

NORTH DAKOTA LEGISLATIVE COUNCIL

Minutes of the

**BUDGET COMMITTEE ON GOVERNMENT ADMINISTRATION**

Monday, October 15, 2001  
Roughrider Room, State Capitol  
Bismarck, North Dakota

Senator Tim Mathern, Chairman, called the meeting to order at 9:00 a.m.

**Members present:** Senators Tim Mathern, John M. Andrist, Dave Nething, David O'Connell, Tom Trenbeath; Representatives Larry Bellew, Bruce Eckre, Rod Froelich, Kathy Hawken, William E. Kretschmar, Andrew G. Maragos, Laurel Thoreson, Elwood Thorpe, Dave Weiler

**Members absent:** Representatives Curtis E. Brekke, Rex R. Byerly, Keith Kempenich, Lisa Meier

**Others present:** See attached appendix

**It was moved by Representative Eckre, seconded by Representative Maragos, and carried on a voice vote that the minutes of the previous meeting be approved as distributed.**

Chairman Mathern distributed a letter from Representative Wesley R. Belter, Chairman, Legislative Council, denying the committee's request to expand its highway funding study to include a study of fuel price differences across the state.

**VETERANS HOME STUDY**

Ms. Sharon Ulmer, Director of Administration, Veterans Home, provided revenue and expenditure information on the Veterans Home. A copy of the report is on file in the Legislative Council office. Ms. Ulmer presented a schedule showing that through September 2001 the Veterans Home spent \$1,032,004, or \$129,845 less than estimated expenditures of \$1,161,849. However, Ms. Ulmer said that up to \$100,000 of outstanding expenses are not yet included in the actual expenditures.

Ms. Ulmer presented the following funding source percentages of the Veterans Home appropriation and expenditures to date:

	<b>2001-03 Appropriation</b>	<b>2001-03 Expenditures Through September</b>
General fund	35.3%	48.3%
Federal funds	33.1%	25.2%
Special funds	31.6%	26.5%
Total	100.0%	100.0%

Ms. Ulmer presented a debt service payment schedule for the Veterans Home. She said the interest rate on the bond issue is 4.29 percent and that each payment varies slightly due to audit and

legal fees that are added by the Industrial Commission.

Senator Mathern asked how often the Veterans Home receives its federal funds. Ms. Ulmer said the home requests federal funds on a quarterly basis based on actual numbers of residents until the end of each biennium at which time the Veterans Home applies for its federal funds on a monthly basis.

Senator Mathern asked if the Veterans Home could apply for its federal funds on a monthly basis throughout the biennium. Ms. Ulmer said that is allowable; however, it would take more staff time and the home has traditionally requested its federal funds on a quarterly basis.

Senator Nething asked for information on the legal fees that are being added to the Veterans Home debt service payments. Chairman Mathern asked the Legislative Council staff to provide this information to the committee at its next meeting.

Ms. Ulmer presented a schedule that shows through September 2001 the Veterans Home has received \$392,830 of federal funds, \$2,455 more than the estimate of \$390,375. She said the Veterans Home has collected \$305,330 of special funds through September 2001, \$66,787 less than the estimate of \$372,117. She said the special funds collections are less than estimated because of an increase in the number of vacant basic care beds at the home. She said the Veterans Home is licensed for 38 skilled care beds and 112 basic care beds.

Ms. Ulmer presented information on the number of vacant beds at the Veterans Home since 1997 as follows:

	<b>Average Number of Vacant Beds</b>	
	<b>Skilled Care</b>	<b>Basic Care</b>
January 1997 - December 1998	0.7	14.3
January 1999 - December 2000	1.1	14.2
January 2001 - September 2001	1.0	21.8

A copy of Ms. Ulmer's report is on file in the Legislative Council office.

Representative Maragos asked what the impact will be on the Veterans Home budget and operations due to the increase in the number of vacant beds. Ms. Ulmer said the Veterans Home is asking county veterans service officers to assist the home to fill the

vacant beds by suggesting the Veterans Home as an option for North Dakota veterans seeking basic care services. She said the Veterans Home is anticipating that the beds will be filled.

Representative Froelich said he is concerned with the decrease in special funds collections. He said the reduction will have a significant impact on the Veterans Home budget if it continues throughout the biennium.

Senator Trenbeath said he is concerned that the Veterans Home is spending its general fund appropriation before its federal and special funds.

In response to a question from Representative Maragos, Ms. Ulmer said the Veterans Home may need to seek a deficiency appropriation from the 2003 Legislative Assembly if the vacant beds remain unfilled.

Mr. Ken Anderson, Commandant, Veterans Home, said the Veterans Home generally has more vacant beds during the summer months. He said since September the Veterans Home has filled six of its vacant beds.

Mr. Anderson said if the Veterans Home continues to have a significant number of vacant beds, it may need to request a statutory change to broaden its eligibility criteria for admittance to the home.

Chairman Mathern asked that any proposed statutory changes the Veterans Home may be considering be presented to the committee at its January 2002 meeting.

