

NORTH DAKOTA LEGISLATIVE MANAGEMENT

Minutes of the

BUDGET SECTION

Wednesday, June 21, 2017
Senate Chamber, State Capitol
Bismarck, North Dakota

Senator Robert Erbele, Vice Chairman, called the meeting to order at 1:00 p.m.

Members present: Representatives Tracy Boe, Randy Boehning, Roger Brabandt, Mike Brandenburg, Al Carlson, Jeff Delzer, Richard G. Holman, Keith Kempenich, Gary Kreidt, Bob Martinson, Lisa Meier, Mike Nathe, Mark Sanford, Mike Schatz, Jim Schmidt, Roscoe Streyle; Senators Robert Erbele, Joan Heckaman, David Hogue, Ray Holmberg, Ralph Kilzer, Jerry Klein, Karen K. Krebsbach, Gary A. Lee, Tim Mathern, Dave Oehlke, Larry J. Robinson, Ronald Sorvaag, Terry M. Wanzek, Rich Wardner

Members absent: Representatives Larry Bellew, Lois Delmore, Kathy Hogan, Tom Kading, Corey Mock, David Monson, Jon O. Nelson, Chet Pollert, Don Vigesaa; Senators Bill L. Bowman, Dick Dever, John Grabinger

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

At the request of Vice Chairman Erbele, the Legislative Council staff presented information regarding the following:

- The [Supplementary Rules of Operation and Procedure of the North Dakota Legislative Management](#).
- The final [Budget Status Report](#) on appropriations and estimated revenues for the 2017-19 biennium.
- The [65th Legislative Assembly Changes to Agency Budgets for the 2017-19 Biennium](#).
- The [65th Legislative Assembly State Budget Actions for the 2017-19 Biennium](#).
- The [Estimated Revenue Sources and Distributions for Major State Funds for the 2017-19 Biennium](#).
- An [Oil and Gas Tax Revenue Allocation Flowchart](#).
- The [Budget Section Duties and Responsibilities for the 2017-19 Biennium](#).

STATUS OF THE GENERAL FUND

Ms. Pam Sharp, Director, Office of Management and Budget, presented a report ([Appendix B](#)) on the status of the general fund.

Ms. Sharp presented the following information on the status of the general fund as of May 31, 2017, for the 2015-17 biennium:

Unobligated general fund balance - July 1, 2015		\$729,529,389
Balance obligated for authorized carryover from the 2013-15 biennium		147,653,143
Total beginning general fund balance - July 1, 2015		\$877,182,532
Add		
General fund collections through May 2017	\$3,981,748,027	
Forecasted general fund revenue for the remainder of the 2015-17 biennium	111,932,241	
Total revenues		4,093,680,268
Total available		\$4,970,862,800
Less		
Legislative appropriations - One-time	(\$1,173,663,758)	
Legislative appropriations - Ongoing	(4,852,498,920)	
Contingent appropriation - Department of Transportation	(20,000,000)	
4.05% allotment (executive branch only)	239,120,392	
4.05% allotment (legislative branch and Supreme Court)	5,749,197	
2.5% allotment (all branches)	151,154,067	
Restore funding for Department of Human Services and Department of Corrections and Rehabilitation	(36,535,880)	

Authorized carryover from previous biennium	(147,653,143)	
2015-17 biennium authority used in 2013-15 biennium pursuant to emergency clause	9,858,196	
2017 legislative adjustments to 2015-17 biennium appropriations	4,389,990	
Estimated unspent authority	52,000,000	
Total appropriations		(5,768,079,859)
Estimated ending general fund balance - June 30, 2015 - Before transfers		(\$797,217,059)
Transfer from budget stabilization fund		572,485,453
Transfer from Bank of North Dakota		100,000,000
Transfer from strategic investment and improvements fund		155,000,000
Estimated ending general fund balance - June 30, 2017		\$30,268,394 ¹

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.

Ms. Sharp said the estimated 2015-17 biennium general fund ending balance as of May 31, 2017, is \$30.3 million. She said this amount is contingent on the forecasted general fund revenue for June 2017 of \$111.9 million and actual estimated unspent authority from state agencies of \$52.0 million. She said she believes these amounts will be accurate.

Ms. Sharp said the budget stabilization fund balance as of May 31, 2017, was \$6.1 million. She said while the Legislative Assembly approved a \$572.5 million transfer from the budget stabilization fund to the general fund, prior to this transfer being made, interest and earnings of \$6.1 million had accrued and will remain in the fund.

