

## NORTH DAKOTA LEGISLATIVE MANAGEMENT

## Minutes of the

**BUDGET SECTION**

Thursday, September 26, 2019  
Senate Chamber, State Capitol  
Bismarck, North Dakota

Senator Terry M. Wanzek, Chairman, called the meeting to order at 10:00 a.m.

**Members present:** Senators Terry M. Wanzek, Brad Bekkedahl, Dick Dever, Robert Erbele, John Grabinger, Joan Heckaman, Ray Holmberg, Jerry Klein, Gary A. Lee, Tim Mathern, Dave Oehlke, Nicole Poolman, Larry J. Robinson, Ronald Sorvaag, Rich Wardner; Representatives Bert Anderson, Thomas Beadle, Larry Bellew, Josh Boschee, Mike Brandenburg, Jeff Delzer, Karla Rose Hanson, Richard G. Holman, Michael Howe, Lawrence R. Klemin, Gary Kreidt, Scott Louser, Bob Martinson, Lisa Meier, Corey Mock, Mike Nathe, Chet Pollert, Mark Sanford, Mike Schatz, Jim Schmidt, Randy A. Schobinger

**Members absent:** Senators David Hogue, Karen K. Krebsbach; Representatives Tracy Boe, Keith Kempenich, David Monson, Jon O. Nelson, Don Vigesaa

**Others present:** Senator Donald Schaible, Mott, member of the Legislative Management  
See [Appendix A](#) for additional persons present.

**It was moved by Senator Robinson, seconded by Senator Dever, and carried on a voice vote that the minutes of the June 26, 2019, meeting be approved as distributed.**

**STATE BUDGET INFORMATION**  
**2017-19 Biennium General Fund Status**

Mr. Joe Morrisette, Director, Office of Management and Budget, presented a report ([Appendix B](#)) on the status of the general fund and the balances of selected special funds. He presented the following information on the final status of the general fund for the 2017-19 biennium:

Unobligated general fund balance - July 1, 2017		\$65,000,000
Balance obligated for authorized carryover from the 2015-17 biennium		99,271,093
Total beginning general fund balance - July 1, 2017		\$164,271,093
Add		
General fund collections		4,913,448,662
Total revenues available		\$5,077,719,755
Less		
Legislative appropriations - One-time	(\$14,638,226)	
Legislative appropriations - Ongoing	(4,295,624,415)	
Authorized carryover from previous biennium	(99,271,093)	
2019-21 authority spent in 2017-19 pursuant to emergency clause	(106,000)	
Deficiency and supplemental appropriations	(115,560,181)	
Unspent authority	61,389,781	
Total appropriations		(4,463,810,134)
General fund balance - June 30, 2019 - Before transfers		\$613,909,621
Transfer to budget stabilization fund <sup>1</sup>		(548,010,854)
Other transfers and adjustments		(898,767)
Ending general fund balance - June 30, 2019		\$65,000,000

<sup>1</sup>Pursuant to North Dakota Century Code Chapter 54-27.2, any end-of-biennium balance in excess of \$65 million must be transferred to the budget stabilization fund, up to a maximum of 15 percent of general fund appropriations.

**2019-21 Biennium General Fund Status**

Mr. Morrisette presented the following information on the status of the general fund for the 2019-21 biennium:

Unobligated general fund balance - July 1, 2019		\$65,000,000
Balance obligated for authorized carryover from the 2017-19 biennium		130,404,813
Total beginning general fund balance - July 1, 2019		\$195,404,813
Add		
General fund collections to date	\$778,395,153	
Remaining forecasted general fund collections	4,078,632,519	
Total estimated general fund collections		4,857,027,672
Total estimated revenues available		\$5,052,432,485
Less		
Legislative appropriations - One-time	(\$48,639,068)	
Legislative appropriations - Ongoing	(4,794,924,098)	
Authorized carryover from previous biennium	(130,404,813)	
2019-21 authority spent in 2017-19 pursuant to emergency clause	106,000	
Total appropriations		(4,973,861,979)
Estimated ending general fund balance - June 30, 2021 - Before transfers		\$78,570,506
Transfer to budget stabilization fund <sup>1</sup>		0
Estimated ending general fund balance - June 30, 2021		\$78,570,506

<sup>1</sup>Pursuant to Chapter 54-27.2, any end-of-biennium balance in excess of \$65 million must be transferred to the budget stabilization fund, up to a maximum of 15 percent of general fund appropriations. The budget stabilization fund is estimated to be at the maximum balance at the end of the 2019-21 biennium.