In response to a question from Senator Nething, Mr. Anderson said he does not believe it would be helpful for the Veterans Home to be authorized to continue its general fund spending authority beyond the close of each biennium.

Mr. Anderson discussed the hiring process for the commandant and the position description for the commandant. He said the position requirements include that the commandant be a North Dakota resident, be a veteran, have obtained a four-year college degree, obtain a North Dakota nursing home administrator's license, and live in the commandant's residence at the Veterans Home.

Mr. Paul Aaberg, Chairman, Veterans Home Subcommittee, North Dakota Administrative Committee on Veterans Affairs, commented on the selection process for the commandant. Mr. Aaberg believes the current process works well and does not need to be changed.

Senator Andrist asked whether the requirement that the commandant be a veteran is limiting and whether it is still a necessary requirement. Mr. Aaberg said he believes it is important for the commandant to be a veteran and that no changes are necessary.

Mr. Tom Moe, Chairman, North Dakota Administrative Committee on Veterans Affairs, commented on the Veterans Home study and proposed changes to the management structure and oversight of the

Veterans Home. Mr. Moe said although the administrative committee has not met to discuss specific statutory changes, he believes the 15-member administrative committee is too large. He suggested that if the administrative committee is reduced in size, the subcommittee structure could be eliminated. He also suggested that the committee may wish to consider adding a veteran who is also a health care professional to the administrative committee.

Mr. Moe said if the committee's size is reduced, the Legislative Assembly should consider adding an interactive video site at the Veterans Home to reduce committee member travel and provide funding for compensation and expense reimbursement for committee members. He said the statute allows expense reimbursement but not compensation for members of the administrative committee.

Mr. Moe said only members of the Veterans Home subcommittee are reimbursed for their travel expenses. He said members of the administrative committee and the subcommittee of the Department of Veterans Affairs do not receive expense reimbursement because the funding is not provided by the Legislative Assembly.

A copy of Mr. Moe's report is on file in the Legislative Council office.

Senator Nething asked for information on the statutory history of the Administrative Committee on Veterans Affairs and on funding for expense reimbursement for committee members. Chairman Mathern asked that the Legislative Council staff prepare this information for the committee's next meeting.

Mr. Jerry Balzer, Secretary, Administrative Committee on Veterans Affairs, commented on the committee's study. Mr. Balzer said the administrative committee will be meeting in late October and that information should be available after that meeting to provide this committee with recommendations regarding any statutory changes that may be necessary.

Mr. Bob Hanson, Commander, North Dakota AMVETS, commented on the Veterans Home study. He said the Veterans Coordinating Council, which is made up of the leadership of the veterans' organizations in North Dakota, also has input into changes relating to veterans' issues in North Dakota. He said the AMVETS does not believe the membership of the administrative committee should be reduced.

Ms. Arvy Smith, Budget Analyst, Office of Management and Budget, reviewed the process involved in charging Veterans Home expenditures to the general fund, federal funds, or the special operating fund, pursuant to North Dakota Century Code Section 37-15-14. Ms. Smith said in accordance with Section 37-15-14, which provides that general fund moneys only be used when special and federal funds of the Veterans Home are not available to pay for Veterans Home expenses, the Office of Management and

Budget has assigned funding source codes providing that expenditures of the Veterans Home will first be charged to special funds unless the agency overrides the codes manually. She said agencies do have the flexibility to change the funding source codes at their discretion, based on funding availability. She said by February 2001 the Veterans Home had spent its entire general fund appropriation for the 1999-2001 biennium while its special fund cash balance was \$704,000. She said the cash balance in the Veterans Home special fund at the end of the 1999-2001 biennium was \$300,000.

Regarding requests for funding for administrative committee member travel reimbursement, Ms. Smith said the Office of Management and Budget has recommended that the Administrative Committee on Veterans Affairs use veterans' postwar trust fund moneys, pursuant to the committee's continuing appropriation authority, to pay for travel expenses of committee members rather than appropriating additional funding from the general fund.

Senator Mathern asked if Ms. Smith believed it would be beneficial for the Veterans Home to request its federal funds on a monthly rather than quarterly basis. She said while there may be some additional administrative costs involved in completing the federal funds request on a monthly basis, from a fiscal management perspective, it would be beneficial to access the federal funds as soon as possible to have the additional funding available as well as generate additional interest income.

Mr. Gordy Smith, State Auditor's office, commented on the status of the performance audit of the Veterans Home. Mr. Smith said the State Auditor's office is currently involved in a performance audit of the service payments for the elderly and disabled (SPED) program of the Department of Human Services. He said because this audit has taken longer than anticipated, the Veterans Home performance audit will not begin until the end of October 2001. He said the Veterans Home audit will begin with a preliminary survey to obtain input from a number of different perspectives to develop the scope of the audit. He said the State Auditor's office will be considering the use of a consultant as part of the Veterans Home performance audit and the cost of the consultant will be paid by the Veterans Home.

Senator Mathern asked the State Auditor's office to provide the committee with the results of its preliminary surveys at the January 2002 meeting. Mr. Smith said that by January 2002 the State Auditor's office will have determined the scope of the audit and whether the audit will need to involve a consultant.

