

NORTH DAKOTA LEGISLATIVE MANAGEMENT

Minutes of the

GOVERNMENT FINANCE COMMITTEE

Wednesday, September 28, 2016
Roughrider Room, State Capitol
Bismarck, North Dakota

Representative Jeff Delzer, Chairman, called the meeting to order at 9:00 a.m.

Members present: Representatives Jeff Delzer, Rick C. Becker, Joshua A. Boschee, Glen Froseth, Jessica Haak, Vernon Laning, Mike Lefor, Scott Louser, Chet Pollert, Jim Schmidt, Vicky Steiner, Don Vigesaa; Senators Ralph Kilzer, Richard Marcellais, Ronald Sorvaag

Members absent: Representatives Eliot Glassheim, Craig Headland, Jim Kasper, Kim Koppelman, Kris Wallman; Senator Ron Carlisle

Others present: Allen H. Knudson, Legislative Budget Analyst and Auditor, Legislative Council
See [Appendix A](#) for additional persons present.

It was moved by Representative Schmidt, seconded by Representative Pollert, and carried on a voice vote that the minutes of the June 16, 2016, meeting be approved as distributed.

STATE BUDGET INFORMATION

Ms. Pam Sharp, Director, Office of Management and Budget, presented information ([Appendix B](#)) regarding the status of the general fund, current fund balances of major state funds, anticipated deficiency appropriation requests for the 2015-17 biennium, preliminary estimates of 2017-19 biennium general fund and oil tax revenues, and state agency plans relating to federal funds. She said the estimated June 30, 2017, general fund deficit, as of August 31, 2016, is \$7.6 million. She said August 2016 general fund revenue was \$9.2 million (6.2 percent) less than projected in the July 2016 revised revenue forecast.

In response to a question from Chairman Delzer, Ms. Sharp said it is possible unspent state school aid appropriations could exceed \$17.3 million.

In response to a question from Representative Vigesaa, Ms. Sharp said the Office of Management and Budget (OMB) will begin receiving information from agencies regarding potential unspent appropriations as agencies submit their 2017-19 budget requests.

Chairman Delzer expressed concern regarding forecasted revenues still exceeding actual revenues.

Ms. Sharp said anticipated deficiency appropriation requests include requests of up to \$16.6 million from the State Treasurer for coal severance payments and property tax relief credits, \$1.6 million from North Dakota State University (NDSU) for the Minard Hall construction project, and up to \$6.1 million from the Adjutant General for emergency costs relating to spring 2015 Burleigh County fires and the Dakota Access Pipeline protest.

In response to a question from Chairman Delzer, Ms. Sharp said OMB will have more information regarding the deficiency appropriation necessary for the property tax relief credits in February or March 2017.

Ms. Sharp said the July 2016 general fund revenue forecast for the 2017-19 biennium totals \$3.76 billion, approximately \$175.5 million (4.9 percent) more than the July 2016 revenue forecast for the 2015-17 biennium. She said the July 2016 oil tax revenue forecast for the 2017-19 biennium totals \$3.5 billion, approximately \$601.8 million (17.2 percent) more than the July 2016 revenue forecast for the 2015-17 biennium.

In response to a question from Chairman Delzer, Ms. Sharp said the \$14 million projected to be deposited in the state disaster relief fund during the 2015-17 biennium will bring the fund to the maximum uncommitted balance of \$25 million.

Ms. Sharp said in accordance with provisions of 2015 House Bill No. 1085, OMB has surveyed the 31 agencies that receive federal funds to determine the agencies' plans to operate if federal funds are reduced by 5 percent or more. She said OMB is in the process of following up with agencies to clarify responses and will have the completed report by October 15, 2016. She said most agencies have indicated federal programs would be adjusted to meet the level of available federal funding, rather than requesting a general fund appropriation to replace the federal funding.

Ms. Tammy Dolan, Chief Financial Officer, North Dakota University System, presented information ([Appendix C](#)) regarding the North Dakota University System's plan for addressing the 6.55 percent general fund budget reductions, the anticipated effects of the reductions on the University System office and institution programs and services, and tentative per-credit-hour funding calculations and other budget request changes for the 2017-19 biennium. She said University System institutions general fund budgets were reduced by \$48.5 million, of which \$44.3 million was reduced from operations and \$4.2 million was reduced from capital assets. She said 70 to 80 percent of the institutions' budgets is for employee salaries and benefits; therefore, the budget reductions have affected over 300 full-time equivalent (FTE) positions at the institutions. She said University System institutions are working to eliminate low-enrollment programs and nonessential programs in order to realize long-term cost-savings.

In response to a question from Representative Schmidt, Ms. Dolan said nonteaching positions were reviewed at the institutions when considering positions to eliminate.

