Legislative Council
600 East Boulevard Avenue, Bismarck, ND 58505

BUDGET SECTION

Thursday, September 21, 2023
Senate Chamber, State Capitol
Bismarck, North Dakota

Senator Brad Bekkedahl, Chairman, called the meeting to order at 10:00 a.m.

Members present: Senators Brad Bekkedahl, Kyle Davison, Dick Dever, Robert Erbele, Kathy Hogan, Curt Kreun, Tim Mathern, Scott Meyer*, Merrill Piepkorn, Jim P. Roers*, David S. Rust, Donald Schaible, Ronald Sorvaag, Shawn Vedaa, Terry M. Wanzek; Representatives Bert Anderson, Larry Bellew, Glenn Bosch, Josh Boschee, Zachary Ista, Dennis Johnson, 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, Mike Schatz, Randy A. Schobinger*, Greg Stemen, Michelle Strinden, Steve Swiontek*, Don Vigesaa

Members absent: Senators Randy A. Burckhard, Michael Dwyer, David Hogue, Jerry Klein, Karen K. Krebsbach; Representatives Mike Brandenburg, Karla Rose Hanson, Keith Kempenich

Others present: See Appendix A
**Attended remotely*

It was moved by Senator Rust, seconded by Senator Dever, and carried on a voice vote to approve the minutes of the June 29, 2023, meeting as distributed.

STATE TREASURER - OUTSTANDING WARRANTS AND CHECKS

Mr. Thomas Beadle, State Treasurer, presented information (Appendix B) regarding warrants and checks outstanding for more than 90 days and less than 3 years pursuant to North Dakota Century Code Section 54-11-01. He noted:

- The total dollar amount of outstanding checks decreased from $8.1 million in fiscal year 2022 to $6.7 million for fiscal year 2023.
- Approximately 5,950 checks totaling $917,189 issued in fiscal year 2021 will be transferred to unclaimed property in October 2023.
- As of September 2023, there are 22,850 outstanding checks totaling $6.8 million issued during fiscal years 2021, 2022, and 2023.

STATE BUDGET INFORMATION

Ms. Susan Sisk, Director, Office of Management and Budget, presented a report (Appendix C) on the status of the general fund for the 2021-23 and 2023-25 bienniums, balances of selected special funds, general fund revenue collections, and oil prices and production.

2021-23 Biennium General Fund Revenues and Expenditures

Ms. Sisk presented the following information regarding the final status of the general fund for the 2021-23 biennium:

Unobligated general fund balance - July 1, 2021		$1,122,353,345
Add		
General fund collections		5,319,841,937
Total estimated revenues available		$6,442,195,282
Less		

Legislative appropriations - One-time	($114,598,493)	
Legislative appropriations - Ongoing	(4,878,358,837)	
2023-25 appropriation spent through emergency clause	(1,846,593)	
Supplemental and deficiency appropriations	(65,852,655)	
Unspent authority	282,519,161	
Other adjustments	1,712,500	
Total appropriations		($4,776,424,917)
Estimated ending general fund balance - June 30, 2023 - Before transfers and adjustments		$1,665,770,365
Transfer to budget stabilization fund[1]		(176,601,907)
Other adjustments		(858,286)
Ending general fund balance - June 30, 2023		$1,488,310,172

[1]Pursuant to 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.

2021-23 Biennium General Fund Turnback

Ms. Sisk reported on the 2021-23 biennium agency unspent general fund appropriation amounts (turnback). Unspent 2021-23 biennium general fund appropriation authority totaled approximately $282.5 million. She noted:

- The Department of Public Instruction had turnback of $55.3 million, which was a result of reduced state school aid spending due to lower than anticipated enrollment growth.
- The Department of Human Services had turnback of $185.4 million, which primarily related to lower than anticipated cost and caseload levels and the enhanced COVID-19 federal medical assistance percentage.
- The Department of Corrections of Rehabilitation had turnback of $8.8 million, which primarily related to the use of federal coronavirus relief funds for employee salaries.

2021-23 Biennium Capital Construction Carryover

Ms. Sisk reported on 2021-23 biennium capital construction carryover. Funding of $31.9 million for the 2021-23 biennium was continued into the 2023-25 biennium. Of the total amount, $10.3 million was for the continuation of Department of Transportation projects.

