

2009 HOUSE APPROPRIATIONS

HB 1486

2009 HOUSE STANDING COMMITTEE MINUTES

HB 1486

House Appropriations Committee

☐ Check here for Conference Committee

Hearing Date: January 28, 2009

Recorder Job Number: 7956

Committee Clerk Signature

Melby N. Sand

Minutes:

Chm. Svedjan called the Committee back to order. This bill deals with Budget Stabilization Fund. It involves information that was contained in the Governor's budget but it has been pulled out to stand alone in a separate bill.

Pam Sharp, Office of Management and Budget, approached the podium to testify in support of HB 1486. This bill eliminates the 2.5 percent requirement out of the Budget Stabilization Fund. In a situation in which there is a revenue shortfall, they would be able to access the entire shortfall from the Budget Stabilization Fund rather than having to allot. This is particularly important if the ending balance that is left for the 09-11 budget is very small. If we leave an ending balance of between \$50 and \$100 million, this bill might not be necessary. If we only have a \$10 or \$20 million cushion, and have a revenue shortfall, it might be a difficult situation to have to do a large allotment while we still have large reserves sitting in the Budget Stabilization Fund and potentially in the Permanent Oil Tax Trust Fund. (:56)

Ms. Sharp distributed an example in which there would be a \$100 million shortfall (See Attachment A). This example compared the Current Statute versus what is proposed by HB 1486. For me it's hard to conceptualize the 2.5 percent issue all the time and the language is kind of confusing. The way the language reads is: "the amount transferred from the Budget Stabilization Fund upon order of the Governor may not exceed the difference between an

amount 2.5 percent below the General Fund revenue projections for the biennium of the most recently adjourned session and the General Fund revenue projections for the biennium by the Director of OMB." Ms. Sharp reviewed Attachment A. (2:31)

Rep. Kempenich: How would you handle this going forward into the next biennium? How would we make up that difference? We'd have to tap out the Budget Stabilization Fund again into the next biennium. (5:10)

Ms. Sharp: Assuming this happened, we'd transfer \$100 million into the General Fund. That would hold us even for the current biennium. In the meantime, we would be working on the next biennium's budget doing revenue forecasts and, depending on the level of revenue, that would dictate the level of our expenditures. Maybe things would turn around and revenue would come back and we would be able to maintain the level of spending. If it continued to decrease we would have to budget a less amount going forward to keep our budget balanced.

Rep. Klein: On your first example, that required allotment, how would that be filled in? What is the logic there? (7:13)

Ms. Sharp: The required allotment of \$75 million?

Rep. Klein: The \$75 million. How would that be made up?

Ms. Sharp: By law it has to be an across the board allotment of all General Fund. If it was 4 percent it is 4 percent across the board of all General Fund so every agency would take a hit on their General Fund appropriations and would have to cut their expenditures by an amount equivalent to that, except for K-12 Education. We do have the Foundation Aid Stabilization Fund and we would be able to access that fund to hold K-12 harmless.

Chm. Svedjan: And that's the way it was done the last time there was an allotment.

Rep. Delzer: The current law is only at 2.5 percent so it could never be over 2.5 percent. But then your K-12, the 2.5 percent part of that is made up by the K-12 Stabilization Fund, but that share does not have to be made up by the other agencies, does it? (8:16)

Ms. Sharp: No.

Rep. Delzer: So the most any agency would have would be 2.5 percent?

Ms. Sharp: Well it would depend on the revenue shortfall.

Rep. Delzer: But as long as you've got money in the Budget Stabilization Fund that makes up everything above 2.5 percent.

Ms. Sharp: Yes.

Rep. Williams: There's basically an inhibiting factor under for state agencies and their budget proposals under the current statute. Under the proposal, to an extent that disappears. How do you feel in the Governor's office on this bill? (9:12)

Ms. Sharp: To eliminate the 2.5 percent requirement? We feel it's important if we have a revenue shortfall and there wasn't any ending balance cushion. We would not want to make an allotment and have agencies cut services and cut their appropriations when there is a lot of money sitting in our reserve accounts that we wouldn't be able to access.

