

NORTH DAKOTA LEGISLATIVE MANAGEMENT

Minutes of the

GOVERNMENT FINANCE COMMITTEE

Tuesday, March 15, 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, Craig Headland, Kim Koppelman, Vernon Laning, Mike Lefor, Scott Louser, Chet Pollert, Jim Schmidt, Kris Wallman; Senators Ron Carlisle, Ralph Kilzer, Richard Marcellais, Ronald Sorvaag

Members absent: Representatives Eliot Glassheim, Jim Kasper, Vicky Steiner, Don Vigesaa

Others present: Representative Al Carlson, Fargo, member of the Legislative Management
Adam Mathiak, Legislative Council, Bismarck
See [Appendix A](#) for additional persons present.

It was moved by Representative Boschee, seconded by Senator Marcellais, and carried on a voice vote that the minutes of the February 3, 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, agency budget reductions, and the Office of Management and Budget (OMB) plan to meet the Governor's 4.05 percent general fund allotment. She said the estimated June 30, 2017, general fund balance as of February 29, 2016, is (\$6,481,450). She said the Governor's 4.05 percent general fund budget allotment reduced agency appropriations by \$239.1 million. She said the legislative and judicial branches intend to voluntarily reduce their spending by \$5.75 million for a total general fund budget reduction of \$244.9 million.

Ms. Sharp reviewed the budget reduction plan for OMB to meet the Governor's 4.05 percent general fund budget allotment. She said OMB's plan includes the potential elimination of 3 full-time equivalent (FTE) positions, reductions to travel and other operating expenses, and a reduction to the temporary employee health insurance pool. She said the temporary employee health insurance pool is not being utilized as much as expected, so OMB plans to reduce funding for the pool by 50 percent and still expects a portion of the funds to be unspent at the end of the biennium.

In response to a question from Representative Carlson, Ms. Sharp said the transfer from the foundation aid stabilization fund for the Department of Public Instruction was made during the month of February. Representative Carlson expressed concern that the transfer from the foundation aid stabilization fund has already been made rather than waiting until the funds were needed.

In response to a question from Representative Koppelman, Ms. Sharp said another revenue forecast will be prepared in July or August 2016, at which time a decision will be made whether to further allot agency appropriations or transfer additional funds from the budget stabilization fund.

In response to a question from Chairman Delzer, the Legislative Budget Analyst and Auditor distributed information ([Appendix C](#)) provided by OMB regarding the monthly forecast for sales tax revenue.

In response to a question from Chairman Delzer, Ms. Sharp said she would provide additional information regarding the reduction in funding for the Information Technology Department's statewide longitudinal data system.

In response to a question from Representative Carlson, Ms. Sharp said the federal/state share of funding for Medicaid Expansion will decrease from 100 percent federally funded to 95 percent from federal funds and 5 percent from the general fund effective January 1, 2017. Ms. Sharp said the estimated amount of \$2.9 million needed for Medicaid Expansion for the 2015-17 biennium was underestimated by approximately \$8 million; however, she said the Department of Human Services is considering options to reduce costs.

Representative Pollert expressed concern regarding the 4.05 percent general fund allotment. He said the allotment percentage should have been greater. He said agency budgets may need to be reduced more for the 2017-19 biennium.

Chairman Delzer and Representative Carlson suggested using the allotted budget amount as the base budget for the 2017-19 biennium.

In response to a question from Representative Carlson, Ms. Sharp said a statewide employee hiring freeze has not been issued.

In response to a question from Representative Carlson, Ms. Kathy Strombeck, Supervisor, Research & Education, Tax Department, said that although individual income tax collections remain strong, April 2016 collections will be an important factor.