In response to a question from Representative Bellew, Mr. Morrisette said legacy fund earnings are transferred to the general fund at the end of each biennium.

In response to a question from Representative Klemin, Mr. Morrisette said gaming tax collections have been significantly higher than the legislative forecast. He said the remaining forecasted general fund collections amount does not reflect the higher than anticipated collections.

In response to a question from Representative Nathe, Mr. Morrisette said he does not currently anticipate a general fund budget shortfall during the 2019-21 biennium.

**Balances of Selected Special Funds**

Mr. Morrisette presented the following schedule detailing estimated fund balances of selected special funds as of August 31, 2019:

Budget stabilization fund	\$659,453,437
Legacy fund	\$6,262,548,992
Foundation aid stabilization fund	\$395,738,595
Tax relief fund	\$90,275,000

Mr. Morrisette said the balance of the strategic investment and improvements fund on May 31, 2019, was \$1,108,880,544. He said of this amount, \$259,022,231 is obligated which provides for an unobligated balance of \$849,858,313.

In response to a question from Senator Wardner, Mr. Morrisette said the legacy fund balance of \$6.26 billion reflects the transfer of legacy fund earnings which was made in June 2019.

In response to a question from Representative Boschee, Mr. Morrisette said the maximum balance of the budget stabilization fund is approximately \$726.5 million. He said the fund is estimated to reach the maximum balance when oil tax collections, pursuant to the statutory formula, are deposited in the fund.

In response to a question from Senator Bekkedahl, Mr. Morrisette said he will provide the Budget Section with information at future meetings regarding estimated and actual deposits being made into the strategic investment and improvements fund.

**2017-19 Biennium General Fund Turnback**

Mr. Morrissette presented information ([Appendix C](#)) regarding state agency general fund turnback at the end of the 2017-19 biennium. He said a total of \$51,891,252 was turned back by 44 agencies. He said the turnback amount was 1.15 percent of total 2017-19 biennium general fund appropriations. The revised 2017-19 biennium budget approved by the Legislative Assembly estimated general fund turnback of \$47.1 million.

**2017-19 Biennium Capital Construction Carryover**

Mr. Morrissette presented information ([Appendix D](#)) regarding the authorization of carryover authority for 2017-19 biennium appropriations. He said the capitol construction carryover committee authorized 13 agencies to continue appropriation authority of \$57,105,178 from the 2017-19 biennium to the 2019-21 biennium. He said in addition to capital construction projects, carryover authority was also provided for large information technology projects.

Senator Holmberg said \$31 million of the carryover authority authorized is federal funds relating to the National Guard Fargo Readiness Center. He said construction on the project was delayed while waiting for authorization from the federal government.

**STATE AGENCY APPLICATIONS FOR FEDERAL GRANTS**

Mr. Morrissette presented information ([Appendix E](#)) on state agencies that applied for federal grants estimated to be \$25,000 or more pursuant to Section 54-27-27. He said the following agencies have applied for a federal grant estimated to be \$25,000 or more:

Agency	Time Period of Grant	Amount
Industrial Commission	October 2019 - October 2024	\$51,092
Game and Fish Department	October 2019 - September 2020	\$40,000
Department of Transportation	November 2019 - September 2026	\$22,968,650

Mr. Morrissette said the Department of Agriculture received a federal grant of \$310,658 for food safety education and outreach and the Department of Transportation received a \$6,511,000 federal grant for the replacement of bridges.

