

# NORTH DAKOTA LEGISLATIVE MANAGEMENT

Minutes of the

## BUDGET SECTION

### TELECONFERENCE CALL

Tuesday, June 18, 2013  
Roughrider Room, State Capitol  
Bismarck, North Dakota

Representative Chet Pollert, Chairman, called the teleconference meeting to order in the Roughrider Room, State Capitol, at 10:00 a.m.

**Members present:** Representatives Chet Pollert, Larry Bellew, Tracy Boe, Mike D. Brandenburg, Mark A. Dosch, Eliot Glassheim, Bette Grande, Ron Guggisberg, Kathy Hawken, Rick Holman, Keith Kempenich, Gary Kreidt, Bob Martinson, David Monson, Jon Nelson, Kenton Onstad, Mark Sanford, Roscoe Streyle, Blair Thoreson, Don Vigesaa, Alon Wieland; Senators Ron Carlisle, Robert Erbele, Joan Heckaman, Ray Holmberg, Ralph Kilzer, Karen K. Krebsbach, Gary A. Lee, Tim Mathern, David O'Connell, Larry J. Robinson, Mac Schneider, Terry M. Wanzek, Rich Wardner

**Members absent:** Representatives Al Carlson, Jeff Delzer, Bill Devlin, Corey Mock, Robert J. Skarphol, Clark Williams; Senators Bill L. Bowman, Tony Grindberg, Jerry Klein, John M. Warner

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

The Legislative Budget Analyst and Auditor reviewed the [Supplementary Rules of Operation and Procedure of the North Dakota Legislative Management](#) for the 2013-14 interim.

### BUDGET SECTION DUTIES AND RESPONSIBILITIES FOR THE 2013-15 BIENNIUM

At the request of Chairman Pollert, the Legislative Budget Analyst and Auditor presented a memorandum entitled [Budget Section Duties and Responsibilities for the 2013-15 Biennium](#) detailing the duties and responsibilities of the Budget Section for the 2013-14 interim.

### BUDGET STATUS REPORT FOR THE 2013-15 BIENNIUM

At the request of Chairman Pollert, the Legislative Budget Analyst and Auditor presented the Legislative Council report entitled [63<sup>rd</sup> Legislative Assembly Budget Status Report for the 2013-15 Biennium](#). The report provides information on the status of the general fund and estimated June 30, 2013, ending balance, legislative changes to general fund revenues, and legislative appropriation changes to the executive recommendation.

### LEGISLATIVE CHANGES TO THE GOVERNOR'S RECOMMENDED APPROPRIATIONS FOR THE 2013-15 BIENNIUM

At the request of Chairman Pollert, the Legislative Budget Analyst and Auditor presented the Legislative Council report entitled [63<sup>rd</sup> Legislative Assembly Legislative Changes to the Governor's Recommended Appropriations for the 2013-15 Biennium](#). The report provides information on legislative changes to the executive budget and is a compilation of the statements of purpose of amendment for action taken on appropriation bills during the legislative session.

### STATE BUDGET ACTIONS FOR THE 2013-15 BIENNIUM

At the request of Chairman Pollert, the Legislative Budget Analyst and Auditor presented the Legislative Council report entitled [63<sup>rd</sup> Legislative Assembly State Budget Actions for the 2013-15 Biennium](#). The report provides information on legislative changes to the executive budget, full-time equivalent (FTE) positions, ongoing and one-time general fund appropriations, one-time funding, major programs, and related legislation for each state agency. The report also includes an analysis of major special funds and statistical information. The Legislative Budget Analyst and Auditor said the report also is available online at the Legislative Council website.

In response to a question from Representative Bellew, the Legislative Budget Analyst and Auditor said the transfer from the general fund to the budget stabilization fund will occur before the end of the 2011-13 biennium.

### STATUS OF THE GENERAL FUND

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

Ms. Sharp presented the following information on the status of the general fund for the 2011-13 biennium based on revenue collections through May 2013:

|   |                           |                            |
|---|---------------------------|----------------------------|
| Unobligated general fund balance - July 1, 2011   |                           | \$996,832,711              |
| Balance obligated for authorized carryover from the 2009-11 biennium  |                           | 106,945,443                |
| Total beginning general fund balance - July 1, 2011   |                           | \$1,103,778,154            |
| Add   |                           |                            |
| General fund collections through May 2013   | \$4,952,920,135           |                            |
| Estimated remaining revenues based on the May 2013 legislative forecast   | 172,890,848               |                            |
| Total estimated general fund revenue for the 2011-13 biennium   |                           | 5,125,810,983              |
| Estimated total available   |                           | \$6,229,589,137            |
| Less expenditures   |                           |                            |
| Original appropriations - One time  | (\$629,895,435)           |                            |
| Contingent appropriations - One time  | (73,000,000)              |                            |
| Original appropriations - Ongoing   | (3,533,791,025)           |                            |
| Authorized carryover from the 2009-11 biennium  | (106,945,443)             |                            |
| Adjustments for emergency clauses   | 519,254                   |                            |
| Supplemental appropriations   | (60,314,701) <sup>1</sup> |                            |
| Authorized carryover of 2011-13 biennium spending authority   | (10,248,400)              |                            |
| Estimated unspent authority/adjustments   | 30,000,000                |                            |
| Total expenditures  |                           | (\$4,383,675,750)          |
| Ending balance before transfers   |                           | \$1,845,913,387            |
| Estimated transfer to budget stabilization fund   |                           | (181,060,585) <sup>2</sup> |
| Estimated unobligated general fund balance - June 30, 2013  |                           | \$1,664,852,802            |
| <sup>1</sup> Supplemental (deficiency) appropriations include:  |                           |                            |
| Department of Human Services  |                           | \$20,900,000               |
| Department of Transportation  |                           | 36,138,893                 |
| State Department of Health  |                           | 426,000                    |
| Department of Public Instruction - Professional development grant program   |                           | 45,000                     |
| Job Service North Dakota  |                           | 5,847                      |
| Highway Patrol  |                           | 300,000                    |
| Tax Commissioner  |                           | 981,855                    |
| Attorney General  |                           | 70,000                     |
| Minot State University  |                           | 52,745                     |
| State Fair Association  |                           | 674,361                    |
| State Treasurer   |                           | 720,000                    |
| Total supplemental appropriations   |                           | \$60,314,701               |
| <sup>2</sup> Transfer based on 2013-15 biennium general fund appropriations and the statutory cap of 9.5 percent of appropriations, as defined in North Dakota Century Code Section 54-27.2-01. |                           |                            |

Ms. Sharp said the estimated June 30, 2013, unobligated general fund balance of \$1.66 billion is \$190 million more than the \$1.47 billion balance estimated at the end of the legislative session. She said the increase is due to individual income tax and sales tax collections being more than anticipated during the months of April and May 2013.

Ms. Sharp said as of May 31, 2013, the balance in the legacy fund is \$1.1 billion.

Ms. Sharp said through May 2013 total collections for the biennium exceed the April 2011 legislative forecast by \$1.61 billion, which is 48.1 percent more than estimated. She said biennium to date, sales tax revenues have exceeded the forecast by \$777.7 million, while individual and corporate income tax revenues have exceeded the forecast by \$481.1 million and \$234.4 million, respectively.

### TOBACCO SETTLEMENT PROCEEDS

Ms. Sharp presented information ([Appendix C](#)) on the status of tobacco settlement proceeds received by North Dakota. She said total payments received to date are \$399.4 million, of which \$60.4 million has been deposited in the tobacco prevention and control trust fund. She said the April 2013 payment totaled \$31.5 million, of which

\$20.1 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 recent collections is:

|              | <b>Tobacco Settlement Trust Fund<br/>(Amounts Shown In Millions)</b> | <b>Tobacco Prevention and<br/>Control Trust Fund<br/>(Amounts Shown In Millions)</b> | <b>Total<br/>(Amounts Shown In Millions)</b> |
|--------------|--|--|--|
| April 2011   | \$19.7   | \$11.2   | \$30.9                                       |
| April 2012   | 20.1   | 11.4   | 31.5   |
| April 2013   | 20.1   | 11.4   | 31.5   |
| <b>Total</b> | <b>\$59.9</b>  | <b>\$34.0</b>  | <b>\$93.9</b>                                |

### STATE AGENCY APPLICATIONS FOR FEDERAL GRANTS

Ms. Sharp presented information ([Appendix D](#)) on state agencies that have applied for federal grants estimated to be \$25,000 or more pursuant to North Dakota Century Code Section 54-27-27. She said this section requires the Office of Management and Budget (OMB) to present at each meeting of the Budget Section reports received from state agencies, other than entities under the control of the State Board of Higher Education, that have applied for federal grants estimated to be \$25,000 or more. She said this reporting requirement became effective July 1, 2011. She said for the period December 2012 through June 18, 2013, the following agencies applied for a federal grant estimated to be \$25,000 or more:

| <b>Agency</b>                                      | <b>Time Period of Grant</b>         | <b>Amount</b> |
|--|-------------------------------------|---------------|
| Information Technology Department                  | 2013 through 2017                   | \$1,196,000   |
| Attorney General, Bureau of Criminal Investigation | October 2013 through September 2016 | \$314,195     |

In addition, Ms. Sharp said a Housing Finance Authority grant application reported to the Budget Section in September 2012 for \$2 million was not awarded.