Rep. Wald: Why don't we say just reduction instead of allotment? It seems we should use an accurate term. Allotment to me means you allot something – you give it to them. (10:17)

Ms. Sharp: I agree. I believe the word "allotment" is used in the statutes. I too, think an allotment is something you give out.

Rep. Berg: I would add another line to your chart and include base funding. At the bottom of that first column I'd put \$2.925 billion and on the other I'd put \$300 billion. The critical step for legislators is the next session you go into, if this triggers, the question is what base do you want to work from? Do you want to work from the \$2.925 billion or the \$3 billion? If our

economy is still going down, it sends a clear signal to agencies and the people of the state that we have to be careful. I believe that's the reason the 2.5 percent is in. (11:08)

Rep. Skarphol: What is the logic for putting this in? Obviously the Governor's budget projection, whether we're going to have a minimum of \$600 million ending fund balance, why is this a concern at this time? Obviously he must feel we are going to have a lot of money in reserves? This should not even be an issue. (12:01)

Ms. Sharp: Our concern is that if the economy does turn around and we would have a revenue shortfall and needed to cut budgets and we didn't have a cushion in our ending balance, we would have to cut budgets. Should we be cutting budgets if we have a \$1 billion in reserves?

Rep. Skarphol: I could see you doing this in 2003, but today with the Governor's projections and his budget? It's should be a non issue. (12:50)

Ms. Sharp: There was no money in the Budget Stabilization Fund in 2003.

Rep. Delzer: The current law says that it's all triggered on you doing a new projection. Are there any guidelines as to what makes you decide to do that projection? Is it just the 2.5 percent? And if you took this out, what would it be? (13:12)

Ms. Sharp: I do not believe there are any guidelines in statute as to when we would do a new revenue projection, but we would do a new revenue projection if we felt that revenues were not tracking, if there was a significant economic event. The last time we did this was after 9-11 and there was a recession. We were seeing a significant decrease in our individual income tax returns and we felt that at that time the forecast we were going by wasn't valid any more.

Chm. Svedjan: Is it that revised revenue projections are down 2.5 percent? Or is it that actual revenue collections are down 2.5 percent compared to the most recent revenue forecast? (14:10)

Ms. Sharp: It's that revised projections for the biennium are down.

Rep. Kempenich: Do you wait for a quarter to pass or a month before you started looking at that? (14:38)

Ms. Sharp: In the situation of 2001, we noticed that at the end of April when we thought our individual income taxes would be very large, they were actually \$20 million short. At that point we conferred with economy.com.

Rep. Kempenich: So you waited a period of time before you started thinking that you needed to . . .

Ms. Sharp: At that point we didn't have any indication until the end of the income tax filing season.

Rep. Berg: Maybe what it should be tied to is the projections that we close out the session on. It would appear that's what we're appropriating money on. If we got into the first quarter of the biennium and we had huge increases in projected revenue then six months later we had huge decreases in projected revenue but they were still above what we appropriated, how would this apply to that? (15:33)

Ms. Sharp: It is compared to the revenue forecast at the end of the session. Typically after the session ends we do not do another revenue forecast for 15 months (July 2010) unless there was a special situation.

Rep. Berg: But the way the legislation appears, you could. Let's say things are changing and there may be a need to do a revenue forecast six months later. Then to do another revenue forecast, it declines. The way I understand the bill as it is, if that revenue forecast declines by 2.5 percent, that's the first 2.5 percent. You may or may not be required to do an allotment.

And then you would access this fund directly.

Rep. Meyer: With economy.com, how often do we look at their projections? Do they update that monthly? Quarterly? (17:30)

Ms. Sharp: Our contract calls for three times during the biennium. We do one in the summer, preceding the legislative session (preliminary revenue forecast). We do one in the fall that the Governor's recommendation is based on. And the third one is during the legislative session. If we do an extra revenue forecast we have to make special arrangements with economy.com and we are billed for that separately.

Rep. Meyer: They update monthly?

Ms. Sharp: Their macros and their models are updated monthly. They only apply to our historical data during those three times.

Rep. Nelson: The February 9 report that's coming soon will be the baseline we'll use for going into this biennium if this bill passes? (18:47)

Ms. Sharp: Yes.

