

## NORTH DAKOTA LEGISLATIVE MANAGEMENT

Minutes of the

**BUDGET SECTION**

Wednesday, December 5, 2018  
Senate Chamber, State Capitol  
Bismarck, North Dakota

Senator Robert Erbele, Vice Chairman, called the meeting to order at 11:30 a.m.

**Members present:** Representatives Bert Anderson, Thomas Beadle, Tracy Boe, Josh Boschee, Mike Brandenburg, Jeff Delzer, Karla Rose Hanson, Richard G. Holman, Michael Howe, Keith Kempenich, Lawrence R. Klemin, Gary Kreidt, Scott Louser, Bob Martinson, Lisa Meier, Corey Mock, David Monson, Mike Nathe, Jon O. Nelson, Chet Pollert, Mark Sanford, Mike Schatz, Jim Schmidt, Randy A. Schobinger, Don Vigesaa; Senators Brad Bekkedahl, Dick Dever, Robert Erbele, Joan Heckaman, David Hogue, Ray Holmberg, Jerry Klein, Karen K. Krebsbach, Gary A. Lee, Tim Mathern, Dave Oehlke, Nicole Poolman, Larry J. Robinson, Ronald Sorvaag, Terry M. Wanzek, Rich Wardner

**Members absent:** Representative Larry Bellew and Senator John Grabinger

**Others present:** See [Appendix A](#)

**It was moved by Senator Holmberg, seconded by Representative Mock, and carried on a voice vote that the minutes of the September 13, 2018, meeting be approved as distributed.**

**EMERGENCY COMMISSION REQUESTS**

Vice Chairman Erbele directed the Budget Section to consider agency requests ([Appendix B](#)) authorized by the Emergency Commission and forwarded to the Budget Section pursuant to North Dakota Century Code Chapter 54-16.

Mr. Joe Morrissette, Director, Office of Management and Budget, provided information regarding the following requests authorized by the Emergency Commission and which require consideration by the Budget Section:

- **State Department of Health (Request #1924)** - Request to increase special funds spending authority by \$233,645 in the salaries and wages line item (\$189,635) and the operating expenses line item (\$44,010) to accept and expend funds from the state of North Carolina under the Emergency Management Assistance Compact
- **Department of Career and Technical Education (Request #1925)** - Request for approval to accept and spend \$478,156 of federal funds from the United States Department of Education, Carl D. Perkins Career and Technical Education Act in the grants line item to be distributed as follows:
  - Secondary career and technical education (CTE) (\$247,931);
  - Postsecondary CTE (\$133,502);
  - Leadership funding for training to incarcerated individuals, special populations, educator professional development, and clinical practice (\$71,723); and
  - Reserve funding for other CTE programs (\$25,000)
- **Department of Financial Institutions (Request #1926)** - Request to transfer \$451,305 from the salaries and wages line item to the operating expenses line item to update and transform the agency's information technology systems and website
- **Secretary of State (Request #1929)** - Request to increase spending authority in the election reform line item by \$203,000 from funds available in the secretary of state's election fund to pay for additional voter identification education for the 2018 general election and for voting system maintenance costs for the remainder of the biennium

- **Adjutant General (Request #1930)** - Request for spending authority of \$141,809 from the state disaster relief fund to pay the state share of disaster-related costs incurred from August 22, 2018, through October 31, 2018, in accordance with the provisions of Section 37-17.1-27
- **Adjutant General (Request #1931)** - Request to transfer \$450,000 appropriated from the general fund from the reintegration line item to the tuition, recruiting, and retention line item and to spend \$110,000 from the state contingencies appropriation for tuition, recruiting, and retention

It was moved by Senator Robinson, seconded by Senator Holmberg, and carried on a roll call vote that the Budget Section approve Requests #1924, #1925, #1926, #1929, #1930, and #1931, which were approved by the Emergency Commission. Representatives Anderson, Beadle, Boe, Boschee, Brandenburg, Delzer, Hanson, Holman, Howe, Kempenich, Klemin, Kreidt, Louser, Martinson, Meier, Mock, Monson, Nathe, Nelson, Sanford, Schatz, Schmidt, Schobinger, and Vigesaa and Senators Bekkedahl, Dever, Erbele, Heckaman, Hogue, Holmberg, Klein, Krebsbach, Lee, Mathern, Oehlke, Poolman, Robinson, Sorvaag, and Wanzek voted "aye." No negative votes were cast.

