Legislative Council
600 East Boulevard Avenue, Bismarck, ND 58505

BUDGET SECTION

Wednesday, December 7, 2022
Senate Chamber, State Capitol
Bismarck, North Dakota

Representative Don Vigesaa, Chairman, called the meeting to order at 11:45 a.m.

Members present: Representatives Don Vigesaa, Bert Anderson, Glenn Bosch, Josh Boschee, Mike Brandenburg, Karla Rose Hanson, Zachary Ista, Dennis Johnson, Keith Kempenich, Gary Kreidt, Mike Lefor, Bob Martinson, Lisa Meier, Alisa Mitskog, Corey Mock, David Monson, Mike Nathe, Jon O. Nelson, Emily O'Brien, Brandy Pyle, David Richter, Mark Sanford, Randy A. Schobinger, Greg Stemen, Michelle Strinden, Steve Swiontek; Senators Brad Bekkedahl, Randy A. Burckhard, Kyle Davison, Dick Dever, Michael Dwyer, Robert Erbele, Kathy Hogan, David Hogue, Jerry Klein, Karen K. Krebsbach, Curt Kreun, Tim Mathern, Scott Meyer, Merrill Piepkorn, Donald Schaible, Ronald Sorvaag, Shawn Vedaa, Terry M. Wanzek

Members absent: Representatives Larry Bellew, Mike Schatz; Senator Jim P. Roers

Others present: See Appendix A

It was moved by Representative Mock, seconded by Representative Boschee, and carried on a voice vote that the minutes of the September 28, 2022, meeting be approved as distributed.

EMERGENCY COMMISSION REQUESTS

At the request of Chairman Vigesaa, Mr. Brady A. Larson, Assistant Legislative Budget Analyst and Auditor, Legislative Council, reviewed a memorandum entitled *Emergency Commission Approval Limits*.

Chairman Vigesaa directed the Budget Section to consider agency requests (Appendix B) which have been 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:

- **Information Technology Department (Request #2083)** - The request is to increase federal funds spending authority in the operating expenses line item by $516,000 for a state digital equity planning grant program made available as a result of the federal Infrastructure Investment and Jobs Act (IIJA).
- **Information Technology Department (Request #2084)** - The request is to increase special funds spending authority in the operating expenses line item by $4.5 million from funding received from agencies requesting services from the department.
- **Information Technology Department (Request #2085)** - The request is to increase federal funds spending authority in the operating expenses line item by $5 million for a broadband equity, access, and deployment (BEAD) planning grant program made available as a result of IIJA.
- **Department of Career and Technical Education (Request #2086)** - The request is to increase federal funds spending authority in the grants line item by $640,000 from federal Carl D. Perkins grant funds.
- **Department of Public Instruction (Request #2087)** - The request is to increase special funds spending authority for the Department of Public Instruction (DPI) by $1 million in the operating expenses line item to accept and expend food processing reimbursements from school districts.

- **Department of Public Instruction (Request #2088)** - The request is to transfer $75 million of federal funds authority from the emergency education relief - schools line item to the grants - other grants line item for increases in the school nutrition and child care food programs funded by the United States Department of Agriculture and increases in other existing United States Department of Education programs.
- **Department of Public Instruction (Request #2089)** - The request is to accept $1 million of federal Governor's Emergency Education Relief funds and to use existing spending authority for reallocation to the para-to-teacher pathway program.
- **Adjutant General (Request #2090)** - The request is to increase federal funds spending authority by $3,068,505 for various grant programs.
- **Department of Public Instruction (Request #2091)** - The request is to increase federal funds spending authority for DPI by $4,833,025 in the grants - other grants line item to accept and expend a stronger connections grant, awarded as supplemental funds under Title IV of the federal Elementary and Secondary Education Act.
- **Attorney General (Request #2092)** - The request is to increase federal funds spending authority by $2 million in the operating expenses line item ($798,050) and capital assets line item ($1,201,050) for the antimethamphetamine program.
- **Department of Commerce (Request #2093)** - The request is to increase federal funds spending authority by $572,143 from funding available from the federal Small Business Credit Initiative Act, as amended by the federal American Rescue Plan Act.
- **Department of Health and Human Services (Request #2094)** - The request is to transfer $500,000 of federal funds authority from the COVID-19 line item to the grants line item to provide a federal Ebola Preparedness grant to Sanford Health of Fargo.
- **Office of Management and Budget (Request #2095)** - The request is increase federal funds spending authority by $1 million to transfer funding from the Governor to DPI.
- **State Library (Request #2096)** - The request is to transfer $100,000 of general fund spending authority from the salaries and wages line item to the operating expenses line item to increase funding for online resources to meet current maintenance of effort requirements for federal funding.

It was moved by Senator Mathern, seconded by Senator Wanzek, and carried on a roll call vote that the Budget Section approve Requests #2083, #2085, #2086, #2087, #2088, #2089, #2090, #2091, #2092, #2093, #2094, #2095, and #2096 which were approved by the Emergency Commission. Representatives Vigesaa, Anderson, Bosch, Boschee, Brandenburg, Hanson, Ista, Johnson, Kempenich, Kreidt, Lefor, Martinson, Meier, Mitskog, Mock, Monson, Nathe, Nelson, O'Brien, Pyle, Richter, Sanford, Schobinger, Stemen, Strinden, and Swiontek and Senators Bekkedahl, Burckhard, Davison, Dever, Dwyer, Erbele, Hogan, Klein, Krebsbach, Mathern, Meyer, Piepkorn, Schaible, Sorvaag, Vedaa, and Wanzek voted "aye." No negative votes were cast.