Mr. Lynn Helms, Director, Department of Mineral Resources, presented information ([Appendix D](#)) regarding the status of oil and gas development, current workload, any planned staffing changes, and the department's plan to meet the Governor's 4.05 percent general fund allotment. He said North Dakota has 13,129 active wells, 1,334 inactive wells, and 945 wells waiting on completion. He said an additional 1,969 wells are permitted and 13,325 increased well density requests have been approved. He said the number of drilling rigs is at 2005-06 levels, but drilling rigs are much more efficient now. He said the cost of a well has decreased 29 percent and operating costs have decreased 46 percent. He said it is anticipated the number of FTE positions requested by the Department of Mineral Resources will not change for the 2017-19 biennium. He said FTE positions may be transferred within the department to meet varying needs of its divisions.

In response to a question from Representative Headland, Mr. Helms said sales tax revenue for the 2015-17 biennium can be expected to remain below forecast. Mr. Helms said prices would need to remain above \$40 per barrel for a full quarter before companies choose to frac wells waiting on completion. He said it could take 9 to 12 months to fully reactivate equipment and manpower in the oil field.

In response to a question from Representative Boschee, Mr. Helms said oil companies are making similar cost reductions in other states as they are in North Dakota.

In response to a question from Representative Schmidt, Mr. Helms said flaring on reservation land is at similar levels as flaring on private land.

In response to a question from Representative Wallman regarding waivers for inactive and uncompleted wells and the related loss of tax revenue, Mr. Helms said he would provide the committee with additional information regarding the inactive and uncompleted wells. Representative Wallman expressed concern regarding the waivers. She said the tax revenues generated from the oil production could be used for services related to human trafficking and other needs.

In response to a question from Representative Schmidt, Mr. Helms said the department is reviewing potential reductions to oil conditioning regulations. Mr. Helms said vapor pressure testing may be reduced from quarterly to semiannually.

In response to a question from Representative Wallman, Mr. Helms said the extreme temperature changes in North Dakota affect vapor pressure testing.

Mr. Ron Ness, President, North Dakota Petroleum Council, presented information ([Appendix E](#)) regarding the short-term and long-term outlooks for oil and gas development in the state. He said he believes production in North Dakota will be between 850,000 and 950,000 barrels per day by the end of 2016. He said positives of the reduction in oil activity include increased efficiencies and the opportunity to complete necessary infrastructure.

In response to a question from Chairman Delzer, Mr. Ness said approximately 20,000 to 22,000 oil-related jobs have been eliminated in North Dakota. Mr. Ness said investment in pipelines has not seen the decrease that the investment in oil and gas production has seen. He expressed concern regarding Industrial Commission rules relating to pipelines instituted as a result of 2015 House Bill No. 1358.

In response to a question from Representative Carlson, Mr. Ness said North Dakota State University, the University of North Dakota Energy and Environmental Research Center, and the Industrial Commission have worked together to identify methods to restore land affected by saltwater spills and other areas of saltwater remediation.

In response to a question from Representative Carlson, Mr. Ness said the State Department of Health has issued rules regarding storage of low-level radiation items in North Dakota. Mr. Ness said there is one landfill in North Dakota that now accepts the low-level radiation items.

In response to a question from Chairman Delzer, Mr. Ness said the ombudsman program has been beneficial for easement issues.

In response to a question from Chairman Delzer, Mr. Helms said the core library construction project at the University of North Dakota is on schedule and is anticipated to be completed under budget. Mr. Helms said unspent funds would remain in the strategic investment and improvements fund.

Ms. Maggie D. Anderson, Executive Director, Department of Human Services, presented information ([Appendix F](#)) regarding the department's plan for spending reductions due to the budget allotments and the anticipated effect of the reductions on department programs and services. She said the 4.05 percent general fund allotment required the Department of Human Services to reduce its general fund budget by \$47.65 million and increase revenue by \$6.3 million. She said the general fund budget reduction would also result in a \$61.29 million decrease in other funds spending due to the loss primarily of federal matching funds.

In response to a question from Chairman Delzer, Ms. Anderson said the state will be responsible for 10 percent of Medicaid Expansion costs in 2020.