**IRREGULARITIES IN THE FISCAL PRACTICES OF THE STATE**

Pursuant to Section 54-14-03.1, Mr. Morrissette presented information ([Appendix F](#)) on irregularities in the fiscal practices of the state. He presented the following fiscal irregularities for the period June 2019 through August 2019:

Agency	Fiscal Irregularity	Amount
North Dakota Vision Services	Summer teaching contracts	\$17,973
North Dakota Vision Services	Balance of contract for employees who resigned or retired	\$13,715
Attorney General	Employee reclassification	\$1,495
Tax Department	Employee reclassification	\$1,696
Judicial System	Workload adjustment	\$529
Bank of North Dakota	Promotions and workload adjustments	\$1,381
Department of Commerce	Workload increase	\$4,200
Historical Society	Retroactive workload adjustment	\$500
Attorney General	Promotion	\$800
Department of Human Services	Employee reclassification	\$802
Department of Human Services	Temporary workload increases	\$2,367
Department of Human Services	Equity increases	\$8,686
Department of Human Services	Employee reclassification	\$1,025
Office of Management and Budget	Severance package	\$26,106
Department of Human Services	Reductions in force	\$71,932
Public Service Commission	Reduction in force	\$2,000

Mr. Morrissette said a total of 16 employees from three agencies received payments in June 2019 through the voluntary separation incentive program.

**CAPITOL SOUTH ENTRANCE REMODELING PROJECT**

Mr. Morrissette presented information ([Appendix G](#)) regarding the Capitol south entrance remodeling project. He said a project architect will provide the Capitol Grounds Planning Commission with four concepts for the redesign of the entrance. He said the commission will choose a design and the project is estimated to begin in April 2020 and be finished by the end the year.

In response to a question from Senator Holmberg, Mr. Morrissette said the issue of water leaking through the front steps of the Capitol has been resolved.

Senator Holmberg suggested Office of Management and Budget obtain input from staff that work at the security checkpoint regarding the project design.

Mr. Morrissette said the supervisor of Capitol security has been included in discussions on the project.

In response to a question from Senator Mathern, Mr. Morrissette said the project will include a review of ways to improve accessible parking near the entrance.

Senator Dever suggested the security access reader for the west doors be placed at the interior doors to allow individuals with a handicap that use the entrance to be inside while waiting for Capitol security to open the doors.

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

Chairman Wanzek directed the Budget Section to consider agency requests ([Appendix H](#)) that have been authorized by the Emergency Commission and forwarded to the Budget Section pursuant to Chapter 54-16.

Mr. Morrissette provided information regarding the following requests authorized by the Emergency Commission and which require consideration by the Budget Section:

- **State Library (Request #1942)** - Request is to increase federal funds spending authority by \$220,000 in the grants line item to accept and spend funds from the Institute of Museum and Library Services for computer coding club programs for small and rural public libraries to prepare students with technological skills.
- **Adjutant General (Request #1945)** - Request is to increase federal funds spending authority by \$1,473,805 in the grants line item to accept and spend funds from the National Telecommunications and Information Administration and the National Highway Traffic Safety Administration to fully integrate Next Generation 9-1-1 throughout the state.

**It was moved by Senator Holmberg, seconded by Senator Robinson, and carried on a roll call vote that the Budget Section approve Requests #1942 and #1945 which were approved by the Emergency Commission.** Senators Wanzek, Bekkedahl, Dever, Erbele, Grabinger, Heckaman, Holmberg, Klein, Lee, Mathern, Poolman, Robinson, Sorvaag, and Wardner and Representatives Anderson, Beadle, Bellew, Boschee, Brandenburg, Delzer, Hanson, Howe, Klemin, Kreidt, Louser, Martinson, Meier, Nathe, Pollert, Sanford, Schatz, and Schobinger voted "aye." No negative votes were cast.

Representative Delzer said the Emergency Commission also approved a request from the Adjutant General to obtain a \$2.3 million loan from the Bank of North Dakota for disaster expenses relating to flooding. He said the Adjutant General likely will request a deficiency appropriation during the 2021 legislative session to repay the loan.