Ms. Sharp said the legacy fund balance as of May 31, 2017, was \$4.6 billion, while the balance of the foundation aid stabilization fund was \$611.5 million. She said the balance of the tax relief fund was \$300.0 million as of May 31, 2017, while the balance of the strategic investment and improvements fund was \$468.0 million, which includes committed funds of \$350.5 million.

In response to a question from Representative Kreidt, Ms. Sharp said the \$200 million of anticipated legacy fund earnings will be transferred from the legacy fund to the general fund at the end of the 2017-19 biennium.

Ms. Sharp presented information ([Appendix C](#)) on general fund collections for May 2017 and the 2015-17 biennium to date compared to March 2017 legislative revenue forecast. She said sales tax collections were \$1.6 billion as of May 31, 2017, or 0.6 percent more than the March 2017 legislative revenue forecast. She said individual income tax collections were \$653.1 million as of May 31, 2017, a decrease of \$19.0 million, or 2.8 percent, from the March 2017 legislative revenue forecast.

Ms. Sharp said there were 28,000 fewer tax filers in calendar year 2016 compared to calendar year 2015 and the average adjusted gross income per return decreased from \$71,000 to \$68,500 during this time period. She said the decrease may be due to a decrease in oil activity during calendar year 2016, resulting in higher wage earners returning to their home states and filing tax returns outside of North Dakota.

Ms. Sharp presented information ([Appendix D](#)) on general fund collections for May 2017 and the 2015-17 biennium to date compared to the 2013-15 biennium. She said as of May 31, 2017, the 2015-17 biennium general fund revenues are estimated to be \$3.98 billion compared to general fund revenues of \$5.60 billion as of May 31, 2015, a \$1.70 billion decrease from the 2013-15 biennium. She said the primary reason for the decrease in revenues is due to lower oil prices during the 2015-17 biennium, resulting in less oil activity in the state.

TOBACCO SETTLEMENT PROCEEDS

Ms. Sharp presented information ([Appendix E](#)) on the status of tobacco settlement proceeds received by North Dakota. She said total payments received to date are \$527.5 million. She said the April 2017 payments totaled \$31.6 million, of which \$20.2 million was deposited in the tobacco settlement trust fund and \$11.4 million was deposited in the tobacco prevention and control trust fund. A summary of the 2015-17 biennium collections is listed below.

Period	Tobacco Settlement Trust Fund (Amounts Shown in Millions)	Tobacco Prevention and Control Trust Fund (Amounts Shown in Millions)	Total (Amounts Shown in Millions)
April 2016		\$11.48	\$11.48
May 2016	\$20.47		20.47
April 2017	20.20	11.43	31.63
Total	\$40.67	\$22.91	\$63.58

In response to a question from Representative Delzer, Ms. Sharp said she will verify how long the State of North Dakota will continue to receive tobacco settlement payments.

STATE AGENCY APPLICATIONS FOR FEDERAL GRANTS

Ms. Sharp presented information ([Appendix F](#)) on state agencies that applied for federal grants estimated to be \$25,000 or more pursuant to Section 54-27-27. She said for the period June 2016 through June 2017, the following agencies have applied for a federal grant estimated to be \$25,000 or more:

Agency	Time Period of Grant	Amount
Attorney General's office	2 years	\$496,626
Department of Human Services	2 years, 5 months	\$4,000,000

IRREGULARITIES IN THE FISCAL PRACTICES OF THE STATE

Pursuant to Section 54-14-03.1, Ms. Sharp presented information ([Appendix G](#)) on irregularities in the fiscal practices of the state. She presented the following fiscal irregularities for the period November 2016 through April 2017:

Agency	Fiscal Irregularity	Amount
Retirement and Investment Office	Retroactive pay for two employees as a result of additional workload due to coworker maternity leave	\$1,300
State Department of Health	Severance agreement with Ranae Kunz	\$26,652
Veterans' Home	Severance agreement with Shandra Malheim	\$45,000

VOLUNTARY SEPARATION INCENTIVE PROGRAM

Ms. Sharp presented information ([Appendix H](#)) on the status of the voluntary separation incentive program. She said 17 agencies offered the program, resulting in 200 employees submitting applications, of which 158 applicants were accepted for the program. She said the estimated cost of the 158 agreements was \$3 million. She said of 158 positions that will be vacated, 19 positions will not be filled, while 37 positions will be filled at lower pay rates. She said the Department of Human Services has not yet made determinations regarding how many of the 102 department positions that will be vacated will be refilled and how many will be refilled at lower pay rates. She said of the 102 Department of Human Services positions that will be vacated, 72 percent of the positions are in the Field Services Division and provide direct care, while the remaining 28 percent are program specific positions.

