

NORTH DAKOTA LEGISLATIVE MANAGEMENT

Minutes of the

**GOVERNMENT FINANCE COMMITTEE**

Wednesday, September 10, 2014  
Roughrider Room, State Capitol  
Bismarck, North Dakota

Representative Jeff Delzer, Chairman, called the meeting to order at 9:00 a.m.

**Members present:** Representatives Jeff Delzer, Larry Bellew, Joshua A. Boschee, Bette Grande, Craig Headland, Rick Holman, Lisa Meier, Kylie Oversen, Don Vigessaa, Clark Williams; Senators Dwight Cook, Gary A. Lee, Donald Schaible, Ronald Sorvaag, Rich Wardner

**Member absent:** Senator Terry M. Wanzek

**Others present:** Chris Kadrmas, Legislative Council, Bismarck  
Representatives Al Carlson and Jim Schmidt, members of the Legislative Management, were also in attendance.

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

**It was moved by Representative Grande, seconded by Representative Vigessaa, and carried on a voice vote that the minutes of the August 5, 2014, meeting be approved as distributed.**

**STUDY OF THE STATE EMPLOYEE RETIREMENT PLAN**

Chairman Delzer called on Mr. Brad Ramirez, Vice President and Consulting Actuary, The Segal Company, Denver, Colorado, to provide comments regarding differences in the projected actuarial costs calculated by The Segal Company and by Arthur J. Gallagher & Co. to close the main state employee retirement plan to new employees effective January 1, 2016. Mr. Ramirez said the major difference in the calculations is due to an adjustment made by The Segal Company to the amount of future benefit payments. He said the adjustment was inadvertently not reported by The Segal Company to the Public Employees Retirement System (PERS) or to Arthur J. Gallagher & Co. when disclosing projection assumptions.

In response to a question from Chairman Delzer, Mr. Ramirez said the adjustment was primarily made due to employees not retiring as early as originally assumed. He said one reason for this may be that employees are continuing employment to receive health insurance benefits.

Chairman Delzer said the committee needs to take action on the draft final report prepared by Arthur J. Gallagher & Co. to close the main state employee retirement plan to new employees.

**It was moved by Representative Grande, seconded by Representative Holman, and carried on a roll call vote that the committee accept the draft final report prepared by Arthur J. Gallagher & Co. of the actuarial costs to close the main state employee retirement plan to new employees.** Representatives Delzer, Bellew, Boschee, Grande, Headland, Holman, Meier, Oversen, Vigessa, and Williams and Senators Cook, Lee, Schaible, Sorvaag, and Wardner voted "aye." No negative votes were cast.

Chairman Delzer asked for comments by interested persons and committee discussion regarding the bill draft [[15.0176.01000](#)] to require state employees hired after December 31, 2015, to participate in the defined contribution retirement plan rather than the main state employee defined benefit retirement plan.

Chairman Delzer said employees enrolled in the defined contribution retirement plan do not fully vest in employer retirement contributions until completing four years of service. He said the committee may review options to have employees fully vest in the employer contribution earlier.

Representative Grande suggested the bill draft be amended to allow employees participating in the defined contribution retirement plan to become fully vested in employer contributions after one year of service.

At the request of Chairman Delzer, the Legislative Council staff reviewed a technical correction to the bill draft relating to the eligibility of employees to participate in the defined contribution retirement plan.

**It was moved by Senator Lee, seconded by Representative Meier, and carried on a voice vote to amend the bill draft to overstrike the words "and who is in a position not classified by North Dakota human resource management services" on page 9, lines 12 and 13, of the bill draft.**

Mr. Sparb Collins, Executive Director, Public Employees Retirement System, provided comments ([Appendix B](#)) regarding the bill draft. He reviewed the following suggestions from the PERS Board for the bill draft:

- A clear funding plan should be implemented to fully fund the defined benefit retirement plan before adopting a bill draft to close the plan to new employees.
- Any funds identified to address the unfunded liability of the defined benefit retirement plan should be deposited in the retirement trust fund rather than a separate fund.
- A lower rate of return should be used for the investment return assumption of the closed defined benefit retirement plan.
- The defined contribution retirement plan should provide adequate pension benefits to participants.
- Additional disability and spousal benefits should be provided under the defined contribution retirement plan.
- The PERS Board should be allowed to set the employer contribution rates to the defined benefit retirement plan based on actuarial reports.
- A review should be conducted of long-term employer costs and contract issues relating to political subdivisions.