There was no other testimony on HB 1486.

Rep. Meyer: This is an earlier projection than we've had in other sessions? How was it determined that it was going to be earlier? (19:35)

Chm. Svedjan: I believe the request was made . . .

Rep. Berg: For years the revenue projection came in March. Each chamber of the legislature worked on all their budget bills, went through crossover and waited until the first or second week of March to see what the revenue projections were. We made the decision a couple of years ago to see if we couldn't have that come sooner. That's why it will be before either chamber has their crossover date. If we want an update before the end of the session, that could be done as well.

Chm. Svedjan closed the hearing on HB 1486.

2009 HOUSE STANDING COMMITTEE MINUTES

HB 1486

House Appropriations Committee

☐ Check here for Conference Committee

Hearing Date: February 11, 2009

Recorder Job Number: 9232

Committee Clerk Signature

Holly N. Sand

Minutes:

Chm. Svedjan turned the Committee work to HB 1486 which relates to the Budget Stabilization Fund. This is a measure that was included in the Governor's budget as a recommendation but it was pulled and placed into a separate bill. It strikes the provision of revenues needing to fall 2.5 percent before it triggered the effects of the Budget Stabilization Fund.

Rep. Berg moved a Do Not Pass to HB 1486. **Rep. Wald** seconded the motion. (:38)

Rep. Kaldor: The Governor's office and OMB felt this was feasible and prudent and speaks to what the people of North Dakota expect from us. When we're in the very good position of having cash reserves – over \$800 million will be in reserves at the end of this biennium even with the revised forecast – it seems very challenging to suggest that we should go into allotments. I think the Governor's measure is a good one and I resist the motion. (:58)

Rep. Berg: I wish people could put their thinking back to 2003. I've been through several allotments and I know what happens. If this bill was in effect in 2003, . . . , we didn't have any money in the Budget Stabilization Fund, so it may not have made any difference, but we did a \$50 million allotment in Nov/Dec 2002. We didn't have revenue in that session. What that

allotment did was set the tone. It allowed agencies to take a close, hard look at their budgets and figure out where they would take a one percent or two percent. Now that we have money in the Budget Stabilization Fund I can't imagine . . . what this bill does is it cuts at one of the core fundamentals of the Budget Stabilization Fund and that core is during the interim if we have a decline in revenue we want to send that signal. We want people to tighten their belts just a little in anticipation of where we're going. By passing this Governor's bill where 100 percent of the money comes out of the Budget Stabilization Fund, when we get into session we're going to have a much bigger chunk than if it adjusts by one percent. If we had a 3 percent reduction in revenue, we'd do a 1 percent allotment, then we have to find 2 percent when we get into session. I strongly resist this bill. I disagree with Rep. Kaldor. I think it's a quick fix without the long-term interest in our budget taken into account. (2:42)

Chm. Svedjan: I truly believe that whenever we get into a situation where revenues are declining we need to begin doing what's necessary to right-size government. If we were to allow this bill to pass as is what we would be doing, at a time when revenues are falling, is covering the shortfall with the Budget Stabilization Fund to keep our level of operation at its same level. That to me makes no sense whatsoever. If our revenues are declining, we need to do what is necessary to right-size our operation at the time it's happening. That's why I strongly support the Do Not Pass recommendation. (5:00)

Rep. Kroeber: K-12 would be fine because of the Foundation Aid Stabilization Fund. (5:53)

Chm. Svedjan: That's correct.

Rep. Kaldor: I appreciate the discussion and the argument. I think we all recognize that if revenues decline adjustments will need to be made. The hard part to explain is that we can have as much as 10 percent in reserve and probably not access an amount that could actually stabilize things until the next session. The next legislative session will have that responsibility.