AGENCY REQUEST APPROVED BY THE EMERGENCY COMMISSION

Vice Chairman Erbele directed the Budget Section to consider agency requests ([Appendix I](#)), which have been authorized by the Emergency Commission and forwarded to the Budget Section pursuant to Chapter 54-16. Ms. Sheila Peterson, Director, Fiscal Management Division, Office of Management and Budget, provided information regarding the following request that was authorized by the Emergency Commission and requires consideration by the Budget Section:

- **Adjutant General (Request #1897)** - Request to authorize the expenditure of up to \$8,523,161 from the state disaster relief fund as appropriated by the 2017 Legislative Assembly for paying the state share of expenses relating to previous state disasters in accordance with Section 37-17.1-27 during the 2017-19 biennium.

Representative Delzer expressed concern that the Budget Section approve this request prior to the Department of Emergency Services receiving bills for disaster costs. He suggested that because the \$8.5 million request is an estimate of the cost that will be incurred during the 2017-19 biennium, the Budget Section delay approving this request until the actual costs are known.

In response to a question from Senator Mathern, Ms. Peterson said if the Budget Section delays the approval of this request until the next Budget Section meeting, many jurisdictions would not have available funds to pay the contractors who completed the work. She said this may cause hardships for smaller political subdivisions, such as townships or the contractors may not be compensated for their work timely.

Senator Wardner expressed support for this request. He said the funding was approved by the Legislative Assembly during the 2017 session and the Budget Section can request information from the Adjutant General on actual costs incurred.

In response to a question from Representative Nathe, Ms. Peterson said if the Budget Section approves the \$8.5 million request, the Department of Emergency Services could provide status reports on the amounts paid. Representative Kempenich suggested the department provide reports on actual costs at future Budget Section meetings.

In response to a question from Representative Brandenburg, Mr. Greg Wilz, Deputy Director, Department of Emergency Services, said the Federal Emergency Management Agency has provided financial support for these disaster costs. He said the total estimated cost of these disasters is \$10.5 million, of which \$8.5 million is estimated to be needed during the 2017-19 biennium.

In response to a question from Senator Mathern, Mr. Wilz said the Department of Emergency Services currently does not have any outstanding bills related to these disasters.

It was moved by Senator Wardner, seconded by Senator Holmberg, and failed on a roll call vote that the Budget Section approve the following request, which was approved by the Emergency Commission:

- **Adjutant General (Request #1897) - Request to authorize the expenditure of up to \$8,523,161 from the state disaster relief fund as appropriated by the 2017 Legislative Assembly for paying the state share of expenses relating to previous state disasters in accordance with Section 37-17.1-27 during the 2017-19 biennium.**

Representatives Boe, Boehning, Brabandt, Brandenburg, Carlson, Delzer, Holman, Kempenich, Kreidt, Martinson, Meier, Nathe, Sanford, Schatz, Schmidt, and Streyle voted "nay." Senators Erbele, Heckaman, Hogue, Holmberg, Kilzer, Klein, Krebsbach, Lee, Mathern, Oehlke, Robinson, Sorvaag, Wanzek, and Wardner voted "aye."

STATE AGENCY UNCLAIMED PROPERTY

Ms. Susan Dollinger, Unclaimed Property Administrator, Board of University and Schools Lands, presented a report ([Appendix J](#)) on state agencies that have not submitted a claim for unclaimed property belonging to those agencies. She said four agencies claimed nine properties totaling \$2,701.12. She said 10 agencies had 19 unclaimed properties totaling \$12,335.26.

It was moved by Senator Mathern, seconded by Representative Carlson, and carried on a roll call vote that pursuant to Section 47-30.1-24.1 the Budget Section approve the list provided by the Board of University and School Lands of the following state agencies relinquishing their rights to recover unclaimed property:

- **Job Service North Dakota**
- **Securities Department**
- **Department of Transportation**
- **Office of the Insurance Commissioner**
- **North Dakota State University**
- **Department of Human Services**
- **Office of Management and Budget**
- **Minot State University**
- **Industrial Commission**
- **Workforce Safety and Insurance**

Representatives Boe, Boehning, Brabandt, Brandenburg, Carlson, Delzer, Holman, Kempenich, Kreidt, Martinson, Meier, Nathe, Sanford, Schatz, Schmidt, and Streyle and Senators Erbele, Heckaman, Hogue, Holmberg, Kilzer, Klein, Krebsbach, Lee, Mathern, Oehlke, Robinson, Sorvaag, Wanzek, and Wardner voted "aye." No negative votes were cast.