### IRREGULARITIES IN THE FISCAL PRACTICES OF THE STATE

Pursuant to Section 54-14-03.1, Ms. Sharp presented information ([Appendix E](#)) on irregularities in the fiscal practices of the state. She said for the period November 2012 through April 2013, the fiscal irregularities are:

| <b>Agency</b>            | <b>Amount</b> | <b>Reason</b>  |
|--------------------------|---------------|--|
| Industrial Commission    | \$4,700       | Recruitment bonus paid to an employee working in another state agency        |
| State Library            | \$502         | Payment for assuming information technology duties due to a vacancy          |
| Agriculture Commissioner | \$3,192       | Payment for assuming Deputy Agriculture Commissioner duties due to a vacancy |
| Game and Fish Department | \$1,000       | Payment for a temporary workload adjustment due to a vacancy                 |

### STATE BOARD OF HIGHER EDUCATION - MONTHLY PROJECT VARIANCE REPORTS

Ms. Sharp presented monthly project variance reports ([Appendix F](#)) on State Board of Higher Education projects pursuant to Section 15-10-47. She said this section requires that whenever any new construction, renovation, or repair, valued at more than \$250,000, is underway on the campus of an institution of higher education under the control of the State Board of Higher Education, the State Board of Higher Education must provide OMB with monthly project variance reports. She said the monthly project variance reports must include:

- Name or description of the project.
- Expenditures authorized by the Legislative Assembly.
- Amount of the original contract.
- Amount of any change orders and description.
- Amount of any potential or anticipated change orders.
- Sum of the original contract, change orders, and potential or anticipated change orders and the amount by which that sum varies from the expenditures authorized by the Legislative Assembly.
- Total expenditures to date.
- Scheduled date of completion as noted in the original contract and the latest available scheduled date of completion.
- List of each public and nonpublic entity that has a contractually reflected financial obligation with respect to the project.

## AGENCY REQUESTS AUTHORIZED BY THE EMERGENCY COMMISSION

Chairman Pollert directed the Budget Section to consider agency requests ([Appendix G](#)), which have been authorized by the Emergency Commission and forwarded to the Budget Section pursuant to Chapters 37-17.1 and 54-16. Additional information relating to the Adjutant General requests provided to the members prior to the meeting is included in [Appendix H](#). Ms. Sheila Peterson, Director of Fiscal Management, Office of Management and Budget, provided information regarding the following requests that have been authorized by the Emergency Commission and require consideration by the Budget Section:

- **Adjutant General (Request #1813)** - Request is to authorize the expenditure of \$13,903,595 from the state disaster relief fund for expenses associated with the 2009 flood disaster. A portion of the total funding will be used for volunteer disaster response coordination (\$400,000) and a disaster coordination contract (\$1,500,000).
- **Adjutant General (Request #1814)** - Request is to continue the authorization to expend \$6,277,000 from the state disaster relief fund for flood relief, disaster mitigation assistance, and road grade raising grants to political subdivisions and to continue the authorization to expend \$6,238,000 from the state disaster relief fund for flood-impacted housing rehabilitation.
- **Adjutant General (Request #1815)** - Request is to increase federal funds spending authority by \$4,493,625 from the Federal Emergency Management Agency (FEMA) relating to the 2013 Red River flood preparation activities. Of the total amount, \$400,000 is requested to be expended during the 2011-13 biennium and \$4,093,625 is requested to be expended during the 2013-15 biennium.
- **Adjutant General (Request #1816)** - Request is to increase federal funds spending authority by \$6,641,250 from FEMA and to accept and expend loan proceeds of \$914,375 from the Bank of North Dakota for disaster expenses related to the state receiving above normal precipitation during spring 2013. Of the total amount of federal funds, \$397,500 is requested to be expended during the 2011-13 biennium and \$6,243,750 is requested to be expended during the 2013-15 biennium. Of the total loan proceeds from the Bank, \$132,500 is requested to be expended during the 2011-13 biennium and \$781,875 is requested to be expended during the 2013-15 biennium.
- **Office of Management and Budget (Request #1817)** - Request is to transfer \$400,000 from the salaries and wages line item to the capital assets line item. The transfer is for anticipated costs associated with the Capitol cafeteria remodeling project exceeding original legislative appropriations for the project. Ms. Peterson said the original appropriation for the Capitol cafeteria remodeling project was \$700,000 and the current cost estimate is between \$1 million and \$1.2 million.