**IRREGULARITIES IN THE FISCAL PRACTICES OF THE STATE**

Mr. Morrissette presented information ([Appendix C](#)) on irregularities in the fiscal practices of the state. He presented the following fiscal irregularities for the period September 2018 through November 2018:

Fiscal Irregularity	Agency	Description	Amount
Retroactive pay	Game and Fish Department	Assuming duties by 1 individual	\$1,130
Retroactive pay	Parks and Recreation Department	Assuming duties by 1 individual	\$704
Retroactive pay	Department of Commerce	Assuming duties by 1 individual	\$5,000
Severance pay	State Historical Society	Voluntary Separation Incentive Program for 3 individuals	\$74,163
Severance pay	Department of Human Services	Voluntary Separation Incentive Program for 5 individuals	\$80,757
Severance pay	Department of Transportation	Voluntary Separation Incentive Program for 3 individuals	\$61,232
Severance pay	State Department of Health	Voluntary Separation Incentive Program for 1 individual	\$24,314

**STATE AGENCY APPLICATIONS FOR FEDERAL GRANTS**

Mr. Morrissette presented information ([Appendix D](#)) on state agencies that applied for federal grants estimated to be \$25,000 or more pursuant to Section 54-27-27. He said for the period September 2018 through November 2018, the following agency applied for a federal grant estimated to be \$25,000 or more:

Agency	Time Period of Grant	Amount Requested
Department of Transportation	2019 through 2026	\$8,939,087

Mr. Morrissette said for the period July 2018 through August 2018, the following agencies were awarded federal grants of \$25,000 or more:

Agency	Time Period of Grant	Amount Requested
Department of Agriculture	October 2018 through September 2020	\$237,000
Department of Public Instruction	September 2018 through September 2020	\$99,977

**SPECIFIC EXEMPT COMMODITIES AND SERVICES**

Mr. Morrissette presented information on specified commodities and services exempted from the procurement requirements of Section 54-44.4-02.2. He said only two exemptions have been allowed by the Office of Management and Budget, which were authorized in 2012 and 2013. He said no exemptions have been allowed since 2013.

**STATUS OF THE 2017-19 BIENNIUM GENERAL FUND**

Mr. Morrissette presented a report ([Appendix E](#)) on the status of the general fund for the 2017-19 biennium, including the following schedule on the status of the general fund through October 2018.

Unobligated general fund balance - July 1, 2017		\$65,000,000
Balance obligated for authorized carryover from the 2015-17 biennium		99,271,093
Total beginning general fund balance - July 1, 2017		\$164,271,093
Add		
General fund collections through October 2018	\$3,236,851,785	
Forecast general fund revenue for the remainder of the 2017-19 biennium	1,385,020,087	
Total revenues		4,621,871,872
Total available		\$4,786,142,965

Less		
Legislative appropriations - One-time	(\$14,638,226)	
Legislative appropriations - Ongoing	(4,295,624,415)	
Authorized carryover from the 2015-17 biennium	(99,271,093)	
<b>Total appropriations</b>		<b>(4,409,533,734)</b>
Less anticipated deficiency requests:		
Adjutant General	(\$15,698,089)	
Tax Commissioner	(1,320,000)	
Office of Management and Budget	(408,000)	
Industrial Commission	(500,000)	
State Historical Society	(280,000)	
<b>Total anticipated deficiency requests</b>		<b>(18,206,089)</b>
Add anticipated turnback:		
Governor's office	\$265,928	
State Auditor's office	150,000	
State Treasurer's office	40,000	
Dickinson State University	9,500,000	
Department of Public Instruction	5,952,149	
State Department of Health and Department of Environmental Quality	800,000	
Job Service North Dakota	100,000	
Department of Labor and Human Rights	150,000	
Public Service Commission	150,000	
Department of Corrections and Rehabilitation	1,500,000	
Adjutant General	50,000	
Department of Agriculture	100,000	
<b>Total anticipated turnback</b>		<b>18,758,077</b>
Estimated ending general fund balance - June 30, 2019 - Before transfer to the budget stabilization fund		\$377,161,219
Transfer to the budget stabilization fund		(312,161,219)
Estimated ending general fund balance - June 30, 2019		\$65,000,000 <sup>1</sup>

<sup>1</sup>Pursuant to Chapter 54-27.2, any end-of-biennium balance in excess of \$65 million is transferred to the budget stabilization fund, up to a maximum of 15 percent of general fund appropriations.