In so many cases we have ongoing expenditures, things that were planned almost three years in advance, and we can't always anticipate things that can happen. The Budget Stabilization Fund is adequate to deal with those deviations. I understand and respect your opinion. I still think the Budget Stabilization Fund is for the purpose to stabilize state government during those shortfall periods. (6:10)

Rep. Berg: How many times have we seen expenditures that carry over several biennia? If in fact we had an allotment and let's say there is a program that's set to start six months before the end of the next biennium and it's one of those programs that costs \$2 million this year and \$20 million the following biennium and \$40 million the following biennium. With no allotment and all this money coming out that agency is tied by our statutes that say to deliver that program. If they have to do an allotment, they will make good management decisions. An allotment gives agencies the tool not to start some of those programs when everyone in the world knows that we're in some tough financial times. (7:47)

Rep. Onstad: The assumption is that the agencies are going to continue as such knowing full well that revenue is down and so on. You're going to assume in your scenario, Rep. Berg, that the agency is going to continue to spend because it's in their agency budget. But then the agencies themselves know because if there is a revenue downfall, they're going to know that beforehand that the Budget Stabilization Fund is going to have to be addressed. It seems to me we're saying that they're going to be irresponsible and I believe they will be responsible. (9:13)

Rep. Berg: It's not about the agency doing the right thing. It's about the agency following what we have passed. For example, take the Attorney General. We told the Attorney General, "We want you to get DNA from everyone, even if they're not convicted." In our Committee we heard that that cost is \$400,000 per biennium and they don't have the program up and running but

they kind of raised the alarm. Take a situation like that and we go into the last six months of an agency and if that was very important to me as a legislator that we have everyone's DNA and they have all their money, they better deliver it. If they have to do an allotment, that gives them the tool to come to me as a legislator and say "we had to do an allotment and in that decision making process we've deferred implementation of that DNA for next biennium." I think it provides cover and the ability for agency heads to manage by doing some allotment. (10:40)

The Do Not Pass motion carried by a roll call vote of 20 yeas, 5 nays and 0 absent and not voting. Rep. Berg will carry the bill.

FISCAL NOTE

Requested by Legislative Council

01/26/2009

REVISION

Bill/Resolution No.: HB 1486

1A. **State fiscal effect:** Identify the state fiscal effect and the fiscal effect on agency appropriations compared to funding levels and appropriations anticipated under current law.

	2007-2009 Biennium		2009-2011 Biennium		2011-2013 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues	\$0	\$0	\$0	\$0	\$0	\$0
Expenditures	\$0	\$0	\$0	\$0	\$0	\$0
Appropriations	\$0	\$0	\$0	\$0	\$0	\$0

1B. **County, city, and school district fiscal effect:** Identify the fiscal effect on the appropriate political subdivision.

2007-2009 Biennium			2009-2011 Biennium			2011-2013 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts
\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0

2A. **Bill and fiscal impact summary:** Provide a brief summary of the measure, including description of the provisions having fiscal impact (limited to 300 characters).

This bill allows an entire shortfall to be transferred from the budget stab fund. If a revenue shortfall of \$100 Million occurred, under current law, \$25 M would be transferred from the Bud Stab Fund and \$75 M would be allotted. Under this bill the full \$100 Million could be transferred from the fund.

B. **Fiscal impact sections:** Identify and provide a brief description of the sections of the measure which have fiscal impact. Include any assumptions and comments relevant to the analysis.

3. **State fiscal effect detail:** For information shown under state fiscal effect in 1A, please:

A. **Revenues:** Explain the revenue amounts. Provide detail, when appropriate, for each revenue type and fund affected and any amounts included in the executive budget.

B. **Expenditures:** Explain the expenditure amounts. Provide detail, when appropriate, for each agency, line item, and fund affected and the number of FTE positions affected.

C. **Appropriations:** Explain the appropriation amounts. Provide detail, when appropriate, for each agency and fund affected. Explain the relationship between the amounts shown for expenditures and appropriations. Indicate whether the appropriation is also included in the executive budget or relates to a continuing appropriation.

