

## NORTH DAKOTA LEGISLATIVE MANAGEMENT

Minutes of the

**BUDGET SECTION**

Monday, June 27, 2016  
Senate Chamber, State Capitol  
Bismarck, North Dakota

Senator Gary A. Lee, Chairman, called the meeting to order at 10:00 a.m.

**Members present:** Senators Gary A. Lee, Bill L. Bowman, Ron Carlisle, Robert Erbele, Joan Heckaman, Ray Holmberg, Ralph Kilzer, Jerry Klein, Karen K. Krebsbach, Tim Mathern, David O'Connell, Larry J. Robinson, Mac Schneider, Ronald Sorvaag, Terry M. Wanzek, Rich Wardner; Representatives Tracy Boe, Mike Brandenburg, Jeff Delzer, Mark A. Dosch, Ron Guggisberg, Kathy Hogan, Richard G. Holman, Keith Kempenich, Gary Kreidt, Bob Martinson, Corey Mock, David Monson, Jon O. Nelson, Kenton Onstad, Chet Pollert, Mark Sanford, Jim Schmidt, Peter F. Silbernagel, Roscoe Streyle, Blair Thoreson, Don Vigesaa

**Members absent:** Representatives Larry Bellew, Wesley R. Belter, Randy Boehning, Al Carlson, Eliot Glasheim, Robert J. Skarphol

**Others present:** Dick Dever, State Senator, Bismarck  
Representative Marvin E. Nelson, Rolla, member of the Legislative Management  
See [Appendix A](#) for additional persons present.

**It was moved by Senator Robinson, seconded by Senator O'Connell, and carried on a voice vote that the minutes of the March 3, 2016, meeting be approved as distributed.**

**ECONOMIC INDICATORS**

Ms. Pam Sharp, Director, Office of Management and Budget, presented information ([Appendix B](#)) on key economic indicators, including consumer prices, money markets, personal income, commodity prices, unemployment, employment growth, personal income, energy prices and production, and interest rates.

**2015-17 BIENNIUM ACTUAL AND REVISED REVENUES**

Ms. Sharp presented information ([Appendix C](#)) on actual and revised forecasted 2015-17 biennium general fund revenue compared to the February 2016 revised forecast. She said sales tax revenue collections were \$27.5 million less than the revised forecast for the month of May 2016. She presented the following comparison of the 2015-17 biennium February 2016 revised general fund revenue forecast to actual revenue collections through May 2016:

Tax Type	February 2016 Revised Forecast <sup>1</sup>	Actual Collections Through May 2016	Increase (Decrease) from Revised Forecast
Sales and use taxes	\$967,663,000	\$863,789,792	(\$103,873,208)
Motor vehicle excise tax	106,343,000	99,096,639	(7,246,362)
Individual income tax	334,998,000	337,354,088	2,356,088
Corporate income tax	72,854,000	81,701,176	8,847,175
Insurance premium tax	44,763,182	53,001,959	8,238,777
Financial institutions tax	244,614	324,145	79,531
Oil and gas gross production tax	83,379,176	83,379,177	
Oil extraction tax	116,620,823	116,620,823	
Gaming tax	3,310,398	3,333,437	23,039
Lottery			
Cigarette and tobacco tax	27,683,051	26,537,523	(1,145,528)
Wholesale liquor tax	8,399,136	8,258,323	(140,812)
Coal conversion tax	18,191,796	18,631,802	440,006
Mineral leasing fees	12,439,876	12,673,355	233,479
Departmental collections	34,990,325	37,138,765	2,148,440
Interest income	2,512,656	2,426,779	(85,877)
State Mill profits - Transfer			
Major special funds - Transfer	657,000,000	657,000,000	
Other transfers	1,080,452	1,091,154	10,702
Total revenues and transfers	\$2,492,473,487	\$2,402,358,938	(\$90,114,550)

<sup>1</sup>The February 2016 revised forecast reflects actual revenue collections through December 31, 2015.

**STATUS OF THE 2015-17 BIENNIUM GENERAL FUND**

Ms. Sharp presented information ([Appendix D](#)) on the status of the general fund for the 2015-17 biennium.