Mr. Morrisette said as of October 31, 2018, the balance in the budget stabilization fund was \$113.5 million, the balance in the legacy fund was \$5.7 billion, the balance in the foundation aid stabilization fund was \$498.6 million, the balance in the tax relief fund was \$200 million, and the balance in the strategic investment and improvements fund was \$383.9 million.

Mr. Morrisette presented information ([Appendix F](#)) on actual and forecasted 2017-19 biennium general fund revenue compared to the 2017 legislative forecast. He said revenue collected for the biennium to date through October 2018 was \$177.6 million, or 5.8 percent, more than forecasted. He said the increase primarily is due to additional revenue collected from sales tax (\$40.4 million), individual income tax (\$47.7 million), and corporate income tax (\$75.9 million).

In response to a question from Representative Delzer, Mr. Morrisette said the revised 2017-19 biennium forecast includes an estimated \$300 million of legacy fund earnings, an increase of \$100 million compared to \$200 million included in the 2017 legislative forecast. He said the additional \$100 million will be transferred to the general fund and subsequently transferred to the budget stabilization fund at the end of the 2017-19 biennium.

### EXECUTIVE BUDGET General Fund Revenue Forecast

Mr. Morrisette presented information ([Appendix G](#)) on the executive revenue forecast for the 2017-19 and 2019-21 bienniums:

	2017-19 Biennium Revised Forecast	2019-21 Biennium Executive Forecast	Change From 2017-19 Revised Forecast
Sales and use tax	\$1,766,360,206	\$1,928,091,000	\$161,730,794
Motor vehicle excise tax	235,472,237	245,808,000	10,335,763
Individual income tax	772,867,125	819,259,000	46,391,875
Corporate income tax	155,789,170	92,697,000	(63,092,170)
Insurance premium tax	109,325,897	108,400,000	(925,897)
Oil and gas gross production tax	212,147,128	531,970,994	319,823,866
Oil extraction tax	187,852,872	468,029,006	280,176,134
Gaming	6,528,322	6,850,000	321,678

	2017-19 Biennium Revised Forecast	2019-21 Biennium Executive Forecast	Change From 2017-19 Revised Forecast
Cigarette and tobacco tax	52,054,549	48,281,000	(3,773,549)
Wholesale liquor tax	17,877,575	18,757,000	879,425
Coal conversion tax	41,937,227	38,032,000	(3,905,227)
Mineral leasing fees	31,930,066	32,000,000	69,934
Departmental collections	83,429,676	90,882,286	7,452,610
Interest	8,277,250	38,000,000	29,722,750
Total revenues before transfers	\$3,681,849,300	\$4,467,057,286	\$785,207,986
Transfers - Ongoing			
Bank of North Dakota	\$140,000,000	\$140,000,000	\$0
Legacy fund	300,000,000	300,000,000	0
Lottery	14,600,000	13,000,000	(1,600,000)
State Mill and Elevator profits	19,872,762	13,400,000	(6,472,762)
Gas tax administration	2,016,120	1,991,024	(25,096)
Total ongoing transfers	\$476,488,882	\$468,391,024	(\$8,097,858)
Transfers - One-time			
Tax relief fund	\$183,000,000	\$0	(\$183,000,000)
Strategic investment and improvements fund	248,000,000	0	(248,000,000)
Miscellaneous transfers	32,533,690	0	(32,533,690)
Total one-time transfers	\$463,533,690	\$0	(\$463,533,690)
Total revenues and transfers	\$4,621,871,872	\$4,935,448,310	\$313,576,438

### Oil Revenue Forecast

Mr. Morrisette presented information ([Appendix H](#)) providing the estimated oil tax revenue and revenue allocations for the revised 2017-19 biennium forecast and the 2019-21 biennium forecast as shown on the schedule below.