In response to a question from Representative Froseth, Ms. Dolan said the primary cause of the difference between the budget reductions for the University of North Dakota (UND) and NDSU was the \$62 million appropriation for the new UND medical school building.

In response to a question from Chairman Delzer, Ms. Dolan said the University System office and University System institutions are complying with the 90 percent base budget guidelines for the 2017-19 biennium, as determined by OMB.

In response to a question from Senator Marcellais, Ms. Dolan said she would provide the committee with additional information regarding the number of recipients of veterans' assistance grants and Native American scholarships.

In response to a question from Chairman Delzer, Ms. Dolan said the University System institutions have approximately 6,600 FTE employees.

In response to a question from Representative Haak, Ms. Dolan said she would provide the committee with additional information regarding the University System workforce reductions, including the number of teaching positions and nonteaching positions eliminated. Chairman Delzer asked Ms. Dolan to email the requested information to committee members.

In response to a question from Chairman Delzer, Ms. Dolan said a study of campus missions is currently being conducted by the University System office. She said the study group is comprised of representatives from the University System office and the institutions.

In response to a question from Representative Becker, Ms. Dolan said the University System is also studying tuition rate structures at University System institutions.

Ms. Dolan said general fund appropriations for the University System institutions are determined using a formula. She said an adjusted student credit-hour factor is multiplied by a statutory rate to determine each institution's general fund appropriation. She said the statutory rate by which the adjusted student credit-hours are multiplied was reduced by 10 percent in order to reach the 90 percent base budget amount requested by OMB. She said the amount requested represents a decrease of 8.1 percent rather than 10 percent due to an increase in adjusted student credit-hours. She said the budget reductions at each institution ranged from 2.3 percent at Dakota College at Bottineau to 24.5 percent at Dickinson State University due to the varying completed credit amounts. She said the University System is requesting the "hold-harmless" section of the higher education funding formula be extended in order to limit the funding reduction at Dickinson State University to 13.6 percent.

In response to a question from Chairman Delzer, Ms. Dolan said the NDSU research and extension budgets were not included in the University System budget information being presented. She said the budgets for those agencies are reviewed by the State Board of Higher Education, but are determined by the State Board of Agricultural Research and Education (SBARE).

The Legislative Council staff presented a memorandum entitled [Health Insurance Plan Renewal Process](#). The memorandum provides information regarding North Dakota Century Code Section 54-52.1-05, which identifies the process the Public Employees Retirement System (PERS) Board is to use when considering renewal of the 2-year uniform group health insurance contract. The Legislative Council staff said the House amended 2015 Senate Bill No. 2022 to limit the contract to 2 years and eliminate the renewal option. The Senate did not concur with the House amendment and a conference committee was formed. The Senate rejected the amendment proposed by the first conference committee in April 2015. A second conference committee was formed in June 2015 and approved an amendment which provided the process for the uniform group health insurance contract to allow for renewal after 2 years.

In response to a question from Chairman Delzer, the Legislative Council staff said the PERS Board has approved renewing the group insurance contract with Sanford Health for the 2017-19 biennium with a 17.4 percent increase in monthly premiums for active state employee contracts.

The Legislative Council staff presented a memorandum entitled [School Construction Loan Interest Rate Buydown Program](#). The memorandum provides information regarding the school construction loan interest rate buydown program authorized in 2015 Senate Bill No. 2178. Senate Bill No. 2178 authorized the Bank of North Dakota to provide up to \$250 million for school construction loans to eligible school districts. The loans are for a 20-year term unless the school district requests a shorter term. Senate Bill No. 2178 provided for a transfer of approximately \$7.8 million from Bank of North Dakota profits for the interest rate buydown program in the 2015-17 biennium to reduce interest rates for the loans by 3 percent, from 5 to 2 percent.

The Legislative Council staff presented a memorandum entitled [Highway Tax Distribution Fund Allocations - 2013-15 and 2015-17 Bienniums](#). The memorandum provides information regarding highway tax distributions fund allocations for the 2013-15 biennium, the 2015 legislative forecast for the 2015-17 biennium, and the January 2016 revised forecast for the 2015-17 biennium. The memorandum identifies the actual 2013-15 allocations totaled \$592.8 million, the 2015 legislative forecast for the 2015-17 biennium was \$623.8 million, and the January 2016 revised forecast for the 2015-17 biennium is \$542.9 million.

The Legislative Budget Analyst and Auditor presented the [2016 North Dakota Finance Facts](#) brochure. The brochure provides information regarding economic statistics, the state budget, K-12 education, higher education, human services, corrections, economic development, and transportation.