LEGACY AND BUDGET STABILIZATION FUND ADVISORY BOARD REPORT

Representative Kempenich, Chairman, Legacy and Budget Stabilization Fund Advisory Board, presented a memorandum entitled [Legacy and Budget Stabilization Fund Advisory Board - Status Report to the Budget Section June 21, 2017](#) regarding the investment of funds in the legacy fund and budget stabilization fund pursuant to Section 21-10-11. He said the balance of the budget stabilization fund as of May 31, 2017, was \$6.1 million. He said due to the transfer of the funds from the budget stabilization fund to the general fund, the budget stabilization fund no longer had adequate funds to maintain its investment in the Bank of North Dakota Match Loan CD Program. As a result, he said, the advisory board recommended amending the budget stabilization fund investment policy statement to remove reference to the investment in the Bank's Match Loan CD Program. He said the Retirement and Investment Office began transferring the Bank's Match Loan CD Program to the legacy fund in October 2016 and completed the transition by January 31, 2017. He said the asset allocation of the budget stabilization fund is 100 percent short-term fixed income and cash.

Representative Kempenich said the market value of the legacy fund as of April 30, 2017, was \$4.53 billion. He said the legacy fund's 1-year net return as of March 31, 2017, was 10.1 percent compared to a target return of 8.7 percent. He said for the 5-year period ended March 31, 2017, the return was 4.2 percent compared to a target return of 3.3 percent. He said net earnings in the fund totaled \$661 million from inception through April 2017, including \$401 million of realized earnings based on the definition of earnings in Section 21-10-12 and unrealized earnings of \$260 million.

Representative Kempenich said based on actual oil and gas gross production tax and oil extraction tax revenue allocations through March 2017 and forecasted amounts based on the 2017 legislative revenue forecast, the balance in the legacy fund is estimated to be \$4.26 billion as of June 30, 2017, and \$5.13 billion as of June 30, 2019. He said the 2017 Legislative Assembly, in Section 11 of House Bill No. 1015, estimates \$200 million of earnings will be transferred from the legacy fund to the general fund at the end of the 2017-19 biennium. He said the following asset allocation mix, implemented in January 2015, is still current for the legacy fund:

- Broad United States equity - 30 percent;
- Broad international equity - 20 percent;
- Fixed income - 35 percent;
- Core real estate - 5 percent; and
- Diversified real assets - 10 percent.

STATUS OF THE UNEMPLOYMENT INSURANCE TRUST FUND AND THE MODIFIED AVERAGE HIGH-COST MULTIPLIER

Ms. Cheri Giesen, Executive Director, Job Service North Dakota, presented information ([Appendix K](#)) on the status of the unemployment insurance trust fund and the targeted modified average high-cost multiplier pursuant to Section 52-02-17. She said the multiplier is an actuarial calculation used to project the length of time that the existing fund balance could support benefit payments at historically high payout rates and with no future revenue. She said the trust fund is financed entirely by quarterly employer unemployment insurance taxes and these funds are used to pay unemployment insurance benefits.

Ms. Giesen said as of December 31, 2016, the balance of the unemployment trust fund was \$68.4 million, \$104.4 million below the target balance of \$172.8 million. She said the modified average high-cost multiplier was 0.39, 0.61 below the projected target of 1.0. She said unemployment insurance claims increased in 2016, resulting in benefit payments of almost \$200 million in 2016, which is approximately \$100 million more than 2014. She said in 2016, Job Service North Dakota raised the minimum tax rate to support the unemployment insurance trust fund, the first increase since 2003. She said the current minimum tax rate is the same as it was from 2003 to 2005. She said the agency currently projects the December 31, 2017, balance of the fund to be \$84.2 million, \$90.3 million below the target balance of \$174.5 million. She said at this time, Job Service North Dakota does not anticipate unemployment rates to increase during 2018.

In response to a question by Representative Delzer, Ms. Giesen said the average duration for claims is 11 weeks and the maximum duration for claims is 26 weeks. She said the agency does not separately identify claims related to oil industry jobs. She said during the decrease in oil activity, the average duration for claims rose to approximately 12 weeks, but has since declined to the 11-week average.

No further business appearing, Vice Chairman Erbele adjourned the meeting at 2:25 p.m.

Levi Kinnischtzke
Fiscal Analyst

Allen H. Knudson
Legislative Budget Analyst and Auditor

ATTACH:11