	2017-19 Biennium Revised Forecast	2019-21 Biennium Executive Forecast	Change From 2017-19 Revised Forecast
Counties and cities	\$666,544,287	\$653,679,958	(\$12,864,329)
Tribal allocations	437,886,514	444,222,069	6,335,555
Legacy fund	1,226,615,997	1,254,927,345	28,311,348
Foundation aid stabilization fund	175,762,291	185,016,202	9,253,911
Common schools trust fund	175,762,291	185,016,202	9,253,911
Resources trust fund	348,324,583	365,832,404	17,507,821
Renewable energy development fund	3,000,000	3,000,000	0
Energy conservation fund	200,000	1,200,000	1,000,000
Oil and gas research fund	10,000,000	10,000,000	0
Oil and gas impact grant fund	28,353,446	5,000,000	(23,353,446)
North Dakota outdoor heritage fund	10,799,177	30,219,313	19,420,136
Abandoned well plugging and site reclamation fund	8,399,588	14,806,073	6,406,485
General fund	400,000,000	1,000,000,000	600,000,000
Tax relief fund	200,000,000	200,000,000	(75,000,000)
Budget stabilization fund	75,000,000	0	0
Energy impact fund	4,000,000	0	(4,000,000)
Lignite research fund	3,000,000	3,000,000	0
Strategic investment and improvements fund	752,958,329	271,393,654	(481,564,675)
Total oil and gas taxes	\$4,526,606,503	\$4,627,313,220	\$100,706,717

### Ongoing Revenues and Appropriations

Mr. Morrisette presented information ([Appendix I](#)) on ongoing revenues and ongoing expenditures. He said 2019-21 biennium estimated ongoing general fund revenues of \$4,635.5 million exceed recommended ongoing general fund appropriations of \$4,625.7 million by \$9.8 million. He said recommended one-time general fund appropriations total \$311.1 million.

### Proposed Statutory Changes

Mr. Morrisette presented information ([Appendix J](#)) on proposed changes to implement recommendations in the executive budget, including any recommended tax or fee changes, revenue distribution changes, or changes to duties and responsibilities of state agencies. He said the recommendation includes expenditures of \$819.9 million from the strategic investment and improvements fund, including a transfer to the budget stabilization fund (\$315 million), a transfer to the public employees retirement fund (\$265 million), and one-time appropriations of \$239.9 million. He said the recommendation includes expenditures of \$300 million from legacy fund earnings. He said statutory changes affecting various state agencies are being proposed to implement recommendations in the executive budget.

In response to a question from Senator Mathern, Ms. Stephanie Gullickson, Budget Analyst, Office of Management and Budget, said the proposed statutory changes include an amendment relating to the State Department of Health vital record fees. She said the estimated revenue to be collected for vital record fee increases is \$2.1 million during the 2019-21 biennium.

### FORM OF BUDGET

Senator Holmberg suggested the Budget Section consider a motion relating to the form of 2019-21 biennium appropriation bills for presentation to the Legislative Assembly. He said the motion includes presenting the executive budget recommendation as a separate column on the introduced version of each agency's base level appropriation bill.

**It was moved by Senator Holmberg, seconded by Representative Delzer, and carried on a roll call vote that for informational purposes the "Adjustments or Enhancements" column in section 1 of the 2019-21 biennium base level appropriations bills as introduced be replaced with the governor's recommendation amounts for the respective agency and that the Legislative Council staff be directed to restore the "Adjustments and Enhancements" column when preparing amendments to the base level appropriations bills.** Representatives Anderson, Beadle, Boe, Boschee, Brandenburg, Delzer, Hanson, Holman, Howe, Kempenich, Klemin, Kreidt, Louser, Meier, Mock, Monson, Nathe, Nelson, Pollert, Sanford, Schatz, Schmidt, Schobinger, and Vigesaa and Senators Bekkedahl, Dever, Erbele, Heckaman, Hogue, Holmberg, Krebsbach, Lee, Mathern, Oehlke, Poolman, Robinson, Sorvaag, and Wardner voted "aye." No negative votes were cast.

### ECONOMIC OUTLOOK FOR NORTH DAKOTA

Mr. Dan White, Senior Economist, Moody's Analytics, Inc., presented information ([Appendix K](#)) regarding the economic outlook of the state, including anticipated oil prices and agricultural commodity prices; projections for the value of the dollar, and its effect on the state's economy; and the economic assumptions included in the executive budget revenue forecast for the 2019-21 biennium. He said the past is not a good predictor for revenue forecasting for North Dakota. He said North Dakota's economy has stabilized since oil prices began to decrease in 2014. He said job growth has increased in the state and one-third of jobs added in 2018 have been related to the energy industry. He said with national wages growing quickly, it has become difficult for North Dakota to attract new workers.

Mr. White said North Dakota's unemployment rate of 2.6 percent is the lowest unemployment rate in the last 20 years. He said North Dakota's unemployment rate is more constant than the national unemployment rate. He said the North Dakota unemployment rate rarely exceeds 3.5 to 4 percent while the national unemployment rate often is higher.