Mr. Dave Krabbenhoft, Director of Administration, Department of Corrections and Rehabilitation, presented information ([Appendix G](#)) regarding the department's plan for spending reductions due to budget allotments and the anticipated effect of the reductions on department programs and services. He said the 4.05 percent general fund budget allotment resulted in a general fund budget reduction of \$8.7 million for the Department of Corrections and Rehabilitation. He said the department reduced the adult services line item by \$7.9 million and the youth services line item by \$800,000. He said the increase in the number of inmates is fewer than the estimate during the 2015 legislative session, which has contributed to the department being able to reduce funding for contract housing and programming by \$3.4 million. He said other reductions have been made to salaries and benefits, food and clothing, medical costs, travel, utilities and maintenance, extraordinary repairs, and information technology projects.

The Legislative Council staff presented a memorandum entitled [General Fund Revenues and Appropriations - Oil Price Effect in the 1980s](#). He said the memorandum provides information regarding oil prices, oil production, general fund revenues, and general fund appropriations from the 1975-77 biennium through the 1993-95 biennium. He said during this time period ongoing general fund revenues peaked in the 1983-85 biennium, fell in the 1985-87 biennium, began rising in the 1987-89 biennium, and eventually surpassed the 1983-85 biennium amount in the 1993-95 biennium.

The Legislative Budget Analyst and Auditor presented a memorandum entitled [Preliminary Budget Outlook - 2017-19 Biennium](#). He said the memorandum provides preliminary information on the 2017-19 biennium general fund budget. He said total 2017-19 estimated general fund revenues, reflecting an annual ongoing revenue increase of 4 percent from the OMB February 2016 revised revenue forecast, are \$4.62 billion. He said 2015-17 biennium ongoing general fund appropriations are \$4.85 billion, adding general fund spending increases required due to 2015 legislative action or federal program changes total \$361.6 million, resulting in a potential general fund shortfall of \$597.9 million for the 2017-19 preliminary budget.

In response to a question from Representative Froseth, the Legislative Budget Analyst and Auditor said legacy fund earnings accrued prior to June 30, 2017, will remain in the legacy fund, but they may be appropriated from the legacy fund with a two-thirds majority vote of the Legislative Assembly.

In response to a question from Representative Carlson, the Legislative Budget Analyst and Auditor said a potential transfer from the Bank of North Dakota to the general fund was not included in the amounts shown in the memorandum.

Chairman Delzer said the Bank of North Dakota would be asked to present information regarding funding for the school construction loan fund at a future meeting.

The Legislative Budget Analyst and Auditor presented a memorandum entitled [General Fund Revenue and Appropriation Comparison](#). He said general fund revenues, including the beginning balance, are estimated to decrease from \$7.2 billion available for the 2013-15 biennium to \$4.6 billion in the 2017-19 biennium, based on the estimated revenue calculated for the [Preliminary Budget Outlook - 2017-19 Biennium](#) memorandum.

Mr. Adam Mathiak, Fiscal Analyst, Legislative Council, presented a memorandum entitled [Projected Oil and Gas Tax Revenue - 2015-17 and 2017-19 Biennium](#). He said the memorandum provides information regarding 2015-17 biennium oil and gas tax revenue and preliminary estimates of 2017-19 oil and gas tax revenue. He said actual 2015-17 oil tax revenue collections through February 2016 are \$321 million in excess of the 2015 legislative forecast, due in part to the "large" oil tax trigger not becoming effective.

Mr. Mathiak presented a memorandum entitled [Hub City Allocations and Employment Data](#). He said the memorandum provides information on the allocation of the 1 percent of the 5 percent oil and gas gross production tax pursuant to North Dakota Century Code Section 57-51-15. He said the estimated annual allocations to all hub cities and hub city school districts increased from \$34 million in fiscal year 2015 to \$65.5 million in fiscal year 2016. He said oil- and gas-related employment data for calendar year 2015 will be available in June 2016 and included in the allocation formulas for fiscal year 2017 beginning in September 2016.

The Legislative Council staff presented a memorandum entitled [Funding for State Employee Health Insurance Premiums \(Excluding Higher Education\)](#). He said total state employee health insurance premiums have increased from \$112.4 million in the 2005-07 biennium to \$260.2 million in the 2015-17 biennium. He said the average state employee monthly health insurance premium has increased from \$553.95 in the 2005-07 biennium to \$1,130.22 in the 2015-17 biennium.