Ms. Sharp presented the following information on the status of the general fund as of May 31, 2016, for the 2015-17 biennium:

Unobligated general fund balance - July 1, 2015		\$729,529,389
Balance obligated for authorized carryover from the 2013-15 biennium		147,653,143
Total beginning general fund balance - July 1, 2015		\$877,182,532
Add		
General fund collections through January 2016	\$2,402,358,938	
Forecasted general fund revenue for the remainder of the 2015-17 biennium	2,071,840,365	
Total revenues		4,474,199,303
Total available		\$5,351,381,835
Less		
Legislative appropriations - One-time	(\$1,173,663,758)	
Legislative appropriations - Ongoing	(4,852,498,920)	
4.05% budget allotment (executive branch only)	239,120,391	
Department of Transportation contingent appropriation	(20,000,000)	
Authorized carryover from the 2013-15 biennium	(147,653,143)	
2015-17 emergency appropriations utilized in the 2013-15 biennium	9,858,196	
Total appropriations		(5,944,837,234)
Estimated ending balance before transfer from budget stabilization fund		(\$593,455,399)
Transfer from budget stabilization fund		497,591,655
Intended turnback:		
Legislative Assembly	\$643,357	
Legislative Council	544,285	
Supreme Court	4,561,555	
Known turnback:		
Adjutant General - Firefighter Training Center	1,200,000	
Department of Public Instruction - State school aid	17,300,000	
Office of Management and Budget - Energy impact pool	1,137,774	
Office of Management and Budget - Temporary health insurance pool	1,000,000	
Total turnback		26,386,971
Estimated ending balance - June 30, 2017 - Before additional transfer from budget stabilization fund		(\$69,476,773)
Amount available for additional transfer from budget stabilization fund		74,893,798
Estimated ending general fund balance - June 30, 2017 - After transfer from budget stabilization fund		\$5,417,025

Ms. Sharp said because of the reduction in actual revenue collections from the revised general fund revenue forecast, the Office of Management and Budget (OMB) anticipates transferring the remaining \$74.9 million from the budget stabilization fund to account for the shortfall in revenues. She said OMB is working with Moody's Analytics on another revised revenue forecast which is expected to be completed by the end of July 2016. She said the revised forecast could indicate that no additional changes to the 2015-17 appropriations will be necessary, or if there is a small revenue shortfall, an additional allotment may be implemented, or if a more substantial revenue shortfall is anticipated the Governor may call a special legislative session to address the reduction in revenues.

In response to a question from Representative M. Nelson, Ms. Sharp said the state constitution requires the transfer from the foundation aid stabilization fund be the same amount of the allotment regardless of the potential turnback from state school aid.

In response to a question from Representative Brandenburg, Ms Sharp said OMB's revenue advisory committee includes a representative of the agriculture industry and three bankers to provide input related to the agriculture economy.

### TOBACCO SETTLEMENT PROCEEDS

Ms. Sharp presented information ([Appendix E](#)) on the status of tobacco settlement proceeds received by North Dakota. She said total payments received to date are \$495.92 million. She said the April 2016 and May 2016 payments totaled \$31.95 million, of which \$20.47 million was deposited in the tobacco settlement trust fund and \$11.48 million was deposited in the tobacco prevention and control trust fund. A summary of the 2015-17 biennium collections is listed below.

Period	Tobacco Settlement Trust Fund (Amounts in Millions)	Tobacco Prevention and Control Trust Fund (Amounts in Millions)	Total (Amounts in Millions)
April 2016		\$11.48	\$11.48
June 2016	\$20.47		20.47
Total	\$20.47	\$11.48	\$31.95

### IRREGULARITIES IN THE FISCAL PRACTICES OF THE STATE

Pursuant to North Dakota Century Code Section 54-14-03.1, Ms. Sharp presented information ([Appendix F](#)) on irregularities in the fiscal practices of the state. She presented the following fiscal irregularities for the period February 2016 through April 2016:

Agency	Fiscal Irregularity	Amount
Information Technology Department	3 and 1/2 months of temporary workload increase to manage security division due to vacancy	\$1,750
OMB	Settlement agreement	\$44,250
Job Service North Dakota	Severance pay due to reduction in federal funding	\$4,195

### STATE AGENCY APPLICATIONS FOR FEDERAL GRANTS

Ms. Sharp presented information ([Appendix G](#)) on state agencies that applied for federal grants estimated to be \$25,000 or more pursuant to Section 54-27-27. She said for the period January 2016 through June 2016, the following agencies have applied for a federal grant estimated to be \$25,000 or more:

Agency	Time Period of Grant	Amount
Attorney General's office	July 2016 through June 2017	\$50,000

Ms. Sharp said for the period January 2016 through June 2016, the following agencies were awarded a federal grant estimated to be \$25,000 or more:

Agency	Time Period of Grant	Amount
Attorney General's office	July 2016 through June 2017	\$50,000