Mr. White said North Dakota sales and use collections recently have increased due to increased activity in the oil industry. He said personal income is expected to increase due to increased activity in the energy industry and due to changes in the federal tax code. He said while North Dakota's corporate income has declined in recent years due to a decrease in oil activity, corporate income is projected to increase 13 percent in tax year 2019 and continue expanding during the 2019-21 biennium.

Mr. White said the price of West Texas Intermediate crude oil is expected to average approximately \$60 per barrel by the end of 2020. He said the anticipated increase in global supply primarily is due to oil activity in Saudi Arabia and shale areas of the United States.

Mr. White said the United States economy is in the second longest expansion in United States history. He said if the expansion continues until June 30, 2019, the expansion would be the longest expansion in United States history. He said while there are limits to an economist's ability to forecast the timing of an economic cycle, it is possible the economy will enter a recession in late 2020. He said the next recession is not anticipated to be as significant as the Great Recession. He said the next recession may be focused on financial markets.

In response to a question from Representative Klemin, Mr. White said the Federal Reserve anticipates fewer rate increases in 2019 and 2020 than previously estimated. He said while interest rates are expected to increase, the estimated Federal Reserve interest rate in federal fiscal year 2020 is 3 percent compared to a previous estimate of 3.5 percent.

In response to a question from Representative Nelson, Mr. White said the revenue forecast for the 2019-21 biennium assumes a solution will be reached in 2019 between the United States and China regarding agriculture trade. He said the forecast assumes the strength of the United States dollar will increase gradually in 2019 and 2020 as the Federal Reserve increases interest rates.

## EXECUTIVE BUDGET RECOMMENDATIONS

Mr. Morrisette presented information regarding the 2019-21 executive budget. He said all executive agencies were required to submit 2019-21 biennium budgets to the Office of Management and Budget reflecting a reduction to 2017-19 biennium general fund and special fund budgets of 5 percent or 10 percent, including a 5 percent reduction in full-time equivalent (FTE) positions and an additional contingent budget reduction of 3 percent.

Mr. Morrisette said the 2019-21 executive budget includes an additional \$179.8 million for state employee compensation, including \$112 million for state employee salary increases of 4 percent during fiscal year 2020 and 2 percent during fiscal year 2021. He said for agencies able to identify long-term salary savings, an additional 2 percent salary increase is authorized effective July 1, 2020. He said the recommendation continues funding for the cost of health insurance premiums and provides state employees three options for state employee health insurance. He said while no changes to deductibles or coinsurance are being proposed to the existing health insurance plan, state employees would be responsible for paying \$28 per month of the 2019-21 biennium monthly health insurance premium of \$1,427. He said the existing high-deductible health insurance plan will continue to be offered. He said state employees enrolled in the high-deductible plan will receive \$500 in January 2020 and January 2021 to incentivize participation in the plan. He said there are 340 employees participating in the high-deductible plan.

Mr. Morrisette said the executive budget recommendation includes increasing contributions to the retirement plan by 2 percent, 1 percent paid by the employee and 1 percent paid by the state, along with a one-time transfer of \$265 million from the strategic investment and improvements fund to the public employees retirement fund.

In response to a question from Representative Delzer, Mr. Morrisette said state employee compensation included in the executive budget does not include the use of public employee retirement system reserve funds.

Mr. Larry Martin, Budget Analyst, Office of Management and Budget, presented information on the executive budget recommendation for the Information Technology Department (ITD), which includes a transfer of 145.5 FTE positions as part of the information technology unification initiative. He said the recommendation includes transferring the Center of Distance Education and the Education Technology Council to the Department of Career and Technical Education. He said the recommendation includes adding 17 FTE cybersecurity positions.

Mr. Martin said the executive budget recommendation for the North Dakota State University (NDSU) Extension Service provides \$345,000 from the general fund to develop a web strategy NDSU Extension PG 212 - web strategy.

Mr. Martin said the executive budget recommendation for the NDSU Main Research Center includes one-time funding of \$1.4 million from the strategic investment and improvements fund for extraordinary repairs.

Ms. Becky Deichert, Budget Analyst, Office of Management and Budget, presented information on the executive budget recommendation for the Department of Public Instruction (DPI). She said the executive budget recommendation for DPI includes \$2.5 billion of total funding and includes funding increases of 2 percent in fiscal year 2020 and 2 percent in fiscal year 2021 for per student funding. She said the total cost per student in fiscal year 2021 is \$10,038. She said student enrollment is estimated to increase by 5,500 students by the end of the 2019-21 biennium.