In response to a question from Representative Carlson, the Legislative Budget Analyst and Auditor said additional information will be provided regarding general fund spending for health insurance premiums.

STUDY OF STATUTORY AND REGULATORY REQUIREMENTS RELATING TO FEDERAL FUNDING

Mr. Krabbenhoft presented information ([Appendix H](#)) regarding funding for crime victims assistance, the regional distribution of crime victims assistance grant funds, funding for crime victims compensation, and the cost of incarcerating undocumented criminal aliens. He said federal Victims of Crime Act awards total \$1.9 million for state fiscal year 2016 and federal crime victims assistance grants total \$100,000 for state fiscal year 2016. He said crime victims compensation spending is budgeted at \$1.5 million for the 2015-17 biennium, including \$515,822 from the general fund. He said the total estimated cost of incarcerating state criminal alien assistance program eligible inmates is approximately \$620,000.

Ms. Leann K. Bertsch, Director, Department of Corrections and Rehabilitation, presented information ([Appendix I](#)) regarding the federal Prison Rape Elimination Act (PREA) of 2003. She said PREA standards pertain to juvenile facilities, adult prisons and jails, lockups, and community confinement facilities. She said it is estimated between 14 and 16 additional FTE positions will need to be added during the 2017-19 biennium to meet the required PREA staffing ratios at the Youth Correctional Center based on the current census.

Mr. Jamie Mertz, Director of Fiscal Management, Department of Public Instruction, presented information ([Appendix J](#)) regarding federal program expenditures and federal grant funding provided to individual school districts. He said the federal revenue provided to individual school districts totaled \$121 million.

Ms. Laurie Matzke, Director of Federal Title Programs, Department of Public Instruction, presented summary information ([Appendix K](#)) regarding certain federal programs administered by the department. She said certain programs do not require a local funding match. She said certain programs also provide an amount for the Department of Public Instruction administrative costs. She said state requirements may include various reports and assurances of compliance with program requirements.

Chairman Delzer said it may be difficult for the committee to judge the effectiveness of the federal programs. He said the Department of Public Instruction will present further information on federal programs administered by the department at the next meeting.

STUDY OF THE FUNCTIONS OF THE BUDGET SECTION

The Legislative Council staff presented a memorandum entitled [History of Budget Section Approval of New Capital Construction Projects](#). He said the memorandum provides information regarding the history of Budget Section approval of capital projects pursuant to Section 15-10-12.1. He said based on past requests, there does not appear to be a specific period of time in each biennium during which higher education institutions were more likely to request Budget Section approval of capital construction projects.

The Legislative Council staff presented a bill draft [[17.0073.01000](#)] relating to higher education campus improvements and building construction. He said the bill draft was prepared at the request of the committee at its February 3, 2016, meeting. He said the bill draft increases the minimum amount for which campuses must seek

project approval from the Legislative Assembly or Budget Section from \$385,000 to \$700,000. The bill draft also removes the authority of the Budget Section to approve the use of land under the control of the State Board of Higher Education for construction of new buildings or building expansion projects. These projects would need Legislative Assembly approval.

In response to a question from Chairman Delzer, the Legislative Council staff said the committee had discussed a bill draft to place multiple Budget Section reporting requirements under a single section of Century Code. The Legislative Council staff said a decision was made not to draft a bill moving the reporting requirements under a single section of law due to the current placement of the reporting requirements in sections where multiple other rules and requirements relating to the reports are also located.

Chairman Delzer requested the Legislative Council staff provide information at a future meeting regarding a bill that failed in the 2015 session which would have limited or removed the ability of the Budget Section to approve new FTE positions.

Chairman Delzer said he anticipates the next committee meeting to be held in June 2016.

No further business appearing, Chairman Delzer adjourned the meeting at 3:25 p.m.

Alex J. Cronquist
Fiscal Analyst

ATTACH:11