreidt, Louser, Meier, Monson, Nathe, Pollert, Schatz, Schobinger, and Strinden and Senators Hogue and Sorvaag voted "nay."

It was moved by Senator Wardner, seconded by Senator Klein, and carried on a roll call vote to approve Request #2076. Representatives Anderson, Boschee, Brandenburg, Howe, Kempenich, Koppelman, Kreidt, Martinson, Meier, Mitskog, Mock, Nathe, Sanford, and Strinden and Senators Bekkedahl, Dever, Heckaman, Hogan, Hogue, Klein, Krebsbach, Mathern, Poolman, Rust, Sorvaag, and Wardner voted "aye." Representatives Vigesaa, Delzer, Louser, Monson, Pollert, Schatz, and Schobinger voted "nay."

It was moved by Senator Wardner, seconded by Senator Klein, and carried on a roll call vote to approve Request #2077. Representatives Vigesaa, Anderson, Boschee, Brandenburg, Howe, Kempenich, Kreidt, Martinson, Meier, Mitskog, Mock, Monson, Nathe, Sanford, Schobinger, and Strinden and Senators Bekkedahl, Dever, Heckaman, Hogan, Hogue, Klein, Krebsbach, Mathern, Poolman, Rust, Sorvaag, and Wardner voted "aye." Representatives Delzer, Koppelman, Louser, Pollert, and Schatz voted "nay."

LEGISLATIVE HEARINGS FOR FEDERAL BLOCK GRANTS

At the request of Chairman Vigesaa, Mr. Levi Kinnischtzke, Senior Fiscal Analyst, Legislative Council, reviewed a memorandum entitled [Federal Block Grants - 2023 Legislative Hearings](#), which provides information regarding block grant hearings required during the 2023 legislative session. Mr. Kinnischtzke also reviewed a concurrent resolution draft [\[23.3010.01000\]](#) authorizing the Budget Section to hold any legislative block grant hearings through September 2025. He noted the Legislative Council staff contacted state agencies receiving federal funds to determine which agencies receive block grants that require legislative hearings, and the survey revealed only one block grant with that requirement--the community services block grant administered by the Department of Commerce Division of Community Services. A summary of the proposed use and distribution plan for the block grant will be provided by the Department of Commerce as part of the agency's appropriations hearings during the 2023 legislative session. The required public hearing will be held as part of the appropriations hearing for the Department of Commerce during the 2023 legislative session.

It was moved by Representative Delzer, seconded by Senator Mathern, and carried on a roll call vote that the concurrent resolution draft [\[23.3010.01000\]](#) providing the Budget Section authority to hold public legislative hearings required for receipt of federal block grant funds during the period from the recess or adjournment of the 68th Legislative Assembly through September 30, 2025, be approved and recommended to the Legislative Management. Representatives Vigesaa, Anderson, Boschee, Delzer, Howe, Kempenich, Koppelman, Kreidt, Louser, Martinson, Meier, Mitskog, Mock, Monson, Nathe, Pollert, Sanford, Schatz, Schobinger, and Strinden and Senators Bekkedahl, Dever, Heckaman, Hogan, Hogue, Klein, Krebsbach, Mathern, Poolman, Rust, Sorvaag, and Wardner voted "aye." No negative votes were cast.

2022 NORTH DAKOTA FINANCE FACTS BROCHURE

At the request of Chairman Vigesaa, Mr. Kinnischtzke presented the Legislative Council publication entitled [2022 North Dakota Finance Facts](#).

REPORT ON FEDERAL FUNDS

Mr. Kinnischtzke presented a memorandum entitled [Analysis of Federal Funds for Bienniums Ending June 30, 2023, and June 30, 2025](#), which provides information regarding federal funds estimated to be received by state agencies during the 2021-23 and 2023-25 bienniums. He noted agencies estimate \$5.0 billion of federal funds will be received during the 2021-23 biennium, \$337.3 million more than appropriated. He noted agencies estimate \$5.2 billion of federal funds will be received during the 2023-25 biennium, \$226.1 million more than is estimated to be received during the 2021-23 biennium.

Mr. Kinnischtzke presented a memorandum entitled [Federal Funds Appropriated and Federal Funds Estimated to be Received 2021-23 and 2023-25 Bienniums](#), which provides information regarding the major variances experienced by agencies during the 2021-23 biennium relating to federal funds appropriated and federal funds estimated to be received and the major variances estimated for the 2023-25 biennium compared to the 2021-23 biennium.

Mr. Kinnischtzke presented a memorandum entitled [Summary of Infrastructure Investment and Jobs Act Estimate of Federal Funds Available to North Dakota](#), which summarizes the federal funding available to the state through the federal Infrastructure Investment and Jobs Act.

STATE FLEET GUIDELINES

Mr. Micheal Gerhart, State Fleet Services Manager, Department of Transportation, presented information ([Appendix H](#)) regarding estimated state fleet rental rates for the 2023-25 biennium. He noted:

- State Fleet Services maintains approximately 3,300 light and heavy-duty vehicles utilized by state agencies.
- Vehicle rental rates are affected by repair costs, insurance, fuel prices, and other factors.
- Rental rates for the 2023-25 biennium will be higher than the 2021-23 biennium due to increased fuel prices and increased pricing of new vehicles.