In response to a question from Representative Nathe, Ms. Deichert said the executive budget recommendation for DPI includes \$23.7 million of one-time funding for the cost to convert K-12 formula payments to on-time funding.

Ms. Deichert presented information on the executive budget recommendation for the Department of Career and Technical Education. She said the transfer of the Center of Distance Education and Education Technology Council to the Department of Career and Technical Education includes the transfer of 29.80 FTE positions. She said the recommendation includes \$30 million from legacy fund earnings to be used as a competitive grant for the establishment of career academies as part of the workforce development initiative.

Ms. Renae Bloms, Budget Analyst, Office of Management and Budget, presented information on the executive budget recommendation for the Game and Fish Department, which includes an increase in federal fund authority of \$500,000 for shooting range grants.

Ms. Bloms presented information on the executive budget recommendation for the Department of Commerce. She said the total department budget is \$200.5 million, of which \$100 million is one-time funding from legacy fund earnings. Of the \$100 million of one-time funding, she said, \$50 million is for the Theodore Roosevelt Presidential Library project, \$30 million is for the beyond visual line of sight unmanned aircraft systems program, and \$20 million is for the Research North Dakota program.

Ms. Bloms presented information on the executive budget recommendation for the North Dakota University System. She said the general fund budget for the University System office is \$141.7 million, of which \$40 million is provided from legacy fund earnings transferred to the general fund for the challenge grant program. She said the recommendation includes funding of \$51.3 million to the Dunbar Hall project at NDSU, of which \$25.6 million is from the strategic investment and improvements fund and the remaining amount is to be provided from other funds as a 1 to 1 match.

Ms. Gullickson presented information on the executive budget recommendation for the State Department of Health and the Department of Environmental Quality. She said the recommendation for the State Department of Health includes \$1.2 million from the strategic investment and improvements fund for microbiology laboratory capital improvements. She said the executive recommendation for the Department of Environmental Quality includes special fund authority of \$4.7 million for Volkswagen settlement funds.

Ms. Gullickson presented information on the executive budget for the Department of Human Services, which includes \$19.1 million for behavioral health programs and one-time funding of \$35 million from legacy fund earnings for the construction of a Behavioral Health State Hospital and Clinic Legacy project. She said the recommendation includes a transfer of \$182.3 million from the tax relief fund to the social services finance fund to sustain social services funding and to support an implementation plan.

Ms. Becky Keller, Budget Analyst, Office of Management and Budget, presented information on the executive budget recommendation for the Department of Corrections and Rehabilitation (DOCR), which includes adding \$4.9 million from the general fund and 44.80 FTE positions for the relocation of female inmates to the Missouri River Correctional Center and minimum security male inmates to the remodeled space on the State Hospital campus in Jamestown. She said the recommendation includes \$5 million from the general fund and 27.50 FTE positions for the transfer of operations of the Tompkins Rehabilitation and Corrections Center from the Department of Human Services to DOCR. She said the recommendation includes a total increase of 93.30 FTE positions, totaling 938.59 FTE positions authorized for DOCR during the 2019-21 biennium.

In response to a question from Representative Schatz, Ms. Keller said the contract with the Dakota Women's Correctional and Rehabilitation Center will not be renewed. She said moving female inmates from the Dakota Women's Correctional and Rehabilitation Center to the Missouri River Correctional Center will provide for additional treatment and job transition opportunities for the inmates.

Ms. Keller presented information on the executive budget recommendation for the State Water Commission, which includes \$836.2 million of total funding, of which \$460 million is for new projects and operations and \$300 million is for uncompleted projects from previous bienniums.

Ms. Keller presented information on the executive budget recommendation for the Department of Transportation, which includes \$1.4 billion of total funding. She said the recommendation includes \$771 million in federal and matching funds for roadway and bridge construction. She said the recommendation includes removing 26 FTE positions and transferring 41 FTE positions to ITD for the information technology unification initiative.

Ms. Keller presented information on the executive budget recommendation for capital projects. She said funding for capital projects total \$405.4 million during the 2019-21 biennium, of which \$100 million is from the general fund, \$299.7 million is from special funds, and \$5.7 million is from federal funds.