STUDY OF STATUTORY AND REGULATORY REQUIREMENTS RELATING TO FEDERAL FUNDING

Mr. Jamie Mertz, Director of Fiscal Management, Department of Public Instruction, presented information ([Appendix D](#)) regarding the potential to reduce federal grant administration costs and state and local costs relating to federal programs. Mr. Mertz said the Department of Public Instruction (DPI) is in the process of hiring a firm to complete a business process model project, which may result in department efficiencies. He said the federal Every Student Succeeds Act (ESSA) eliminates over 50 federal programs and replaces them with a single block grant. He said this consolidation of programs may result in decreased administrative costs.

In response to a question from Chairman Delzer, Mr. Mertz said DPI does not yet have finalized enrollment numbers to determine the final general fund turnback amount from the appropriation for state school aid.

In response to a question from Chairman Delzer, Ms. Kirsten Baesler, Superintendent, Department of Public Instruction, said DPI is writing an accountability plan and establishing mathematics and English standards for North Dakota to comply with ESSA.

In response to a question from Senator Marcellais, Mr. Mertz said he would provide the committee with additional information regarding the number of homeless children in North Dakota.

In response to a question from Representative Boschee, Mr. Mertz said the consolidation of federal programs into a single block grant is not expected to significantly affect the amount of federal funds received by the state.

The Legislative Council staff presented a bill draft [[17.0196.01000](#)] to create a new section in Chapter 54-27, relating to state agency acceptance of federal funds, and to continue the Legislative Management study of statutory and regulatory requirements placed on North Dakota state government agencies by United States government agencies. Section 1 of the bill draft creates law to require agencies to perform an analysis prior to applying for or accepting federal grant funds. Section 2 of the bill draft continues the Legislative Management study of statutory and regulatory requirements placed on North Dakota state government agencies as a condition of the receipt of federal funding.

Chairman Delzer suggested the committee consider amending the bill draft to identify the analysis as a cost-benefit analysis.

Senator Kilzer expressed concern regarding the effect the bill draft may have on the ability of agencies to respond quickly to available grants.

In response to a question from Chairman Delzer, the Legislative Budget Analyst and Auditor said the bill draft would apply to all federal grants, not just new programs. Chairman Delzer suggested the analysis requirement only apply to new grants or programs.

Representative Becker said the bill draft does not appear restrictive enough to cause significant delays in accepting federal grants.

Representative Boschee expressed concern regarding how complying with the requirements of the bill draft would affect agency decisions.

It was moved by Representative Becker, seconded by Representative Laning, and carried on a roll call vote that the bill draft relating to state agency acceptance of federal funds be approved and recommended to the Legislative Management. Representatives Delzer, Becker, Froseth, Haak, Laning, Lefor, Louser, Pollert, Schmidt, Steiner, and Vigesaa and Senators Kilzer, Marcellais, and Sorvaag voted "aye." Representative Boschee voted "nay."

OTHER COMMITTEE RESPONSIBILITIES

Mr. Lynn Helms, Director, Department of Mineral Resources, presented information ([Appendix E](#)) regarding the status of oil and gas development in the state and projected future development. He said there are 13,255 active oil wells in the state, 1,472 inactive wells, 912 wells waiting on completion, and an additional 1,982 permitted wells. He said he anticipates the West Texas Intermediate (WTI) price for oil will need to exceed \$40 for at least 90 days before companies begin returning inactive wells to production, \$50 for at least 90 days before companies begin completing wells waiting on completion, and \$60 for at least 90 days before companies begin drilling the permitted wells.

In response to a question from Chairman Delzer, Mr. Helms said a drilling permit is effective for 1 year, but can be renewed for \$100 per year.

In response to a question from Representative Becker, Mr. Helms said the Department of Mineral Resources contracts with forecasters to project oil prices and production. He said the contractors provide information to the department regarding the factors used to make the projections.

Chairman Delzer asked Mr. Helms to email the information regarding the factors to the committee.

Representative Becker expressed concerns regarding forecasted oil prices and production. He said he is concerned additional allotments will be required during the 2017-19 biennium due to over-estimated revenues.

In response to a question from Representative Schmidt, Mr. Helms said a delay in the completion of the Dakota Access Pipeline will have a negative effect on the price of North Dakota oil.

STUDY OF THE FUNCTIONS OF THE BUDGET SECTION

The Legislative Council staff presented a bill draft [[17.0073.01000](#)] to amend Section 15-10-12.1 relating to higher education building construction and campus improvements. The bill draft increases the minimum cost of campus improvements which require the consent of the Legislative Assembly or the Budget Section from \$385,000 to \$700,000. The bill draft also removes the authority of the Budget Section to approve the construction of any building or any addition to a building under the control of the State Board of Higher Education with donated funds. The bill draft requires the consent of the Legislative Assembly to construct any building or any addition to a building under the control of the State Board of Higher Education, regardless of cost.