### EXECUTIVE BUDGET DEVELOPMENT

Ms. Sharp presented information ([Appendix H](#)) on the development of the 2017-19 executive budget. She said agencies are being asked to develop general fund budget requests equal to 90 percent of 2015-17 ongoing appropriations. She said the 90 percent budget requirement does not apply to the Department of Human Services (DHS); the Department of Corrections and Rehabilitation; and the Department of Public Instruction state aid, transportation, and special education funding. She said the state's traditional Medicaid program will not be subject to reductions beyond those implemented under the current budget allotment process. She said a 15 percent state employee health insurance premium increase is projected to cost an additional \$26.9 million for the 2017-19 biennium.

Ms. Sharp said the preliminary cost-to-continue items include:

Activities for Development of Executive Budget	Time Period of Budget
Continuation of salary increase	\$11,600,000
K-12 - State aid due to increased enrollment	\$81,076,153
Higher Education	\$11,889,022
DHS	Unknown

In response to a question from Representative Monson, Ms. Sharp said the preliminary cost-to-continue increase for K-12 of \$81 million is the state's share, which includes anticipated property tax changes. She said the \$17.3 million in turnback from state school aid is the result of lower than projected student enrollment.

In response to a question from Senator Schneider, Ms. Sharp said the \$116 million of the \$250 million appropriated (\$240 million after allotment) for the property tax credit program was spent in the first year of the 2015-17 biennium. She said it is unknown at this time if the remaining funds available will be sufficient for the remainder of the biennium.

In response to a question from Representative Pollert, Ms. Sharp said inflationary increases for long-term care will be effective on January 1, 2017. She said the 2017 Legislative Assembly could approve a deficiency appropriation to restore the DHS allotments affecting long-term care during the 2017 legislative session

### **2017 LEGISLATIVE SESSION BILL FORMAT RECOMMENDATION FROM THE GOVERNMENT FINANCE COMMITTEE**

At the request of Chairman Lee, the Legislative Budget Analyst and Auditor presented an interim Government Finance Committee recommendation regarding the format of appropriation bills for the 2017 legislative session entitled [Draft Bill - For Demonstration Purposes Only](#). The Legislative Budget Analyst and Auditor said a new Section 2 would be added to each appropriation bill to provide a comparison of the agency's 2015-17 biennium after allotment amount to the 2017-19 biennium general fund appropriation.

Representative Delzer explained the interim Government Finance Committee reviewed the positive and negative aspects of using the 2015-17 biennium allotted general fund appropriations in place of the original 2015-17 biennium general fund appropriations and determined the preference would be to add the comparison section.

In response to a question from Senator Mathern, the Legislative Budget Analyst and Auditor said the Section 2 comparison would include only the agency's total funding, not comparisons by line item or by program.

### **AGENCY REQUESTS APPROVED BY THE EMERGENCY COMMISSION**

Chairman Lee directed the Budget Section to consider agency requests ([Appendix I](#)), which have been authorized by the Emergency Commission and forwarded to the Budget Section pursuant to Chapter 54-16. Ms. Sheila Peterson, Director, Fiscal Management Division, 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:

- **Parks and Recreation Department (Request #1877)** - Request is to increase spending authority by \$150,000 of special funds from the Lewis and Clark Fort Mandan Foundation from fundraising efforts for the agency's Lewis and Clark Interpretive Center line item to support the development of temporary exhibits, promotion, interpretive programming, and events.
- **State Historical Society (Request #1878)** - Request is for \$75,000 from the state contingencies appropriation for operating expenses to cover legal fees in the state's defense of a lawsuit filed by the contractor related to the expansion of the Heritage Center. The Emergency Commission amended the request to require the State Historical Society to return any unused funds and to repay the state contingencies appropriation with any legal fees recovered through the litigation process.
- **Department of Public Instruction (Request #1879)** - Request is to increase spending authority by \$500,000 of special funds in the operating expenses line item from reimbursements from school districts for the cost of processing bulk commodities into food items served by the schools under the United States Department of Agriculture National School Lunch Program.
- **Secretary of State (Request #1880)** - Request is to transfer \$208,000 from the operating expenses line item to the salaries and wages line item for hiring employees to provide staff support during the agency's development of its software solution for office operations.
- **Secretary of State (Request #1881)** - Request is to increase the operating expenses line item by \$150,000 from the agency's general services operating fund. The fund receives revenue from operations of the agency's electronic central indexing system and contractor licensing functions.