### **INDUSTRIAL COMMISSION - CONTINGENCY FUNDING**

Mr. Lynn Helms, Director, Department of Mineral Resources, Industrial Commission, presented information ([Appendix L](#)) regarding a request to spend contingency funding and to hire additional FTE positions pursuant to Section 7 of Senate Bill No. 2014 (2017). He said Section 7 of the bill allows, subject to Budget Section approval, the Industrial Commission to spend \$221,737 from the general fund and to hire 2 FTE positions if the total number of wells capable of production and injection exceeds 18,200. He said the number of wells capable of production and injection exceeded 18,200 on November 5, 2018. As of December 5, 2018, he said, there were 18,252 active, abandoned, and inactive wells and 64 active drilling rigs in the state. He said the request includes transferring \$146,009 of the \$221,737 in the Industrial Commission's contingencies line item to the salaries and wages line item and transferring the remaining \$75,728 to the operating expenses line item.

**It was moved by Senator Mathern, seconded by Representative Brandenburg, and carried on a roll call vote that pursuant to Section 7 of Senate Bill No. 2014 (2017), the Budget Section approve the Industrial Commission's request to spend \$221,737 from the general fund and hire 2 FTE positions.** Representatives Anderson, Beadle, Boe, Boschee, Brandenburg, Holman, Howe, Kempenich, Klemin, Kreidt, Louser, Martinson, Meier, Mock, Monson, Nelson, Sanford, Schatz, Schobinger, and Vigesaa and Senators Bekkedahl, Erbele,

Heckaman, Hogue, Holmberg, Klein, Krebsbach, Lee, Mathern, Oehlke, Poolman, Robinson, Sorvaag, Wanzek, and Wardner voted "aye." No negative votes were cast.

### **ATTORNEY GENERAL - LITIGATION-RELATED EXPENDITURES**

Mr. Troy Seibel, Chief Deputy Attorney General, Attorney General's office, presented information ([Appendix M](#)) regarding a report on all expenditures for litigation-related expenses from the Industrial Commission litigation fund pursuant to Section 5 of House Bill No. 1003 (2017). As of November 30, 2018, he said, the Attorney General's office has spent \$1,614,434 on eight lawsuits from the litigation fund for litigation-related expenditures, of which \$676,613 was spent during the 2015-17 biennium and \$937,821 was spent during the 2017-19 biennium.

### **DEPARTMENT OF COMMERCE - CENTERS OF EXCELLENCE AND CENTERS OF RESEARCH EXCELLENCE**

Mr. Shawn Kessel, Interim Commissioner, Department of Commerce, presented information ([Appendix N](#)) regarding the annual audit of the centers of excellence recipient's awarded funds pursuant to Chapter 15-69 and the centers of research excellence recipient's awarded funds pursuant to Chapter 54-65. He said the final summary report contains 28 agreed upon procedures reports and 6 financial audits. He said there were no negative findings in the 6 financial audits and in 26 of the 28 agreed upon procedures. He said the findings discovered in 2 agreed upon procedures were due to clerical errors. He said as of June 30, 2017, \$74 million in state centers of excellence funds have been spent, which has leveraged over \$240 million in nonstate funds, resulting in a total economic impact of over \$833.1 million.

Mr. Kessel said the Centers of Excellence Commission is required to monitor each center of excellence award for a period of 6 to 10 years. He said in fiscal year 2017, 36 centers had been in existence for at least 3 full fiscal years. Of these 36, 10 centers have been released from postaward monitoring, pursuant to Section 15-69-04. He said of the remaining 26 centers, audit findings were identified for 2 centers, the University of North Dakota (UND) Petroleum Research, Education and Entrepreneurship Center of Excellence and the UND Center for Gas Utilization, for the period ending June 30, 2017.

### **LEGACY AND BUDGET STABILIZATION FUND ADVISORY BOARD REPORT**

Representative Kempenich, Chairman, Legacy and Budget Stabilization Fund Advisory Board, presented a status report ([Appendix O](#)) regarding the investment of funds in the legacy fund and budget stabilization fund pursuant to Section 21-10-11. He said the market value of the budget stabilization fund as of September 30, 2018, was \$114 million.

Representative Kempenich said the balance of the legacy fund was \$4.63 billion as of June 30, 2017, and is estimated to be \$5.56 billion as of June 30, 2019. As of September 30, 2018, he said, the market value of the legacy fund was \$5.89 billion. Through September 30, 2018, he said net earnings in the legacy fund totaled \$1.23 billion from inception, including \$743.4 million of realized earnings based on the definition of earnings in Section 21-10-12. As of September 30, 2018, he said, earnings of the legacy fund eligible for transfer to the general fund at the end of the 2017-19 biennium is \$306.5 million.