Name:	Pam Sharp	Agency:	OMB
Phone Number:	328-4606	Date Prepared:	01/26/2009

FISCAL NOTE
Requested by Legislative Council
01/20/2009

Bill/Resolution No.: HB 1486

1A. State fiscal effect: *Identify the state fiscal effect and the fiscal effect on agency appropriations compared to funding levels and appropriations anticipated under current law.*

	2007-2009 Biennium		2009-2011 Biennium		2011-2013 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues	\$0	\$0	\$0	\$0	\$0	\$0
Expenditures	\$0	\$0	\$0	\$0	\$0	\$0
Appropriations	\$0	\$0	\$0	\$0	\$0	\$0

1B. County, city, and school district fiscal effect: *Identify the fiscal effect on the appropriate political subdivision.*

2007-2009 Biennium			2009-2011 Biennium			2011-2013 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts
\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0

2A. Bill and fiscal impact summary: *Provide a brief summary of the measure, including description of the provisions having fiscal impact (limited to 300 characters).*

This bill could decrease the budget stabilization fund by 2.5% of a potential revenue shortfall.

B. Fiscal impact sections: *Identify and provide a brief description of the sections of the measure which have fiscal impact. Include any assumptions and comments relevant to the analysis.*

3. State fiscal effect detail: *For information shown under state fiscal effect in 1A, please:*

A. Revenues: *Explain the revenue amounts. Provide detail, when appropriate, for each revenue type and fund affected and any amounts included in the executive budget.*

B. Expenditures: *Explain the expenditure amounts. Provide detail, when appropriate, for each agency, line item, and fund affected and the number of FTE positions affected.*

C. Appropriations: *Explain the appropriation amounts. Provide detail, when appropriate, for each agency and fund affected. Explain the relationship between the amounts shown for expenditures and appropriations. Indicate whether the appropriation is also included in the executive budget or relates to a continuing appropriation.*

Name:	Pam Sharp	Agency:	OMB
Phone Number:	328-4606	Date Prepared:	01/23/2009

Date: 2/11/09
Roll Call Vote #: 1

2009 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 1486

Full House Appropriations Committee

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Legislative Council Amendment Number _____

Action Taken

No Not Pass

Motion Made By

Berg

Seconded By

Wald

Representatives	Yes	No	Representatives	Yes	No
Chairman Svedjan	✓				
Vice Chairman Kempenich	✓				
Rep. Skarphol	✓		Rep. Kroeber		✓
Rep. Wald	✓		Rep. Onstad		✓
Rep. Hawken	✓		Rep. Williams	✓	
Rep. Klein	✓				
Rep. Martinson	✓				
Rep. Delzer	✓		Rep. Glassheim		✓
Rep. Thoreson	✓		Rep. Kaldor		✓
Rep. Berg	✓		Rep. Meyer	✓	
Rep. Dosch	✓				
Rep. Pollert	✓		Rep. Ekstrom	✓	
Rep. Bellew	✓		Rep. Kerzman		✓
Rep. Kreidt	✓		Rep. Metcalf	✓	
Rep. Nelson	✓				
Rep. Wieland	✓				

Total (Yes) 20 No 5

Absent

0

Floor Assignment

Rep. Berg

If the vote is on an amendment, briefly indicate intent:

REPORT OF STANDING COMMITTEE (410)
February 12, 2009 1:42 p.m.

Module No: HR-27-2533
Carrier: Berg
Insert LC: . Title: .

REPORT OF STANDING COMMITTEE

HB 1486: Appropriations Committee (Rep. Svedjan, Chairman) recommends DO NOT PASS (20 YEAS, 5 NAYS, 0 ABSENT AND NOT VOTING). HB 1486 was placed on the Eleventh order on the calendar.

2009 TESTIMONY

HB 1486

EXAMPLE

	<u>Current Statute</u>	<u>Proposed</u>
Original Revenue Forecast	\$ 3,000,000,000	\$ 3,000,000,000
Updated Forecast	<u>2,900,000,000</u>	<u>2,900,000,000</u>
Difference between forecasts (shortfall)	<u>\$ 100,000,000</u>	<u>\$ 100,000,000</u>
2 1/2 % below Original Forecast	\$ 2,925,000,000	
Updated Forecast	<u>2,900,000,000</u>	
Amount available to be transferred from Budget Stabilization Fund	<u>\$ 25,000,000</u>	<u>\$ 100,000,000</u>
Required Allotment	<u>\$ 75,000,000</u>	<u>0</u>

Attachment A
1-28-09
HB 1486