Mr. Collins also distributed a document ([Appendix C](#)) with recommendations for technical corrections to the bill draft.

In response to a question from Chairman Delzer, Mr. Collins said the investment strategy of the main state employee retirement fund may need to be adjusted if the plan is closed to new employees. He said the retirement fund currently assumes an 8 percent investment return rate, but a lower rate may be more appropriate if the plan is closed. He said the retirement fund annual investment return rate for the last 30 years has averaged 9.1 percent.

In response to a question from Representative Grande, Mr. Collins said the average annual rate of return for the main state employee retirement fund for the past five years is 12.7 percent. He said closing the main plan to new state employees would require a lower investment return assumption.

Chairman Delzer expressed concern that the PERS Board is now suggesting changes to the investment return assumption if the plan is closed to new employees. He said the suggestions should have been made earlier which would have allowed the actuarial reviews of costs to close the defined benefit retirement plan to new employees to consider the potential changes in investment returns.

In response to a question from Representative Carlson, Mr. Collins said total employee and employer contributions to the main state employee retirement plan are 14.12 percent. He said of this amount, 7.12 percent is considered the employer contribution and 7 percent is considered the employee contribution. However, he said, in lieu of salary increases in the early 1980s, the state pays 4 percent of the employee contribution. Therefore, he said, the state pays 11.12 percent of contributions and employees pay 3 percent of contributions.

Representative Carlson said many private sector businesses do not pay the majority of retirement contributions. He said consideration should be given to how state employee fringe benefits compare to private sector employee fringe benefits.

In response to a question from Representative Oversen, Chairman Delzer said the Employee Benefits Programs Committee would need to review the bill draft if it is approved by the committee and accepted by the Legislative Management.

## **STATE BUDGET INFORMATION**

### **Status of the General Fund and Major State Funds**

Ms. Pam Sharp, Director, Office of Management and Budget, presented information ([Appendix D](#)) regarding the status of the general fund and major state funds. She said the general fund balance on June 30, 2015, is estimated to be \$619.8 million.

In response to a question from Representative Carlson, the Legislative Budget Analyst and Auditor said the legislative forecast estimated a general fund balance of approximately \$85 million on June 30, 2015.

Ms. Sharp presented the following schedule detailing the balances of major state funds as of July 31, 2014:

Fund	Balance as of July 31, 2014
Budget stabilization fund	\$583,545,799
Legacy fund	\$2,303,852,423
Foundation aid stabilization fund	\$487,932,679
Property tax relief fund	\$657,000,000
Strategic investment and improvements fund	\$1,336,784,547 <sup>1</sup>

<sup>1</sup>Of this amount, \$887,226,224 is obligated.

In response to a question from Chairman Delzer, the Legislative Budget Analyst and Auditor said the requirements of a 2013-15 biennium contingent general fund appropriation to the Department of Public Instruction for a grant to construct a children's science center have been met. He said if the grant is not awarded by the end of the biennium the appropriation authority for the grant will be canceled.

In response to a question from Representative Williams, Ms. Sharp said the estimated balance of the legacy fund on June 30, 2015, is \$3.5 billion.

In response to a question from Chairman Delzer, Ms. Sharp said increased collections of individual income tax may be due to income tax withholding on oil and gas royalty payments.

Senator Cook suggested the committee receive information from the Tax Department regarding potential refunds of income tax withholding on oil and gas royalty payments.

### Revised 2013-15 Biennium General Fund Revenue Forecast, Preliminary 2015-17 Biennium General Fund Revenue Forecast, and Oil Tax Forecasts

Ms. Sharp presented the following information ([Appendix E](#)) regarding the revised 2013-15 biennium general fund and oil tax revenue forecasts and the preliminary 2015-17 biennium general fund and oil tax revenue forecasts:

	General Fund Revenue Forecast			2015-17 Biennium	
	2013-15 Biennium			Preliminary Forecast	Difference From 2013-15 Revised Forecast
	Legislative Forecast	Revised Forecast	Difference		
Sales and use tax	\$2,472,947,500	\$2,469,840,100	(\$3,107,400)	\$2,667,659,000	\$197,818,900
Motor vehicle excise tax	323,123,500	289,673,958	(33,449,542)	349,409,000	59,735,042
Individual income tax	797,654,355	1,032,509,203	234,854,848	1,060,828,000	28,318,797
Corporate income tax	377,739,645	456,823,247	79,083,602	470,489,000	13,665,753
Insurance premium tax	73,352,976	81,593,441	8,240,465	77,600,000	(3,993,441)
Financial institutions tax	0	(4,871,446)	(4,871,446)	0	4,871,446
Oil and gas production tax	133,834,002	146,071,108	12,237,106	133,834,000	(12,237,108)
Oil extraction tax	166,165,998	153,928,892	(12,237,106)	166,166,000	12,237,108
Gaming	8,174,696	7,497,781	(676,915)	7,000,000	(497,781)
Cigarette and tobacco tax	57,953,000	59,567,291	1,614,291	61,560,000	1,992,709
Wholesale liquor tax	19,142,000	18,518,019	(623,981)	18,867,000	348,981
Coal conversion tax	39,300,000	38,875,236	(424,764)	39,578,000	702,764
Mineral leasing fees	19,000,000	28,448,054	9,448,054	19,000,000	(9,448,054)
Departmental collections	74,394,098	80,669,034	6,274,936	80,600,000	(69,034)
Interest	32,666,716	21,669,430	(10,997,286)	21,600,000	(69,430)
Revenues before transfers	\$4,595,448,486	\$4,880,813,348	\$285,364,862	\$5,174,190,000	\$293,376,652

Estimated Allocations of Oil and Gas Production and Oil Extraction Taxes			
	2013-15 Biennium	2015-17 Biennium	Difference
General fund	\$300,000,000	\$300,000,000	\$0
Legacy fund	2,454,395,777	3,186,498,242	732,102,465
Property tax relief fund	341,790,000	341,790,000	0
Strategic investment and improvements fund	1,289,798,492	2,019,825,077	730,026,585
Political subdivisions	776,469,055	967,489,008	191,019,953
Tribal allocations	513,309,913	583,200,000	69,890,087
Foundation aid stabilization fund	375,610,642	517,915,350	142,304,708
Common schools trust fund	375,610,642	517,915,350	142,304,708

Resources trust fund	747,021,283	1,031,630,700	284,609,417
Oil and gas impact grant fund	240,000,000	240,000,000	0
State disaster fund	22,000,000	22,000,000	0
North Dakota outdoor heritage fund	23,790,719	29,577,773	5,787,054
Renewable energy development fund	3,000,000	3,000,000	0
Energy conservation fund	1,200,000	1,200,000	0
Well plugging and site reclamation fund	10,000,000	10,000,000	0
Oil and gas research fund	10,000,000	10,000,000	0
Total	\$7,483,996,523	\$9,782,041,500	\$2,298,044,977

In response to a question from Chairman Delzer, Ms. Sharp said sales tax collections are estimated to increase 4 percent annually during the 2015-17 biennium. She said a portion of the increase may related to large construction projects in the state.

In response to a question from Representative Carlson, Chairman Delzer said the Tax Department will be asked to provide information at the next committee meeting regarding sales and other tax collections resulting from energy development activities.

In response to a question from Chairman Delzer, Ms. Sharp said the preliminary 2015-17 biennium forecast assumes oil production ranging from 1.3 million to 1.4 million barrels per day and oil prices of \$90 per barrel.

Chairman Delzer said the committee will receive information at a future meeting regarding the effect of oil production and oil prices on oil tax collections.

Senator Wardner suggested the Legislative Council staff prepare a matrix of estimated oil tax revenues based on various oil production and prices.

In response to a question from Chairman Delzer, Ms. Sharp said she will provide information to the committee regarding the projected unobligated balance of the strategic investment and improvements fund at the end of the 2015-17 biennium.

### Department of Human Services Budget Information

Ms. Maggie D. Anderson, Executive Director, Department of Human Services, presented an update ([Appendix F](#)) on the development of the Department of Human Services (DHS) 2015-17 biennium budget request. She said DHS is in the process of developing its budget request and is receiving input from stakeholders. She said major budget issues for DHS include costs-to-continue Medicaid grants, workforce issues, and the increased state share of Medicaid Expansion.

In response to a question from Chairman Delzer, Ms. Anderson said the state has the option to withdraw from Medicaid Expansion if federal funding for the program is reduced or eliminated.

In response to a question from Representative Meier, Ms. Anderson said approximately 13,000 individuals are enrolled in Medicaid Expansion.

In response to a question from Representative Carlson, Ms. Anderson said the Office of Management and Budget (OMB) has extended the 2015-17 biennium budget submission deadline for DHS to October 10, 2014.