IRREGULARITIES IN THE FISCAL PRACTICES OF THE STATE

Pursuant to Section 54-14-03.1, Ms. Sisk presented information (Appendix D) on irregularities in the fiscal practices of the state. She presented the following fiscal irregularities for the period June 2023 through August 2023:

Agency	Fiscal Irregularity	Amount
Center for Distance Education	Temporary workload adjustments	$2,167
School for the Blind	Summer teacher contracts	$17,329
Department of Health and Human Services	Temporary workload adjustments	$1,551
Judicial Branch	Salary correction	$1,603
Department of Health and Human Services	Part-time to full-time adjustments	$2,382
Department of Health and Human Services	Temporary workload adjustments	$6,842
Department of Health and Human Services	Position reclassification	$95,730
Department of Health and Human Services	Overtime payments	$3,906
Department of Health and Human Services	Salary corrections	$6,920
Department of Health and Human Services	Workload adjustments	$1,507
Department of Health and Human Services	Donated leave hours	$795
Industrial Commission	Salary correction	$3,431

STATE AGENCY APPLICATIONS FOR FEDERAL GRANTS

Ms. Sisk presented information (Appendix E) on state agencies that applied for federal grants estimated to be $25,000 or more pursuant to Section 54-27-27. She reported the following agencies have applied for a federal grant estimated to be $25,000 or more:

Agency	Time Period of Grant	Amount
Department of Health and Human Services	September 2023 - September 2026	$783,856
Department of Agriculture	September 2023 - May 2027	$4,690,280
Game and Fish Department	July 2023 - June 2025	$2,500,000
Department of Transportation - 6 projects	October 2024 - November 2029	$180,660,000

Ms. Sisk presented the following schedule of federal grants of $25,000 or more awarded to state agencies:

Agency	Time Period of Grant	Amount
Secretary of State	June 2023 - June 2024	$462,135
Aeronautics Commission	May 2023 - May 2027	$176,400
Department of Transportation	March 2022 - September 2024	$532,500
Department of Transportation	September 2023 - September 2032	$9,850,000

NEW AND VACANT FTE POSITION FUNDING POOL

Ms. Sisk presented information (Appendix F) on the new and vacant FTE funding pool. She noted that through August 2023 a total of $17.6 million, including $12.8 million from the general fund, has been distributed from the new and vacant FTE funding pool.

THREE AFFILIATED TRIBES EXPENDITURES

Mr. Mark Fox, Chairman, Three Affiliated Tribes of the Fort Berthold Reservation, presented a report (Appendix G) regarding fees, expenses, and charges the tribe imposes on the oil industry and essential infrastructure projects completed by the Three Affiliated Tribes of the Fort Berthold Reservation using oil and gas tax receipts pursuant to Section 57-51.2-02. He noted expenditures of $146,221,000 during fiscal year 2023, including $29,654,000 for public safety projects, $3,879,000 for environmental projects, and $112,688,000 for infrastructure projects.

AGENCY REQUESTS APPROVED BY THE EMERGENCY COMMISSION

Chairman Bekkedahl directed the Budget Section to consider agency requests (Appendix H) which have been authorized by the Emergency Commission and forwarded to the Budget Section pursuant to Chapter 54-16.

Ms. Sisk provided information regarding the following requests that were authorized by the Emergency Commission and require consideration by the Budget Section.

- **Department of Commerce (Request #2101)** - The request is to transfer $1.55 million of federal funds from the grants line item to the operating expenses line item for a parks and recreation grant program.
- **Secretary of State (Request #2102)** - The request is to increase federal funds spending authority by $462,135 in the election reform line item for the 2023-25 biennium to accept federal Department of Defense funds for a secure ballot delivery portal for the Uniformed and Overseas Citizens Absentee Voting Act population.
- **Department of Public Instruction (Request #2103)** - The request is to increase federal funds spending authority by $4,031,338, including funding in the operating expenses line item ($851,338) and the grants - other grants line item ($3,180,000), to accept and expend a state apprenticeship expansion formula grant, administered by the United States Department of Labor.
- **Adjutant General (Request #2105)** - The request is for $111,380 from the state contingencies appropriation to provide corrected snow removal grant amounts to certain political subdivisions due to errors in calculating the initial grant awards as authorized in Senate Bill No. 2183 (2023) during the 2021-23 biennium.
- **Adjutant General (Request #2106)** - The request is to increase federal funds spending authority by $515,000 to complete the bridge training site project located at Camp Grafton.
- **Adjutant General (Request #2107)** - The request is to increase federal funds spending authority by $5.3 million to complete construction of the Dickinson Readiness Center.
- **Adjutant General (Request #2108)** - The request is to increase federal funds spending authority by $2 million to complete construction of the fitness facility at Camp Grafton.
- **Agriculture Commissioner (Request #2109)** - The request is to increase federal funds spending authority during the 2023-25 biennium by $2,345,140, including $61,650 for temporary salaries, $6,110 for operating expenses, and $2,277,380 for grants, for a resilient food systems infrastructure grant program funded by the United States Department of Agriculture - Agriculture Marketing Service.