Mr. Greg Hoffman, Chief Information Officer, Information Technology Department, provided comments and responded to questions regarding Request #2084.

It was moved by Senator Dever, seconded by Senator Davision, and carried on a roll call vote that the Budget Section approve Request #2084, which was approved by the Emergency Commission. Representatives Vigesaa, Anderson, Bosch, Boschee, Brandenburg, Hanson, Ista, Johnson, Kempenich, Kreidt, Lefor, Martinson, Meier, Mitskog, Mock, Monson, Nathe, Nelson, O'Brien, Pyle, Richter, Sanford, Schobinger, Stemen, Strinden, and Swiontek and Senators Bekkedahl, Burckhard, Davison, Dever, Dwyer, Erbele, Hogan, Klein, Krebsbach, Mathern, Meyer, Piepkorn, Schaible, Sorvaag, Vedaa, and Wanzek voted "aye." No negative votes were cast.

TRANSPORTATION FUNDING UPDATE

Ms. Terra Miller-Bowley, Deputy Director, Department of Transportation, presented a report (Appendix C) regarding estimated federal transportation funding to be received by the state. She noted:

- Bond proceeds of $35 million have been committed for state bridge projects. An additional $35 million of bond proceeds is not being utilized to match federal funds.
- The department has not utilized a contingent loan authorized to match federal funds for US Highway 85 upgrades.
- The department has spent a portion of the $100 million transferred from the general fund to the highway fund for matching federal highway funds.

STATE BUDGET INFORMATION

General Fund Status

Mr. Morrissette presented a report (Appendix D) on the status of the general fund, balances of selected special funds, general fund revenue collections, and oil prices and production.

Irregularities in the Fiscal Practices of the State

Pursuant to Section 54-14-03.1, Mr. Morrissette presented information (Appendix E) on irregularities in the fiscal practices of the state. He presented the following fiscal irregularities for the period September 2022 through November 2022:

Agency	Fiscal Irregularity	Amount
Office of Management and Budget	Reclassification	$1,106
Department of Career and Technical Education	Additional duties	$1,174
Tax Department	Reclassifications	$1,280
Department of Health and Human Services	Responsibility increases	$4,610
Department of Corrections and Rehabilitation	Retroactive pay	$1,140

State Agency Applications for Federal Grants

Mr. Morrissette 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. He said the following agencies have applied for a federal grant estimated to be $25,000 or more:

Agency	Time Period of Grant	Amount
Adjutant General	September 2022 - August 2026	$2,287,118
Department of Transportation (4 grants)	Various	$90,875,000

SPECIFIC EXEMPT COMMODITIES AND SERVICES

Mr. Morrissette presented information (Appendix G) on specified commodities and services exempted from the procurement requirements of Section 54-44.4-02.2. He noted:

- There are only two procurement exemptions which were provided for indigent defense contracts and the purchase of educational materials by the Center for Distance Education.
- The Office of Management and Budget will be proposing two new exemptions for certain resource materials and abandoned vehicles.

2023-25 EXECUTIVE BUDGET RECOMMENDATION

Mr. Morrissette presented information (Appendix H) on the executive budget for the 2023-25 biennium and the revised 2021-23 biennium revenue forecast. He presented the following general fund summary:

	2021-23 Original Legislative Budget	2021-23 Adjusted Budget	2023-25 Executive Budget
Beginning balance	$710,259,973	$1,122,353,345	$1,267,456,703
Revenues	4,346,281,995	5,160,089,312	5,006,556,636
Appropriations	(4,992,957,330)	(5,014,985,954)	(5,864,252,194)
Ending balance	$63,584,638	$1,267,456,703	$409,761,145

Mr. Morrissette noted the executive revenue forecast assumes:

- Oil prices will remain at $75 until the end of the 2021-23 biennium and decrease to $70 during the 1st year of the 2023-25 biennium and to $65 during the 2nd year of the biennium.
- Oil production of 1.1 million barrels per day for the remainder of the 2021-23 biennium and continuing through the 2023-25 biennium.

Mr. Larry Martin, Ms. Becky Deichert, Ms. Renae Bloms, Ms. Stephanie Gullickson, and Ms. Stephanie Johnson, Budget Analysts, Office of Management and Budget, reviewed items included in the executive budget recommendation.

LEGACY AND BUDGET STABILIZATION FUND ADVISORY BOARD REPORT

Senator Jerry Klein, Member, Legacy and Budget Stabilization Fund Advisory Board, presented a memorandum entitled *Legacy and Budget Stabilization Fund Advisory Board - Status Report to the Budget Section December 7, 2022* regarding the investment of funds in the legacy fund and budget stabilization fund pursuant to Section 21-10-11. He reported:

- The asset allocation of the budget stabilization fund is 99 percent short-term fixed income and cash and 1 percent cash and equivalents.
- For the fiscal year to date through September 2022, the earnings of the fund were negative 0.91 percent.
- The legacy fund's net return for the fiscal year to date through September 2022 was negative 4.73 percent compared to a benchmark return of negative 4.81 percent.

ANNUAL FULL-TIME EQUIVALENT POSITION REPORT

At the request of Chairman Vigesaa, Mr. Larson distributed annual reports (Appendix I) on full-time equivalent position adjustments made for the North Dakota State University Extension Service, Northern Crops Institute, Upper Great Plains Transportation Institute, North Dakota State University Main Research Center, branch research centers, and Agronomy Seed Farm pursuant to Sections 11-38-12 and 15-12.1-05 and Section 8 of Senate Bill No. 2020 (2021).

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

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Brady A. Larson
Assistant Legislative Budget Analyst and Auditor

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Allen H. Knudson
Legislative Budget Analyst and Auditor

ATTACH:9