Representative Carlson expressed concern regarding the number of budget submission deadline extensions granted by OMB. He said the Legislative Assembly needs to be informed of budget issues as soon as possible to allow legislators time to review the issues.

In response to a question from Chairman Delzer, Ms. Anderson said DHS does not expect to request a deficiency appropriation during the 2015 legislative session.

In response to a question from Senator Lee, Ms. Anderson said DHS has been reviewing the potential impact to DHS if action is taken by the Legislative Assembly to integrate county social service operations into DHS.

### Department of Transportation Budget Information

Mr. Grant Levi, Director, Department of Transportation, presented an update ([Appendix G](#)) on the Department of Transportation (DOT) 2015-17 biennium budget request. He said the estimated amount of federal highway funding to be received by DOT in the 2015-17 biennium is uncertain because Congress has not yet approved an appropriation bill to distribute federal highway funds to states. He said state motor vehicle fuels taxes and motor

vehicle registration fee collections have increased at a rapid rate during the past several bienniums. However, he said, the growth in collections is expected to stabilize during the 2015-17 biennium.

In response to a question from Senator Wardner, Mr. Levi said the state has recently been receiving approximately \$240 million of federal highway construction funding each year.

In response to a question from Senator Cook, Mr. Levi said roadway construction costs in the western part of the state are higher than other areas of the state. He said overall roadway construction costs for the state are higher than the national average. He said he will provide the committee with information regarding roadway construction costs in neighboring states.

In response to a question from Representative Carlson, Mr. Levi said he will provide the committee with information regarding the percentage of federal and state funds used for state roadway projects.

In response to a question from Senator Wardner, Mr. Levi said the Legislative Assembly appropriated \$1.1 billion from the general fund for enhanced state highway projects in areas affected by energy development. He said many of the projects, such as bypass projects around cities, benefit political subdivisions.

In response to a question from Representative Meier, Mr. Levi said DOT is reserving approximately \$40 million of the enhanced state highway funding for contingencies.

In response to a question from Senator Lee, Mr. Levi said the DOT budget is based on the number of roadway projects DOT estimates can be completed during a biennium. He said if project costs are more than estimates, DOT will reduce the number of projects that will be completed during the biennium.

#### **Department of Corrections and Rehabilitation Budget Information**

Mr. Dave Krabbenhoft, Director of Administration, Department of Corrections and Rehabilitation, presented an update ([Appendix H](#)) on the Department of Corrections and Rehabilitation (DOCR) 2015-17 biennium budget request. He said major anticipated operations issues during the 2015-17 biennium include employee compensation, parole and probation caseload increases, and increased inmate counts. He said DOCR may also request funding for capital projects at the Missouri River Correctional Center and the James River Correctional Center.

In response to a question from Chairman Delzer, Mr. Krabbenhoft said parole and probation cases are generally assigned by case type and not by geographic area. He said some parole and probation officers will have a smaller caseload due to the specialized and detailed nature of certain cases.

In response to a question from Chairman Delzer, Mr. Krabbenhoft said DOCR does not anticipate requesting a deficiency appropriation during the 2015 legislative session.

In response to a question from Chairman Delzer, Mr. Krabbenhoft said many inmates qualify for Medicaid when released from prison. He said access to health care may affect recidivism rates.

In response to a question from Representative Holman, Mr. Krabbenhoft said DOCR is increasing its use of electronic monitoring devices. However, he said, direct supervision is still needed for parole and probation cases.

In response to a question from Chairman Delzer, Mr. Krabbenhoft said he will provide the committee with information regarding the number of new inmates resulting from recent changes to driving under the influence laws.

In response to a question from Senator Wardner, Mr. Krabbenhoft said DOCR is proposing to replace the Missouri River Correctional Center facility with a new building at the same location. He said several of the current buildings have mold issues and need extensive repairs.

In response to a question from Chairman Delzer, Mr. Krabbenhoft said flood protection infrastructure is being constructed to protect the Missouri River Correctional Center.

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

#### **North Dakota University System Budget Information**

Dr. Larry Skogen, Interim Chancellor, North Dakota University System, presented information ([Appendix I](#)) regarding the University System's general fund budget request for the 2015-17 biennium. He said the University System will be requesting approximately \$27 million of funding for cost-to-continue items, \$49 million of



funding to be distributed through the higher education funding formula based on completed student credit-hours, and funding for 2015-17 biennium salary and benefit increases consistent with the executive budget recommendation. He said the University System is also requesting \$203 million for capital projects, \$32 million for increased extraordinary repairs base funding, and \$20 million for deferred maintenance.