In response to a question from Chairman Lee regarding Request #1880, Ms. Peterson said the employees which will be hired for the Secretary of State's development of its software solution for office operations are temporary employees and will not remain with the agency after the project is complete.

**It was moved by Senator Mathern, seconded by Senator Holmberg, and carried on a roll call vote that the Budget Section approve the following requests, which have been approved by the Emergency Commission:**

- **Parks and Recreation Department (Request #1877)** - Request is to increase spending authority by \$150,000 of special funds from the Lewis and Clark Fort Mandan Foundation from fundraising efforts for the agency's Lewis and Clark Interpretive Center line item to support the development of temporary exhibits, promotion, interpretive programming, and events.

- **Department of Public Instruction (Request #1879)** - Request is to increase spending authority by \$500,000 of special funds in the operating expenses line item from reimbursements from school districts for the cost of processing bulk commodities into food items served by the schools under the United States Department of Agriculture National School Lunch Program.
- **Secretary of State (Request #1880)** - Request is to transfer \$208,000 from the operating expenses line item to the salaries and wages line item for hiring employees to provide staff support during the agency's development of its software solution for office operations.
- **Secretary of State (Request #1881)** - Request is to increase the operating expenses line item by \$150,000 from the agency's general services operating fund. The fund receives revenue from operations of the agency's electronic central indexing system and contractor licensing functions.

Senators Lee, Bowman, Carlisle, Erbele, Heckaman, Holmberg, Kilzer, Klein, Krebsbach, Mathern, O'Connell, Robinson, Schneider, Sorvaag, Wanzek, and Wardner and Representatives Boe, Brandenburg, Delzer, Dosch, Guggisberg, Hogan, Holman, Kempenich, Kreidt, Martinson, Mock, Monson, Nelson, Onstad, Pollert, Sanford, Schmidt, Silbernagel, Streyle, Thoreson, and Vigesaa voted "aye." No negative votes were cast.

The Budget Section considered Request #1878 relating to the State Historical Society.

In response to a question from Senator Heckaman, Ms. Peterson said the Historical Society is contracting with the law firm that is representing the North Dakota Veterans' Home in a separate lawsuit involving the same contractor.

In response to a question from Senator Schneider, Representative Delzer said the State Historical Society has already contracted with the law firm.

In response to a question from Representative Kempenich, Ms. Peterson said the state is the defendant in the case which was initiated by Comstock Construction. She said the State Historical Society was not aware of the potential litigation during the 2015 legislative session.

In response to a question from Senator Mathern, Senator Wardner said the Emergency Commission did not discuss if the Attorney General's office had funding within its budget for these costs.

In response to a question from Senator Wardner, Mr. Thomas Trenbeath, Deputy Attorney General, Attorney General's office, said the funding currently available for litigation fees is insufficient to provide for the State Historical Society's litigation expenses.

**It was moved by Senator Erbele, seconded by Senator O'Connell, and failed on a roll call vote that the Budget Section approve the State Historical Society Request #1878, which has been approved by the Emergency Commission.** Senators Lee, Bowman, Carlisle, Erbele, Holmberg, Kilzer, Klein, Krebsbach, Mathern, O'Connell, Robinson, Sorvaag, Wanzek, and Wardner and Representatives Guggisberg, Holman, Martinson, and Nelson voted "aye." Senators Heckaman and Schneider and Representatives Boe, Brandenburg, Delzer, Dosch, Hogan, Kempenich, Kreidt, Mock, Monson, Onstad, Pollert, Sanford, Schmidt, Silbernagel, Streyle, Thoreson, and Vigesaa voted "nay."

## **NORTH DAKOTA UNIVERSITY SYSTEM Budget Allotment Spending Reduction Plans**

Ms. Tammy Dolan, Chief Financial Officer, North Dakota University System, presented information ([Appendix J](#)) on the North Dakota University System's plan to meet the 4.05 percent general fund budget allotment. She said the 2015-17 biennium general fund appropriation for all University System campuses is \$740 million, resulting in the 4.05 percent budget allotment being \$30 million. She said the University System provided allotment guidelines to the universities. She said the universities are meeting the allotment through salary savings, reductions in operating costs through decreases in travel, equipment expenditures, and other operational costs.