### **DEPARTMENT OF CORRECTIONS AND REHABILITATION - YOUTH STUDY**

Ms. Lisa Bjergaard, Director, Division of Juvenile Services, Department of Corrections and Rehabilitation, presented information ([Appendix P](#)) regarding a study of the potential for increased community-based treatment services for youth offenders, Youth Correctional Center staffing requirements, and the efficiency and adequacy of the Youth Correctional Center facilities pursuant to Section 13 of Senate Bill No. 2015 (2017). She said the number of youth committed to the custody of the Division of Juvenile Services is dependent upon the number of youth in the age range, the rates at which they commit delinquent offenses, and the effectiveness of the systems, services, and programs offered prior to the transfer of custody to the state agency.

Ms. Bjergaard said federal juvenile arrests for serious crimes decreased each year from 2015 to 2017. She said the rate of commitments to the Division of Juvenile Services also decreased during this time. She said the number of adolescents is increasing, the number of serious crimes committed by youth is decreasing, and the rate youth are being committed to state custody is decreasing. She said the North Dakota Juvenile Court System uses a statewide dispositional matrix to provide guidance for juvenile court officers making recommendations to district judges and juvenile referees.

Ms. Bjergaard said the 2019 Legislative Assembly should consider improvements at the Youth Correctional Center. She said information related to the impact on child welfare and juvenile justice reform will be more readily available in 2 years.



## ANNUAL FULL-TIME EQUIVALENT POSITION REPORT North Dakota State University Extension Service

The Legislative Council staff distributed a report from the NDSU Extension Service submitted a report ([Appendix Q](#)) regarding FTE position adjustments made pursuant to Section 4-05.1-05. The report states the agency reduced 8.25 FTE positions between December 1, 2017, and November 30, 2018, resulting in a total of 243.65 FTE positions as of November 30, 2018.

### Northern Crops Institute

The Legislative Council staff distributed a report from the Northern Crops Institute ([Appendix R](#)) regarding FTE position adjustments made pursuant to Section 4-05.1-05. The report states the agency added 1 FTE position between December 1, 2017, and November 30, 2018, resulting in a total of 12.80 FTE positions as of November 30, 2018.

### Upper Great Plains Transportation Institute

The Legislative Council staff distributed a report from the Upper Great Plains Transportation Institute ([Appendix S](#)) regarding FTE position adjustments made pursuant to Section 4-05.1-05. The report states the agency reduced .05 FTE positions between December 1, 2017, and November 30, 2018, resulting in a total of 43.88 FTE positions as of November 30, 2018.

### North Dakota State University Main Research Center

The Legislative Council staff distributed a report from the NDSU Main Research Center ([Appendix T](#)) regarding FTE position adjustments made pursuant to Section 4-05.1-05. The report provided states the agency added 6 FTE positions between December 1, 2017, and November 30, 2018, resulting in a total of 338.80 FTE positions as of November 30, 2018.

### Branch Research Centers and Agronomy Seed Farm

The Legislative Council staff distributed a report from the branch research centers and the Agronomy Seed Farm ([Appendix U](#)) regarding FTE position adjustments made pursuant to Section 4-05.1-05. The report provided states the branch research centers added .60 FTE positions between December 1, 2017, and November 30, 2018, resulting in a total of 109.50 FTE positions as of November 30, 2018. The Agronomy Seed Farm reported no changes in FTE positions were made between December 1, 2017, and November 30, 2018, maintaining a total of 3 FTE positions as of November 30, 2018.

## HUB CITY ALLOCATION USE OF OIL AND GAS GROSS PRODUCTION TAX FUNDING

The Legislative Council staff distributed written reports ([Appendix V](#)) from the hub cities of Williston, Dickinson, Minot, Mandan, Bismarck, Fargo, and Jamestown regarding use of funding received during fiscal year 2018 from hub city allocations from the oil and gas gross production tax under Section 57-51-15.

## COMMITTEE DISCUSSION AND STAFF DIRECTIVES

No further business appearing, Vice Chairman Erbele adjourned the meeting at 3:10 p.m.

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Allen H. Knudson  
Legislative Budget Analyst and Auditor

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Levi Kinnischtzke  
Fiscal Analyst

ATTACH:22