In response to a question from Chairman Delzer, Dr. Skogen said the University System is reviewing policies relating to institution foundations as a result of issues involving the Research Enterprise and Commercialization building on the campus of the University of North Dakota and the construction of new president's houses at North Dakota State University and the University of North Dakota.

In response to a question from Representative Carlson, Dr. Skogen said the higher education funding formula does not differentiate between credits completed by on-campus or distance education students.

In response to questions from Chairman Delzer, Dr. Skogen said dual-credit students are charged a different tuition rate than regular students. He said there are currently no incentives provided to institutions for on-time student graduation rates.

Representative Carlson said the Legislative Assembly has significantly increased general fund appropriations for the University System, but tuition rates still continue to increase at a rapid rate. He said the University System should review options to increase efficiencies.

Dr. Skogen said increases in higher education funding have moved the state up in national rankings for state investments in higher education. He said the University System continually reviews options to increase efficiency.

In response to a question from Chairman Delzer, Dr. Skogen said the University System is completing a systemwide campus master plan and space utilization study; however, the study is not reviewing programming space at each campus.

In response to a question from Representative Carlson, Dr. Skogen said he will provide the committee with information regarding the percentage of University System students that graduated from a high school in the state. He said many businesses are requesting the University System recruit out-of-state students in an effort to expand the workforce in the state.

In response to a question from Representative Grande, Dr. Skogen said he will provide the committee with information regarding the number of students receiving a student financial assistance grant or an academic or a career and technical education scholarship.

In response to a question from Representative Carlson, Dr. Skogen said the University System office has filled a strategic planning position to assist in updating the University System strategic plan. He said the Higher Learning Commission expressed concern that the University System did not have an updated strategic plan.

## **STUDY OF THE FOUNDATION AID STABILIZATION FUND**

Chairman Delzer asked for committee discussion and comments by interested persons regarding the concurrent resolution draft [[15.3010.02000](#)] to allow for the use of excess funds in the foundation aid stabilization fund and regarding the bill draft [[15.0189.01000](#)] to create a public employee retirement stabilization fund and a school construction assistance loan fund.

Senator Schaible said the bill draft does not provide details regarding the administration of the school construction assistance loan fund. He said he is preparing a separate bill draft to provide guidelines for loans from the fund.

Ms. Kelly L. Schmidt, State Treasurer, provided comments ([Appendix J](#)) regarding the concurrent resolution draft and the bill draft. She suggested the concurrent resolution draft be revised to require OMB to determine the balance of the foundation aid stabilization fund and suggested the bill draft be revised to clarify who is responsible for investing the public employee retirement stabilization fund.

At the request of Chairman Delzer, the Legislative Council staff reviewed a memorandum entitled [Foundation Aid Stabilization Fund - Estimated Available Funds](#). The memorandum provides the estimated balances of the foundation aid stabilization fund at the end of the 2013-15 and 2015-17 bienniums. Based on the September 2014 revised revenue forecast released by OMB, the estimated balance of the foundation aid stabilization fund on June 30, 2015, is \$710.98 million and the estimated fund balance on June 30, 2017, is \$1.23 billion.

Chairman Delzer asked the Legislative Council staff to revise the concurrent resolution draft to require OMB to determine the balance of the foundation aid stabilization fund rather than the State Treasurer. He also asked the Legislative Council staff to revise the bill draft to provide for the public employee retirement stabilization fund to be invested by the State Investment Board and to provide for foundation aid stabilization fund transfers of \$250 million into the school construction loan assistance fund and \$200 million into the public employee retirement stabilization fund.

Dr. Jon Martinson, Executive Director, North Dakota School Board Association, questioned whether the Teachers' Fund for Retirement (TFFR) would be eligible to receive funding from the public employee retirement stabilization fund.

Chairman Delzer said the bill draft does not specifically exclude TFFR from receiving funds from the public employee retirement stabilization fund. However, he said, a legal opinion would be needed to determine whether TFFR is considered a state retirement fund.

### **OTHER BUSINESS**

Chairman Delzer asked committee members to review any other potential revisions to the concurrent resolution and bill drafts being considered by the committee and to contact the Legislative Council staff with any potential revisions.

No further business appearing, Chairman Delzer adjourned the meeting at 2:30 p.m.

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Brady A. Larson  
Assistant Legislative Budget Analyst and Auditor

ATTACH:10