### **Williston State College Request for Change of Funding Source**

Mr. Rick Tonder, Director of Facilities Planning, North Dakota University System, presented information ([Appendix K](#)) regarding a request for a change in funding source and to increase authorization for the TrainND Workforce Training Center project at Williston State College (WSC) pursuant to Sections 15-10-12.3 and 48-01.2-25. He said Williston State College originally planned on using a combination of private funds and revenues from training activities for the project. He said unforeseen soil conditions have increased construction costs and the reduction in oil industry activities resulted in reduced training revenue. He said WSC is requesting to use \$800,000 of the \$1.5 million provided for deferred maintenance and extraordinary campus needs in Section 33 of 2015 House Bill No. 1003. He said the total project authorization would increase by \$150,000, from \$8,238,267 to \$8,388,267.

In response to a question from Representative Delzer, Mr. Tonder said current revenues are sufficient for ongoing operations of the building and salary for staff.

In response to a question from Chairman Lee, Mr. Tonder said all of the private and local funds are still available. He said currently revenues are sufficient to make the \$190,000 annual debt payment. He said the availability of funds for future payments is not as certain because the level of future revenues is unknown.

In response to a question from Representative Delzer, Mr. Tonder said if WSC is not able to use the \$800,000 it would likely default on the Bank of North Dakota loan and it would not be able to pay the contractor for completing the project.

In response to a question from Representative Martinson, Ms. Dolan said WSC did not use a portion of the \$1.5 million provided to it in Section 33 of 2015 House Bill No. 1003 to pay for WSC's Wellness Center's parking lot.

In response to a question from Representative Martinson, Ms. Dolan said TrainND is part of WSC's operation.

In response to a question from Senator Schneider, Ms. Dolan said if the request is not approved, WSC would not increase student fees to make up for the revenue shortfall. In addition, she said, any student fee increase would need to be approved by the State Board of Higher Education.

In response to a question from Senator Holmberg, Ms. Dolan said Brady, Martz & Associates PC was consulted to help WSC correct a bank reconciliation process finding from previous audits. She said the reconciliations are anticipated to be completed by July 1, 2016.

In response to a question from Senator Heckaman, Mr. Tonder said WSC designated the \$800,000 for the project before WSC was aware that the change in funding source required Budget Section approval. She said WSC is now seeking approval.

In response to a question from Representative Martinson, Ms. Dolan said student fees will not be used for the TrainND parking lot. She said the local funds are from TrainND revenue generated from companies paying TrainND for employee training.

In response to a question from Senator Holmberg regarding delaying action on the request until completion of WSC's next audit, Ms. Dolan said WSC's next audit will not be completed for at least 1 year. She said if this request is not approved today, WSC would need to reallocate funding for this project's expenses from its operations until then.

In response to a question from Representative Martinson, Mr. Tonder said the work on the project began last fall, but is not yet complete.

In response to a question from Senator Robinson, Mr. Tonder said billings for approximately 10 percent of the project costs have not yet been received.

In response to a question from Senator Robinson, the Legislative Budget Analyst and Auditor said state law does not allow the Budget Section to approve WSC's request in September 2016, because the Budget Section cannot authorize a change to capital projects within 6 months of the next legislative session.

**It was moved by Senator Wardner, seconded by Representative Kempenich, and carried on a roll call vote that the Budget Section approve Williston State College's request for a change in funding source in accordance with Section 15-10-12.3 and to increase authorization for the TrainND Workforce Training Center project at Williston State College in accordance with Section 48-01.2-25.** Senators Lee, Bowman, Erbele, Heckaman, Kilzer, Klein, Krebsbach, Mathern, O'Connell, Robinson, Schneider, Sorvaag, and Wardner and Representatives Hogan, Holman, Kempenich, Mock, Monson, Nelson, Pollert, and Sanford voted "aye." Senators Carlisle, Holmberg, and Wanzek and Representatives Boe, Brandenburg, Delzer, Dosch, Guggisberg, Kreidt, Martinson, Onstad, Schmidt, Silbernagel, Streyle, Thoreson, and Vigesaa voted "nay."

### STATE AGENCY UNCLAIMED PROPERTY

Ms. Susan Dollinger, Administrator, Unclaimed Property Division, Department of Trust Lands, presented a report ([Appendix L](#)) on state agencies that have not submitted a claim for unclaimed property belonging to those agencies. She said 11 agencies have unclaimed property with a total value of \$3,246.09.

It was moved by Senator Klein, seconded by Representative Delzer, and carried on a roll call vote that pursuant to Section 47-30.1-24.1 the Budget Section approve the list provided by the Board of University and School Lands of the following state agencies relinquishing their rights to recover unclaimed property:

- Job Service North Dakota.
- North Dakota Game and Fish.
- North Dakota State College of Science.
- North Dakota State Board of Pharmacy.
- North Dakota State University.
- Bismarck State College.
- Department of Agriculture.
- Department of Human Services.
- Minot State University.
- Secretary of State.
- University of North Dakota.