### **OUTSTANDING WARRANTS AND CHECKS**

Mr. Ryan Skor, Director of Finance, State Treasurer's office, presented information ([Appendix I](#)) on warrants and checks outstanding for more than 90 days and less than 3 years pursuant to Section 54-11-01. He said the total number of outstanding checks in state fiscal year 2019 decreased by 8.5 percent compared to state fiscal year 2018, while the total dollar amount of outstanding checks decreased by 11.2 percent during this time period. He said the total amount of outstanding checks for fiscal year 2019 was \$2.1 million. He said 3,931 outstanding checks from fiscal year 2016 totaling \$353,866 will be transferred to the Department of Trust Lands' Unclaimed Property Division in October 2019.

### **AUDIT OF RENAISSANCE FUND ORGANIZATIONS**

Ms. Carla Valentine, Program Administrator, ND Development Fund and Innovation, Department of Commerce, presented information ([Appendix J](#)) regarding annual audits of renaissance fund organizations pursuant to Section 40-63-07(9). She said 58 cities have a renaissance zone. She said 8 cities have established a renaissance fund organization, including Casselton, Fargo, Jamestown, Hazen, Mayville, West Fargo, Hope, and Grand Forks. She said since 1999, a total of \$10.5 million in tax credits has been authorized for projects by the Legislative Assembly. She said \$15.3 million has been invested in renaissance fund organizations and credits of \$7.7 million have been claimed. She said tax credits of \$2.8 million remain available, of which \$80,000 are uncommitted credits.

### **DEPARTMENT OF CORRECTIONS AND REHABILITATION - INMATE REPORT**

Mr. Steven Hall, Director of Transitional Planning Services, Department of Corrections and Rehabilitation, presented information ([Appendix K](#)) regarding the department's prison population management plan, inmate admissions, and the number of inmates the department has not admitted after sentencing, pursuant to Section 54-23.3-11. He said the maximum operational capacity for male inmates is 1,624 while the maximum operational

capacity for female inmates is 224. He said during the spring of 2019 the female inmate population increased and in May 2019 it was estimated the female inmate population count would exceed the maximum operational capacity. As a result, he said, the department implemented its prioritization plan for the admission of female inmates.

Mr. Hall said prison inmate admission is prioritized based on the severity of offense. He said there are 10 levels of prioritization with violent Class AA felony offenses as the top priority in level 1 and nonviolent Class A misdemeanor offenses ranking as the lowest priority in level 10. He said cases involving multiple offenses are assigned using the highest ranking priority level.

In response to a question from Senator Bekkedahl, Mr. Hall said inmates not admitted to a Department of Corrections and Rehabilitation (DOCR) facility remain in the custody of counties. He said a county is responsible for medical expenses of the inmate until the inmate is admitted to a DOCR facility.

In response to a question from Senator Mathern, Mr. Hall said substance abuse and other treatment services generally are not available at county correctional facilities. He said treatment services are available at DOCR facilities.

In response to a question from Senator Dever, Mr. Hall said the free through recovery program was developed to serve individuals under the supervision of DOCR parole and probation programs. He said the program is being expanded to serve other individuals and may be used as part of pre-trial services.

In response to a question from Representative Schatz, Mr. Hall said the September female inmate count is estimated to be below the maximum operational capacity. He said the maximum operational capacity is based on inmate counts at all DOCR facilities. However, he said, there may be individual facilities operating below their operational capacity. He said beds may be held open at a facility to provide space for individuals that may violate parole and be returned to the custody of DOCR.

In response to a question from Chairman Wanzek, Mr. Hall said the number of male inmates has been increasing but the department does not anticipate prioritizing male inmates.

### **FIRE DISTRICT EXPENDITURES AND DISTRIBUTIONS FROM THE INSURANCE TAX DISTRIBUTION FUND**

Mr. Douglas Nelson, State Fire Marshal, Attorney General's office, presented information ([Appendix L](#)) regarding expenditures by certified fire departments and district funds received from the insurance tax distribution fund and reserve fund balances for 2017 and 2018, pursuant to Section 18-04-02.

Mr. Nelson said the insurance tax distribution fund was created in 1887 and receives revenues from insurance premiums taxes. He said money in the fund is distributed to qualified fire departments to maintain fire services. He said to receive a distribution from the fund, a fire department must complete a certificate of existence by October 31 of each year, have been in existence for at least 8 months, provide minimum requirements to maintain an Insurance Services Office - Public Protection Classification of 9 or better, and be in compliance with fire reporting requirements detailed in Section 18-01-06.