DEPARTMENT OF COMMERCE - RENAISSANCE FUND ORGANIZATIONS ANNUAL REPORT

Ms. Rikki Roehrich, Program Administrator, Department of Commerce, presented information ([Appendix I](#)) regarding annual audits of renaissance fund organizations pursuant to Section 40-63-07(9). She noted:

- The purpose of a renaissance fund organization (RFO) is to raise funds to be used to finance projects located in designated renaissance zones.
- There are 57 cities that have a renaissance zone. Of those cities, eight have established an RFO, including Casselton, Fargo, Jamestown, Hazen, Mayville, West Fargo, Hope, and Grand Forks. She said Fargo has established two renaissance zones, but only one is an active RFO. Mayville, Hazen, and Hope manage their city's RFO, while other city RFOs are managed by private entities.
- The Legislative Assembly has approved \$10.5 million in tax credits for RFO projects since 1999. To date, \$20,011,732 has been invested in RFOs during this time and \$10,005,866 of credits has been claimed. Of the \$494,134 of credits available, \$250,000 has been reserved for the Hope RFO.

NORTH DAKOTA OUTDOOR HERITAGE FUND REPORT

Ms. Karlene Fine, Executive Director, Industrial Commission, presented information ([Appendix J](#)) regarding the North Dakota outdoor heritage fund. She noted:

- The North Dakota outdoor heritage fund has received \$72,140,115 of oil tax collections since its inception.
- A total of \$73,116,847 has been awarded to 205 projects across the state.

DEPARTMENT OF CORRECTIONS AND REHABILITATION - INMATE REPORT

Mr. Steven Hall, Director of Transitional Planning Services, Department of Corrections and Rehabilitation, presented information ([Appendix K](#)) regarding the department's prison population management plan, inmate admissions, and the number of inmates the department has not admitted after sentencing pursuant to Section 54-23.3-11. He noted:

- The maximum operational capacity for male inmates is 1,624 while the maximum operational capacity for female inmates is 224.
- Both male and female inmate populations are below capacity and the prioritization plan authorized in Section 54-23.3-11 has not been utilized during the 2021-23 biennium.

STATE TREASURER - OUTSTANDING WARRANTS AND CHECKS

Mr. Thomas Beadle, State Treasurer, presented information ([Appendix L](#)) regarding warrants and checks outstanding for more than 90 days and less than 3 years pursuant to Section 54-11-01. He noted:

- The total dollar amount of outstanding checks increased by 11 percent from fiscal year 2021 to fiscal year 2022.
- A total of 4,189 checks totaling \$623,228 issued in fiscal year 2020 will be transferred to Unclaimed Property in October 2022.
- As of September 2022, there are 21,140 outstanding checks totaling \$8.2 million issued during fiscal years 2020, 2021, and 2022.

BOARD OF UNIVERSITY AND SCHOOL LANDS INVESTMENT PERFORMANCE

Mr. Joe Heringer, Commissioner, Department of Trust Lands, presented information ([Appendix M](#)) regarding the investment of assets under the control of the Board of University and School Lands. He noted:

- As of June 2022, the board was managing approximately \$7.1 billion of assets.

- The net return for the permanent trust funds as of June 30, 2022, was negative 4.99 percent for the prior year compared to a benchmark of negative 6.73 percent, 4.29 percent for the prior 3 years compared to a benchmark of 5.51 percent, and 4.64 percent for the prior 5 years compared to a benchmark of 5.72 percent.
- As of June 30, 2022, the net return on investments for the strategic investment and improvements fund was negative 2.33 percent for the prior 6 months compared to a benchmark of negative 1.49 percent and negative 2.62 percent for the prior year compared to a benchmark of negative 1.71 percent.
- In fiscal year 2022, the department paid \$48.8 million, or 80 basis points, of fund management fees to private entities for managing approximately \$6.1 billion of assets.

DEPARTMENT OF HEALTH AND HUMAN SERVICES - TRANSFERS

Mr. Eric Haas, Assistant Chief Financial Officer, Department of Health and Human Services, presented a report ([Appendix N](#)) on department transfers in excess of \$50,000 made during the 2021-23 biennium between line items in each subdivision and line item transfers made between subdivisions pursuant to Sections 8 and 9 of House Bill No. 1012 (2021) and Section 11 of House Bill No. 1506 (2021). He noted transfers have been made to better align staff to department program areas.

NATIONAL GUARD SERVICE MEMBER, VETERAN, FAMILY, AND SURVIVOR SUPPORT PROGRAM

Brigadier General Jackie Huber, Adjutant General's office, presented an update ([Appendix O](#)) on the National Guard service member, veteran, family, and survivor support program. She noted:

- The program was created by the 2019 Legislative Assembly to allow the National Guard to more efficiently provide programs to service members, veterans, families, and survivors.
- The North Dakota National Guard Foundation has provided over \$80,000 of support for a ND Cares event, Survivor Outreach events, and Military Youth Camps coordinated by the National Guard.

THREE AFFILIATED TRIBES OF THE FORT BERTHOLD RESERVATION REPORT

Mr. Brady A. Larson, Assistant Legislative Budget Analyst and Auditor, Legislative Council, announced that the report from the Three Affiliated Tribes of the Fort Berthold Reservation regarding fees, expenses, and charges the tribe imposes on the oil industry and essential infrastructure projects, and each project's cost, completed by the Three Affiliated Tribes of the Fort Berthold Reservation using oil and gas tax receipts pursuant to Section 57-51.2-02 has not yet been received, but when received it will be provided to the Budget Section members.

OTHER BUSINESS

Chairman Vigesaa noted the next Budget Section meeting is tentatively scheduled for Wednesday, December 7, 2022, following the adjournment of the organizational session.

It was moved by Representative Pollert, seconded by Representative Koppelman, and carried on a voice vote that the Chairman and the Legislative Council staff prepare a report and present the report and recommended resolution draft to the Legislative Management.

No further business appearing, Chairman Vigesaa adjourned the meeting at 12:15 p.m.

Brady A. Larson
Assistant Legislative Budget Analyst and Auditor

Allen H. Knudson
Legislative Budget Analyst and Auditor

ATTACH:15