In response to a question from Senator Sorvaag, the Legislative Council staff said the authority of the Budget Section to approve campus improvements and maintenance would not be removed by the bill. He said the bill draft removes the authority of the Budget Section to approve the use of donated funds for the construction of new buildings and building additions.

The Legislative Council staff presented a bill draft [[17.0193.01000](#)] to amend statutory provisions relating to individual, estate, and trust income tax credits and to repeal statutory provisions relating to reporting of new

Department of Corrections and Rehabilitation (DOCR) programs, the Children's Services Coordinating Committee, the homestead income tax credit, and the commercial property income tax credit. Section 1 of the bill draft amends Section 57-38-30.3 to remove references to the homestead income tax credit and the commercial property income tax credit. Sections 57-38-01.29 and 57-38-01.30, which provide for the homestead income tax credit and the commercial property income tax credit, are repealed in Section 2 of the bill draft. He said both income tax credits were only available for taxable years 2007 and 2008 and the homestead property tax credit is not affected by this bill draft. Section 2 of the bill draft also repeals Section 54-23.3-09, relating to reporting of new DOCR programs, and Chapter 54-56, relating to the Children's Services Coordinating Committee. He said the DOCR reporting requirement has not been acted on by the Budget Section since it was implemented in 2001 and the Children's Services Coordinating Committee has not received a state appropriation since the 2003-05 biennium.

The Legislative Council staff presented a bill draft [[17.0194.01000](#)] to amend statutory provisions relating to Budget Section reporting requirements for SBARE and the Information Technology Department (ITD). Section 1 of the bill draft amends Section 4-05.1-19(10) to require SBARE to provide a status report to the Budget Section, rather than present it. Section 2 of the bill draft amends Section 54-59-19 to remove the requirement for ITD to present a summary of its annual report to the Budget Section. The bill draft does not affect the requirement for ITD to present its annual report to the Information Technology Committee.

In response to a question from Chairman Delzer, the Legislative Council staff said the Budget Section could still request the reports be presented at a meeting.

The Legislative Council staff presented a bill draft [[17.0195.01000](#)] to amend Section 54-06-37, relating to required authorization to purchase or lease aircraft. The bill draft removes the authority of the Budget Section to authorize the purchase or lease of an aircraft by a state agency or other entity of state government.

Chairman Delzer expressed support for the bill draft to remove the authority of the Budget Section to authorize the purchase or lease of an aircraft.

It was moved by Representative Pollert, seconded by Representative Vigesaa, and carried on a roll call vote that the bill draft relating to the purchase or lease of aircraft by state agencies be approved and recommended to the Legislative Management. Representatives Delzer, Boschee, Froseth, Haak, Laning, Lefor, Louser, Pollert, Schmidt, Steiner, and Vigesaa and Senators Kilzer, Marcellais, and Sorvaag voted "aye." No negative votes were cast.

It was moved by Senator Sorvaag, seconded by Representative Lefor, and carried on a roll call vote that the bill draft relating to higher education campus improvements and building construction be approved and recommended to the Legislative Management. Representatives Delzer, Froseth, Haak, Laning, Lefor, Louser, Pollert, Schmidt, Steiner, and Vigesaa and Senators Kilzer, Marcellais, and Sorvaag voted "aye." Representative Boschee voted "nay."

Chairman Delzer suggested the bill drafts to repeal provisions relating to Budget Section duties and amend provisions relating to Budget Section reporting requirements for SBARE and ITD be combined.

It was moved by Representative Vigesaa, seconded by Representative Steiner, and carried on a roll call vote that the bill drafts relating to Budget Section reporting requirements be combined and, as amended, be approved and recommended to the Legislative Management. Representatives Delzer, Boschee, Froseth, Haak, Laning, Lefor, Louser, Pollert, Schmidt, Steiner, and Vigesaa and Senators Kilzer, Marcellais, and Sorvaag voted "aye." No negative votes were cast.

Ms. Sheila Peterson, Director, Fiscal Management Division, Office of Management and Budget, commented regarding agency reporting of federal grants to OMB and the Budget Section. She said OMB does not have any suggestions for improving the reporting process.

It was moved by Representative Pollert, seconded by Representative Laning, and carried on a voice vote that the Chairman and the Legislative Council staff be requested to prepare a report and the bill drafts recommended by the committee and to present the report and recommended bill drafts to the Legislative Management.

It was moved by Representative Froseth, seconded by Representative Schmidt, and carried on a voice vote that the committee be adjourned sine die.

No further business appearing, Chairman Delzer adjourned the meeting sine die at 2:15 p.m.

Alex J. Cronquist
Fiscal Analyst

ATTACH:5