Mr. Nelson said 368 fire departments received a total of \$7,120,918 of distributions in 2017. He said \$7,117,781 was distributed in 2018 but 2 fire departments did not meet reporting requirements and did not receive a distribution. He said 99 fire departments did not report on items or services purchased with the funds and 10 departments did not report on amounts or how funds were spent.

In response to a question from Representative Klemin, Mr. Nelson said fire departments are notified about the reporting deadlines by mail, email, and occasionally by phone. He said the primary incentive for departments to file the reports is that a department will not receive funding distributions if the reports are not filed.

### **FINANCE FACTS POCKET BROCHURE**

At the request of Chairman Wanzek, the Legislative Council staff presented the [2019 North Dakota Finance Facts](#) pocket brochure.

### **NORTH DAKOTA OUTDOOR HERITAGE FUND REPORT**

Ms. Andrea Pfenning, Deputy Executive Director, Industrial Commission, presented information ([Appendix M](#)) regarding the North Dakota outdoor heritage fund. She said the North Dakota outdoor heritage fund received \$10,872,753 during the 2017-19 biennium and \$19,978,952 during the 2015-17 biennium. She said nine grant rounds have been held since 2013, resulting in \$46,219,177 being awarded to 156 projects throughout North Dakota. She said four additional grant rounds are scheduled during the 2019-21 biennium.

In response to a question from Representative Bellew, Ms. Pfenning said she will provide information regarding all projects awarded funds from the North Dakota outdoor heritage fund.

Representative Brandenburg expressed concern regarding the small number of projects awarded to agricultural groups. He said it appears that most funding from the North Dakota outdoor heritage fund is being used for wildlife projects.

Ms. Pfenning said directive B of the North Dakota outdoor heritage fund relates to support of practices of stewardship to enhance farming and ranching. She said more funding has been approved for projects submitted under directive B than any other directive.

**NORTH DAKOTA UNIVERSITY SYSTEM LOCAL FUNDS REPORT**

Ms Tammy Dolan, Vice Chancellor for Administrative Affairs, North Dakota University System, presented information ([Appendix N](#)) pursuant to Section 15-10-12.3 regarding the sources of funds received for construction projects of entities under the control of the State Board of Higher Education. She said there were no new projects authorized in the 2017-19 biennium. She said the report includes the following projects which were authorized in previous bienniums and continued into the 2017-19 biennium:

- North Dakota State University seed conditioning plants at Carrington and North Central Research Extension Centers;
- Dickinson State University Theodore Roosevelt Center Project; and
- Valley City State University hillside slope stabilization project.

Ms. Dolan said the hillside slope stabilization project was completed in June 2018 and the seed conditioning plants are anticipated to be completed by June 2020. She said the Theodore Roosevelt Center Project was canceled in December 2018.

**BOARD OF UNIVERSITY AND SCHOOL LANDS INVESTMENT PERFORMANCE**

Ms. Jodi Smith, Commissioner, Board of University and School Lands, presented information ([Appendix O](#)) regarding the investment of assets under the control of the board. She said as of June 2019 the board was managing approximately \$6.1 billion worth of assets, of which \$4.9 billion were assets of permanent trust funds. She said the assets of the permanent trust funds were invested as follows:

	Asset Allocation	Percentage of Allocation	Target Allocation
United States equity	\$897,095,000	18.5%	18.5%
International equity	906,282,000	18.6%	18.5%
Fixed income	1,081,059,000	22.3%	23.0%
Absolute return	766,499,000	15.8%	15.0%
Inflation strategies	488,651,000	10.1%	10.0%
Real estate	716,651,000	14.7%	15.0%
Total	\$4,856,237,000	100.0%	100.0%

Ms. Smith said the strategic investment and improvements fund uses short-term investments due to frequent distributions from the fund. She presented the following schedule detailing the investment of the strategic investment and improvements fund:

	Asset Allocation
Cash and cash equivalent	33%
United States Treasury Bonds	19%
Agency mortgage backed securities	11%
Asset backed securities	7%
Investment grade corporate bond	30%
Total	100%