Senators Lee, Bowman, Carlisle, Erbele, Heckaman, Kilzer, Klein, Krebsbach, Mathern, O'Connell, Robinson, Schneider, Sorvaag, Wanzek, and Wardner and Representatives Boe, Brandenburg, Delzer, Dosch, Hogan, Holman, Kempenich, Kreidt, Mock, Monson, Nelson, Onstad, Pollert, Sanford, Schmidt, Silbernagel, Streyle, Thoreson, and Vigesaa voted "aye." No negative votes were cast.

### **HOUSING FINANCE AGENCY - HOUSING INCENTIVE FUND UPDATE**

Ms. Jolene Kline, Executive Director, Housing Finance Agency, presented information ([Appendix M](#)) on progress being made to address the housing needs of essential service workers in the oil-impacted areas of the state. She said through June 27, 2016, the number of housing units owned by political subdivisions decreased by 80, master leased units decreased by 179, and an additional 10 rent subsidies are being provided compared to the report on September 23, 2015.

In response to a question from Representative Onstad, Ms. Kline said the funding provided was in the form of a 0 percent forgivable loan subject to the units being retained as affordable housing for a minimum of 15 years. She said if the rental rates increase to allow the loan to be repaid, payments will be required. She said the Housing Finance Agency reviews the financial statements of the units which received the 0 percent loans to verify that income is not sufficient to repay the loan. She said the Housing Finance Agency requires an annual monitoring fee of \$25 for each affordable housing unit designated for affordable housing. She said those fees cover inspection and auditing expenses incurred by the agency. She said the revenues from the fees are deposited into the housing incentive fund.

### **GAME AND FISH DEPARTMENT - LAND ACQUISITIONS**

Mr. Casey Anderson, Assistant Chief, Wildlife Division, Game and Fish Department, presented information ([Appendix N](#)) on proposed land acquisitions in McLean County and Burke County pursuant to Section 20.1-02-05.1. He said the land acquisition in McLean County consists of 255 acres and the land acquisition in Burke County consists of 39.8 acres. He said both land acquisitions are adjacent to existing wildlife management areas. He said the total acquisition price of the land in McLean County is \$1,113,000 and the total acquisition price of the land in Burke County is \$61,292.

In response to a question from Senator Wanzek, Mr. Anderson said the McLean County land purchase is a partnership with McClean County as the land will provide flood protection within the county, the North Dakota Natural Resources Trust, the American Foundation for Wildlife, and the Game and Fish Department. He said the total purchase price is \$1,113,000 and the Game and Fish Department's share is \$296,000. He said the land will be purchased by the American Foundation for Wildlife and donated to the Game and Fish Department for management. He said an independent appraisal is required prior to the department offering to purchase the property.

In response to a question from Senator Erbele, Mr. Anderson said as part of the land purchase process, the Game and Fish Department notifies the county commission, places a notification in local newspapers for 2 weeks, sends letters to neighboring landowners within 1 mile, and sends letters to all incorporated cities within 12 miles of the land to be purchased.

In response to a question from Representative Pollert, Mr. Anderson said the land is river bottom land along the Missouri River which can become inundated with water. He said there is less than 80 acres of cropland included in the land to be purchased. He said McLean County is planning to use the land for water retention when necessary to alleviate flooding.

Senator Wanzek expressed concern regarding the high cost of the proposed McLean County purchase. He said the per acre cost is \$4,365.

In response to a question from Senator Wanzek, Mr. Anderson said the McLean County land is Missouri River lowland and the recreational value is high. He said the agricultural value is high when the land is not inundated with water and the department had a second appraiser review the appraisal and found it to be reasonable.

In response to a question from Representative Onstad, Mr. Anderson said local landowners are in favor of this land acquisition because it will provide some flood control.

**It was moved by Senator Mathern, seconded by Senator Wardner, and carried on a roll call vote that pursuant to Section 20.1-02-05.1 the Budget Section approve the Game and Fish Department's land acquisition in McLean County.** Senators Lee, Bowman, Carlisle, Heckaman, Holmberg, Kilzer, Klein, Krebsbach, Mathern, O'Connell, Robinson, Schneider, Sorvaag, and Wardner and Representatives Boe, Delzer, Hogan, Holman, Kreidt, Martinson, Mock, Nelson, Onstad, Pollert, Sanford, Schmidt, Silbernagel, Thoreson, and Vigesaa voted "aye." Senators Erbele and Wanzek and Representatives Dosch, Monson, and Streyle voted "nay."