In response to a question from Representative Kempenich, Ms. Peterson said OMB recently bid the Capitol cafeteria remodeling project but did not get a mechanical bid, therefore, must rebid the project.

Senator Robinson said he was having difficulties with his teleconference connection. He expressed his support for the Budget Section approving the requests approved by the Emergency Commission as presented.

**It was moved by Representative Brandenburg, seconded by Representative Thoreson, and carried on a roll call vote that pursuant to Chapters 37-17.1 and 54-16 the Budget Section approve the following requests, which have been approved by the Emergency Commission:**

- **Adjutant General (Request #1813)** - Request is to authorize the expenditure of \$13,903,595 from the state disaster relief fund for expenses associated with the 2009 flood disaster. A portion of the total funding will be used for volunteer disaster response coordination (\$400,000) and a disaster coordination contract (\$1,500,000).
- **Adjutant General (Request #1814)** - Request is to continue the authorization to expend \$6,277,000 from the state disaster relief fund for flood relief, disaster mitigation assistance, and road grade raising grants to political subdivisions and to continue the authorization to expend \$6,238,000 from the state disaster relief fund for flood-impacted housing rehabilitation.
- **Adjutant General (Request #1815)** - Request is to increase federal funds spending authority by \$4,493,625 from FEMA relating to the 2013 Red River flood preparation activities. Of the total amount, \$400,000 is requested to be expended during the 2011-13 biennium, and \$4,093,625 is requested to be expended during the 2013-15 biennium.
- **Adjutant General (Request #1816)** - Request is to increase federal funds spending authority by \$6,641,250 from FEMA and to accept and expend loan proceeds of \$914,375 from the Bank of North Dakota for disaster expenses related to the state receiving above normal precipitation during spring 2013. Of the total amount of federal funds, \$397,500 is requested to be expended during the

**2011-13 biennium and \$6,243,750 is requested to be expended during the 2013-15 biennium. Of the total loan proceeds from the Bank, \$132,500 is requested to be expended during the 2011-13 biennium and \$781,875 is requested to be expended during the 2013-15 biennium.**

Representatives Pollert, Bellew, Boe, Brandenburg, Dosch, Glassheim, Grande, Guggisberg, Hawken, Holman, Kempenich, Kreidt, Martinson, Monson, Nelson, Onstad, Sanford, Streyle, Thoreson, Vigesaa, and Wieland and Senators Carlisle, Erbele, Heckaman, Holmberg, Kilzer, Krebsbach, Lee, Mathern, O'Connell, Schneider, Wanzek, and Wardner voted "aye." No negative votes were cast.

**It was moved by Senator Holmberg, seconded by Senator Wardner, and carried on a roll call vote that pursuant to Section 54-16-04(2) the Budget Section approve the following request, which has been approved by the Emergency Commission:**

- **Office of Management and Budget (Request #1817) - Request is to transfer \$400,000 from the salaries and wages line item to the capital assets line item. The transfer is for anticipated costs associated with the Capitol cafeteria remodeling project exceeding original legislative appropriations for the project.**

Representatives Pollert, Bellew, Boe, Brandenburg, Dosch, Glassheim, Grande, Guggisberg, Hawken, Holman, Kempenich, Kreidt, Martinson, Monson, Nelson, Onstad, Sanford, Thoreson, Vigesaa, and Wieland and Senators Carlisle, Erbele, Heckaman, Holmberg, Kilzer, Krebsbach, Lee, Mathern, O'Connell, Schneider, Wanzek, and Wardner voted "aye." Representative Streyle voted "nay."

### **COMMITTEE DISCUSSION AND STAFF DIRECTIVES**

Chairman Pollert announced future meetings of the Budget Section are tentatively scheduled for September 25, 2013 and December 11, 2013 and asked committee members to contact the Legislative Council regarding any conflicts.

**It was moved by Senator Wardner, seconded by Senator Carlisle, and carried on a voice vote that the Budget Section meeting be adjourned subject to the call of the chair.**

The meeting adjourned subject to the call of the chair at 10:54 a.m.

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Sheila M. Sandness  
Senior Fiscal Analyst

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Allen H. Knudson  
Legislative Budget Analyst and Auditor

ATTACH:7