Mr. Justin Messner, Disaster Recovery Chief, Department of Emergency Services, responded to questions regarding emergency snow removal grants.

It was moved by Representative Kreidt, seconded by Senator Kreun, and carried on a roll call vote that the Budget Section approve Emergency Commission requests #2101, #2102, #2103, #2105, #2106, #2107,

#2108, and #2109. Senators Bekkedahl, Davison, Dever, Erbele, Hogan, Kreun, Mathern, Meyer, Piepkorn, Roers, Rust, Schaible, Sorvaag, Vedaa, Wanzek and Representatives Anderson, Bosch, Boschee, Ista, Johnson, Kreidt, Lefor, Martinson, Meier, Mitskog, Mock, Monson, Nathe, Nelson, O'Brien, Pyle, Richter, Sanford, Schobinger, Stemen, Strinden, Swiontek, Vigesaa voted "Aye." Representative Bellew voted "nay."

FLEXIBLE TRANSPORTATION FUND

Mr. Ron Henke, Director, Department of Transportation, presented a request (Appendix I) for Budget Section approval to use funding from the flexible transportation fund for certain road projects. He noted:

- The flexible transportation fund was established to improve roadways both on and off the state highway system and the fund receives its funding from motor vehicle excise tax collections and allocations from the strategic investment and improvements fund.
- The Budget Section must approve the use of funds for any project that utilizes more than $10 million from the fund if the amount utilized from the fund is more than 50 percent of project costs.
- The department is requesting Budget Section approval to use funding for projects on North Dakota Highways 49 and 14 which exceed $10 million.

It was moved by Senator Mathern, seconded by Senator Wanzek, and carried on a roll call vote that the Budget Section approve the use of $19.1 million from the flexible transportation fund for the North Dakota Highway 49 project and approve the use of $27 million from the flexible transportation fund for the North Dakota Highway 14 project. Senators Bekkedahl, Davison, Dever, Erbele, Hogan, Kreun, Mathern, Piepkorn, Roers, Rust, Schaible, Sorvaag, Vedaa, Wanzek and Representatives Anderson, Bellew, Bosch, Boschee, Ista, Johnson, Kreidt, Lefor, Martinson, Meier, Mitskog, Mock, Monson, Nelson, O'Brien, Pyle, Richter, Sanford, Schobinger, Stemen, Strinden, Swiontek, and Vigesaa voted "Aye." No negative votes were cast.

DEPARTMENT OF COMMERCE - RENAISSANCE FUND ORGANIZATIONS ANNUAL REPORT

Ms. Maria Effertz, Director, Division of Community Services, Department of Commerce, presented information (Appendix J) regarding annual audits of renaissance fund organizations pursuant to Section 40-63-07(9). She noted:

- The purpose of a renaissance fund organization (RFO) is to raise funds to be used to finance projects located in designated renaissance zones. There are 58 cities that have a renaissance zone. Of those cities, 8 have established an RFO, including Casselton, Fargo, Jamestown, Hazen, Mayville, West Fargo, Hope, and Grand Forks.
- Mayville, Hazen, and Hope manage their city's RFO, while other city RFOs are managed by private entities.
- The Legislative Assembly has approved $10,500,000 in tax credits for RFO projects since 1999. A total of $20,011,732 has been invested in RFOs during this time and $10,005,866 of credits has been claimed. A total of $494,1344 of credits remain to be claimed.

FIRE DISTRICT EXPENDITURES AND DISTRIBUTIONS FROM THE INSURANCE TAX DISTRIBUTION FUND

Mr. Douglas Nelson, State Fire Marshal, Insurance Department, presented information (Appendix K) regarding expenditures by certified fire departments and district funds received from the insurance tax distribution fund and reserve fund balances for 2021 and 2022, pursuant to Section 18-04-02. He noted:

- The insurance tax distribution fund was created in 1887 and receives revenues from insurance premium taxes. Money in the fund is distributed to qualified fire departments to maintain fire services.
- To receive a distribution from the fund, a fire department must complete a certificate of existence by October 31 of each year, have been in existence for at least 8 months, provide minimum requirements to maintain an Insurance Services Office - Public Protection Classification of 9 or better, and be in compliance with fire reporting requirements detailed in Section 18-01-06.
- A total of 363 fire departments received $11,118,788 of distributions in 2021 and $9,794,235 was distributed in 2022.