In response to a question from Representative Schmidt regarding using these land purchases for wetland mitigation credits needed by the Department of Transportation (DOT), Mr. Anderson said the American Foundation for Wildlife will be obtaining a federal grant for the McClean County land purchase which conflicts with some of the DOT wetland mitigation requirements. He said the Game and Fish Department works with DOT when it can during land purchases to determine if those purchases will qualify for wetland mitigation credits for DOT.

In response to a question from Representative M. Nelson regarding the proposed Burke County land acquisition, Mr. Anderson said the landowner has surface ownership and a flood easement exists on the land. He said the appraiser was aware of the flood easement on the land being purchased and the purchase price of \$1,540 per acre.

In response to a question from Representative Delzer, Mr. Anderson said the department does not obtain more than one appraisal, but if the department is questioning the price per acre, it will contact other appraisers to determine if the first appraisal is reasonable and the department will review county records of recent land purchases to determine the reasonableness of the purchase price.

**It was moved by Senator Holmberg, seconded by Senator Klein, and carried on a roll call vote that pursuant to Section 20.1-02-05.1 the Budget Section approve the Game and Fish Department's land acquisition in Burke County.** Senators Lee, Carlisle, Heckaman, Holmberg, Kilzer, Klein, Krebsbach, Mathern, O'Connell, Robinson, Sorvaag, Wanzek, and Wardner and Representatives Boe, Delzer, Hogan, Holman, Mock, Nelson, Onstad, Pollert, Sanford, Silbernagel, Thoreson, and Vigesaa voted "aye." Senators Bowman, Erbele, and Schneider and Representatives Dosch, Monson, Schmidt, and Streyle voted "nay."

### **ATTORNEY GENERAL - LEGAL FEES CHARGED TO HIGHER EDUCATION INSTITUTIONS**

Mr. Trenbeath reported that pursuant to Section 13 of 2015 Senate Bill No. 2003 the Attorney General's office has not assessed any additional legal fees to higher education institutions.

In response to a question from Senator Robinson, Mr. Trenbeath said the Attorney General's office does not anticipate assessing additional campus assessments fees in addition to those listed in Section 13 of 2015 Senate Bill No. 2003.

### **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 balance of the budget stabilization fund as of March 31, 2016, was \$579.8 million, of which \$8.9 million is invested in cash equivalents, \$89.8 million is invested in certificate of deposits with the Bank of North Dakota, and \$481.1 million is invested in short-term fixed income securities with Babson Capital Management and JP Morgan Chase & Co. He said the market value of the legacy fund as of March 31, 2016, was \$3.7 billion and fund investments have averaged a return of 2.57 percent net of fees since inception.

## 2013-15 BIENNIUM REPORT ON COMPLIANCE WITH LEGISLATIVE INTENT

Chairman Lee called on the Legislative Budget Analyst and Auditor, Legislative Council to present the [2015-17 Biennium Report on Compliance With Legislative Intent](#) and the [analysis](#) of major state trust funds. The Legislative Budget Analyst and Auditor said in addition to the printed report, the information is available on the legislative website.

In response to a question from Representative Kempenich, the Legislative Budget Analyst and Auditor said each agency determined the reductions to one-time funding or ongoing funding necessary to meet the Governor's 4.05 percent general fund budget allotment.

### DEPARTMENT OF HUMAN SERVICES - STATUS OF MEDICAID MANAGEMENT INFORMATION SYSTEM PROJECT

Ms. Jenny Witham, Director, Information Technology Services, Department of Human Services, presented information ([Appendix P](#)) regarding the Medicaid management information system (MMIS) project. She said MMIS has been in operation for 9 months and it has completed 37 provider payment cycles. She said 3.2 million claims have been received and processed. She said the department is working with Xerox on outstanding issues affecting provider payments and DHS is resolving known system issues related to primary care provider referrals, recipient liability, member eligibility, and mass adjustments.

In response to a question from Representative Kreidt, Ms. Witham said there are 52,000 claims in suspense at this time. She said the number of claims in suspense is a concern, but this level of claims in suspense had also occurred with the previous system. She said of most concern is the aging of denied claims from October, November, and December of 2015 which providers are having difficulty resubmitting. She said the third-party liability claims and particularly the nursing home providers are having issues. She said currently third-party liability claims are being processed manually and DHS is working on the issue.