Ms. Smith said the net return for the permanent trust fund as of June 30, 2019, was 3.85 percent for the prior year compared to a benchmark of 5.76 percent, 6.59 percent for the prior 3 years compared to a benchmark of 7.22 percent, and 3.86 percent for the prior 5 years compared to a benchmark of 5.09 percent. She said as of June 30, 2019, the net return on investments for the strategic investment and improvements fund was 2.23 percent for the prior 6 months compared to a benchmark of 1.97 percent and 3.66 percent for the prior year compared to a benchmark of 3.29 percent. She said in fiscal year 2019 the department paid \$22.7 million, or 49 basis points, of fund management fees to private entities for managing approximately \$4.6 billion of assets.

In response to a question from Representative Brandenburg, Ms. Smith said management fees vary based on portfolio structure. She said there may be higher fees for portfolios that require more active management.

In response to a question from Representative Bellew, Ms. Smith said base point fees are a management fee that is based on a percentage of total assets.

In response to a question from Chairman Wanzek, Mr. Michael Shackelford, Asset Management Director, Department of Trust Lands, said an absolute return investment strategy uses a manager that can invest in any area the manager feels will provide a positive return. He said the manager sets a target return rate, but actual returns may be less.

In response to a question from Representative Nathe, Ms. Smith said some investments are being made in national companies that may have operations in North Dakota.

In response to a question from Representative Nathe, Mr. Schackelford said fixed income investments include items, such as investment grade bonds, mortgages, and bank loans.

In response to a question from Representative Beadle, Ms. Smith said the department does not currently have the detail of bond investments to determine if there are any investments in municipal bonds issued in the state.

Representative Nathe suggested the department consider utilizing local banks for fixed income investments.

Ms. Smith said the primary purpose of the investments is to generate the greatest possible return on fund assets. She said it may not be prudent to make certain investments, such as purchasing real estate in the state.

In response to a question from Representative Sanford, Ms. Smith said the permanent fund assets for each trust fund are based on the amount of land allocated by the federal government to each trust fund at statehood. She said the assets of a permanent trust fund established for the benefit of a public higher education institution at Ellendale were reallocated after the institution closed.

In response to a question from Representative Bellew, Ms. Smith said the 2019 Legislative Assembly authorized a \$15 million transfer from the general fund to the Theodore Roosevelt presidential library and museum endowment fund. She said a \$35 million loan also was authorized for the project but the loan has not been obtained.

### **VALLEY CITY STATE UNIVERSITY INTEGRATED CARBON PLANT PROJECT**

Mr. Wesley Wintch, Vice President for Business Affairs, Valley City State University, provided an update ([Appendix P](#)) on the integrated carbon plant project. He said the 2017 Legislative Assembly approved \$22 million of revenue bonding authority for the project. He said the plant will be added to a newly constructed campus heat plant. He said activated carbons are used in air and water purification processes.

Mr. Wintch said an independent feasibility study for the project was completed. He said the study determined the project would generate an average profit after tax of \$1.69 million per year for the first 20 years after the project is completed. He said the institution will seek approval from the State Board of Higher Education to proceed with issuing the revenue bonds authorized for the project.

In response to a question from Senator Sorvaag, Mr. Wintch said steam produced during the activated carbon process can be used to heat the campus. He said this will result in an additional \$400,000 of savings each year which are not included in the estimated profit amount.

In response to a question from Senator Oehlke, Mr. Wintch said activated carbon may be used in the cleanup of certain aquatic nuisance species.

### **OTHER BUSINESS**

Senator Robinson suggested the committee receive information regarding wait times at Department of Transportation driver's license locations.

Representative Brandenburg expressed concern regarding wait times and staff availability for individuals taking commercial driver's license tests.

Chairman Wanzek announced the next Budget Section meeting is tentatively scheduled for Wednesday, December 18, 2019

No further business appearing, Chairman Wanzek adjourned the meeting at 1:45 p.m.

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Brady A. Larson  
Assistant Legislative Budget Analyst and Auditor

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Allen H. Knudson  
Legislative Budget Analyst and Auditor

ATTACH:16