DEPARTMENT OF CORRECTIONS AND REHABILITATION - INMATE REPORT

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

- The maximum operational capacity for male inmates is 1,624 while the maximum operational capacity for female inmates is 224. The female capacity will be increased 262 on October 1, 2023, due to more beds becoming available.
- Prioritization was implemented for female admissions beginning in March 2023, and there are 24 female inmates on deferred status. The department will increase the number of females admitted and plans to admit all deferred inmates by December 2023.

NORTH DAKOTA OUTDOOR HERITAGE FUND REPORT

Ms. Karen Tyler, Interim Executive Director, Industrial Commission, presented information (Appendix M) regarding the North Dakota outdoor heritage fund. She noted:

- The North Dakota outdoor heritage fund received $15 million of oil and gas production taxes during the 2021-23 biennium.
- A total of 22 grant rounds have been held since 2013, resulting in $81,687,666 being awarded to 224 projects throughout North Dakota.

BOARD OF UNIVERSITY AND SCHOOL LANDS INVESTMENT PERFORMANCE

Mr. Joseph Heringer, Commissioner, Board of University and School Lands, presented information (Appendix N) regarding the investment of assets under the control of the board. He noted as of June 2023, the board was managing approximately $8.3 billion of assets, of which $6.5 billion were assets of permanent trust funds. He noted the assets of the permanent trust funds were invested as follows:

	Asset Allocation	Percentage of Allocation	Target Allocation
United States equity	$1,161,163,000	18.0%	15.0%
International equity	1,195,921,000	18.5%	15.0%
Public credit	853,419,000	13.2%	5.0%
Private credit	916,925,000	14.2%	20.0%
Real estate	1,012,744,000	15.7%	15.0%
Private equity	109,074,000	1.7%	8.0%
Global asset allocation	312,977,000	4.8%	5.0%
Multi-strategy hedge funds	565,966,000	8.8%	10.0%
Private infrastructure	328,944,000	5.1%	7.0%
Total	$6,457,133,000	100.0%	100.0%

Mr. Heringer noted:

- The net return for the permanent trust fund as of June 30, 2023, was 6.14 percent for the prior year compared to a benchmark of 6.59 percent, 7.07 percent for the prior 3 years compared to a benchmark of 6.84 percent, and 4.58 percent for the prior 5 years compared to a benchmark of 5.74 percent.
- As of June 30, 2023, the net return on investments for the strategic investment and improvements fund was 2.10 percent for the prior 6 months compared to a benchmark of 1.70 percent and 2.83 percent for the prior year compared to a benchmark of 2.06 percent.
- In fiscal year 2023, the department paid $36.4 million of fund management fees to private entities for managing approximately $6.45 billion of assets.

NORTH DAKOTA UNIVERSITY SYSTEM LOCAL FUNDS REPORT

Ms. Jamie Wilke, Director of Finance, North Dakota University System, presented information (Appendix O) pursuant to Section 15-10-12.3 regarding the sources of funds received for construction projects of entities under the control of the State Board of Higher Education. She noted 12 projects were authorized in a previous biennium and continued into the 2021-23 biennium. Six of the projects were completed during the 2021-23 biennium and six were continued into the 2023-25 biennium.

TIMING OF OIL AND GAS TAX COLLECTIONS

Mr. Adam Mathiak, Senior Fiscal Analyst, Legislative Council, presented a memorandum entitled *Timing of Oil and Gas Tax Revenues*. He noted:

- Tax on oil must be paid to the Tax Department by the 25th day of the month succeeding the month of production while the tax on gas must be paid to the Tax Department by the 15th day of the 2nd month succeeding the month of production pursuant to Section 57-51-05.
- Taxes are allocated to state funds and political subdivisions the month following collection.

OTHER BUSINESS

Chairman Bekkedahl announced the Budget Section is tentatively scheduled to meet on Wednesday, December 13, 2023.

No further business appearing, Chairman Bekkedahl adjourned the meeting at 12:35 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:15