In response to a question from Representative Pollert, Ms. Witham said of the 52,000 claims, approximately 50 percent are older than 60 days. She said one of the problems with the ambulance and transportation providers is with an attachment that is required for the reimbursement. She said the claim will remain in suspense until the attachment is received. She said those claims need to be processed manually. She said part of the issue is DHS's backlog of manual processing and part of the issue is lack of training for providers. She said an upgrade to the decision reporting system was completed during the development of MMIS and improved reporting will be available for the upcoming session.

In response to a question from Chairman Lee, Ms. Witham said the backlog issues are expected to be resolved by the end of the summer.

In response to a question from Senator Heckaman, Ms. Witham said the total dollar value of the 52,000 claims in suspense is approximately \$10 million.

In response to a question from Senator Mathern, Ms. Witham said all states are subject to the prompt pay requirement and it is not unusual for states with a new MMIS system to request a waiver of this requirement from the Centers for Medicare and Medicaid Services.

### INDUSTRIAL COMMISSION ABANDONED OIL AND GAS WELL PLUGGING AND SITE RECLAMATION

Mr. Lynn Helms, Director, Department of Mineral Resources, presented information ([Appendix Q](#)) regarding the balance of the abandoned oil and gas well plugging and site reclamation fund and expenditures from the fund pursuant to Section 38-08-04.5. He said as of June 27, 2016, the balance of the abandoned oil and gas well plugging and site reclamation fund was \$12.2 million. Revenues and expenditures of the fund are as follows:

Description	Actual - Through June 27, 2016 (Amounts in Millions)
Balance - July 2013	\$2.3
Revenues	15.8
Expenditures	(5.9)
Balance - June 2016	\$12.2

## **INDUSTRIAL COMMISSION - CORE LIBRARY EXPANSION PROJECT REPORT**

Mr. Helms presented information ([Appendix R](#)) regarding the use of funding provided for the core library expansion project, including the amounts spent to date and the amounts anticipated to be continued into the 2017-19 biennium, and on the progress of the project pursuant to Section 25 of 2015 House Bill No. 1014. He said the project is being completed under the construction manager at-risk process and has a guaranteed maximum price of \$13,633,322 of which \$7,560,884 has been spent to date. He said the department anticipates unspent funds of \$197,027 and no funds are anticipated to be continued into the 2017-19 biennium.

## **K-12 STUDENT ENROLLMENTS AND PROJECTED STATE SCHOOL AID FOR THE 2017-19 BIENNIUM**

Mr. Jerry Coleman, Director of School Finance and Organization, Department of Public Instruction, presented information ([Appendix S](#)) on student enrollments for the 2015-16 academic year. He said actual average daily membership for the 2015-16 academic year was 2,000 less than projections with the fall public K-12 enrollment for 2015-16 being 106,070. He said the department is projecting enrollments to increase by 2,000 to 3,000 students annually during the next biennium.

In response to a question from Senator Robinson, Mr. Coleman said 151 school districts offer public K-12 education.

## **STATE BOARD OF AGRICULTURAL RESEARCH AND EDUCATION STATUS REPORT**

Mr. Mike Beltz, Chairman, State Board of Agricultural Research and Education, presented information ([Appendix T](#)) regarding the activities of the board and the North Dakota Agricultural Experiment Station and the North Dakota State University Extension Service budget. He reviewed the activities of the board and discussed its initiatives and projects, including determining the cause of adverse economic impacts on crops and livestock produced in the state and the development of strategies for the provision of research solutions and resources to negate adverse economic impacts on crops and livestock produced in the state.

## **COMMITTEE DISCUSSION AND STAFF DIRECTIVES**

Senator Holmberg requested a report from OMB be provided at the next meeting regarding the change in the number of full-time equivalent positions because of the new reporting requirement pursuant to Section 54-44.1-04 and 54-44.1-06, which requires OMB to change the 2017-19 biennium budget data to include estimates of financial requirements for entities under the control of the State Board of Higher Education, which must be made using the same forms, supporting information, and documentation as other state agencies.

Senator Bowman requested information regarding the valuation and property tax impact of the land surrounding land purchased by the Game and Fish Department before compared to after the purchase.

Chairman Lee announced the next meeting of the Budget Section is tentatively scheduled for September 29, 2016.

No further business appearing, Chairman Lee adjourned the meeting at 2:38 p.m.

---

Allen H. Knudson  
Legislative Budget Analyst and Auditor

---

Chris Kadmas  
Fiscal Analyst

ATTACH:20