Senator Nething asked Mr. Moe what the Administrative Committee on Veterans Affairs' position was regarding using veterans' postwar trust fund moneys for paying travel expenses of committee members. Mr. Moe said he believes it is unfair and may be

unconstitutional to use veterans' postwar trust fund moneys to pay for committee travel expenses.

## RACING COMMISSION STUDY

The Legislative Council staff reviewed the provisions of Section 9 of 2001 House Bill No. 1003 which authorizes the use of funding from the Racing Commission promotion fund, purse fund, and breeders' fund, for paying administrative costs of the Racing Commission for the 2001-03 biennium. The Legislative Council staff said the section includes language providing that statutory provisions relating to the use of moneys in these funds does not apply to the appropriation of the \$150,000 for the administrative costs of the commission for the 2001-03 biennium.

The Legislative Council staff presented a bill draft relating to the use of Racing Commission fee collections. The Legislative Council staff said the bill draft provides that any moneys collected by the commission pursuant to its administrative rules are to be deposited in a Racing Commission operating fund and, subject to legislative appropriation, may be spent for operating costs of the commission. In addition, the Legislative Council staff said the bill draft provides that license fees collected by the commission be deposited in the Racing Commission operating fund rather than the general fund and, subject to legislative appropriations, may be spent for operating costs of the commission.

Mr. Paul J. Bowlinger, Executive Director, Racing Commission, commented on the bill draft. Mr. Bowlinger said although the commission has not met to discuss the bill draft, he believes the commission will support the bill draft.

Mr. Bowlinger introduced Mr. Leslie A. Schmidt, racing director for the Fargo race facility. Mr. Bowlinger said Mr. Schmidt was hired in September 2001. Mr. Schmidt said the Fargo horse park will be developed in three phases. He said the first phase will include the racetrack. He said the track will be six furlongs or three-quarters of a mile in length. He said the track will be located one mile west of I-29 on 19th Street in Fargo.

Senator Mathern asked what previous experiences Mr. Schmidt has that qualify him to be the director of racing for the Fargo facility. Mr. Schmidt said since 1964, he has been a horse owner, trainer, and breeder. He said most recently he has been manager of the Chippewa Downs Racetrack in Belcourt.

In response to a question from Senator Mathern, Mr. Schmidt said the Fargo facility should be operational by June 2003.

In response to a question from Representative Hawken, Mr. Schmidt said the grandstand of the racetrack will seat 1,040, with room for expansion.

Ms. Sandi Tabor, Deputy Attorney General, commented on the Racing Commission study. Ms. Tabor said the 2001 Legislative Assembly added

statutory language giving the Attorney General's office supervisory authority over the Racing Commission. Previously, she said, the Racing Commission was included within the Attorney General's budget, but the Attorney General had no authority over the commission. Ms. Tabor said the Attorney General does not intend to be involved in the day-to-day operations or decisions of the Racing Commission but will monitor its activities and take action if concerns develop. Ms. Tabor commented on the appropriateness of the commission's authority. She said the committee may wish to receive information from the Racing Commission on how other states separate the duties of racing regulation and promotion. She said it may be appropriate for the commission to be involved in both of these responsibilities but as betting and racing expands, the Legislative Assembly may wish to segregate these responsibilities.

Senator Nething asked if the Attorney General has any written policies for its supervisory role with the Racing Commission. Ms. Tabor said the Attorney General has not developed any written policies or procedures and currently does not believe written policies are necessary.

Senator Mathern asked how the Attorney General's office monitors Racing Commission activities. Ms. Tabor said the Attorney General's office provides legal advice to the Racing Commission and assists the commission with its fiscal responsibilities.

Representative Thoreson asked for an estimate of license fees and other fees the commission collects that, under provisions of the bill draft, would be deposited in a special fund rather than the general fund. Mr. Bowlinger said the commission currently collects about \$30,000 per biennium and anticipates this amount could increase to \$50,000 per biennium when the Fargo racetrack begins operations.

Senator Nething asked for information on the funding history of the Racing Commission and on the estimated fiscal impact of the bill draft. Chairman Mathern asked the Legislative Council staff to provide this information to the committee at its next meeting.

The committee recessed for lunch at 12:15 p.m. and reconvened at 1:15 p.m.

## HIGHWAY FUNDING STUDY

As requested by the committee chairman, the Legislative Council staff distributed the executive summary of the *Statewide Urban Street and County Road Funding Needs Assessment* prepared by Kadrmas, Lee, and Jackson. A copy of the executive summary is on file in the Legislative Council office.

The Legislative Council staff presented a memorandum entitled *Highway-Related Revenues - Other States*. The report reviews other states' methods of financing highway projects. The memorandum was prepared at the request of Representative Eckre and provided to the committee at his request. The Legislative Council staff said the majority of state highway

revenues are generated from fuels taxes and motor vehicle registration fees. The Legislative Council staff said North Dakota's fuel tax rate of 21 cents per gallon on gasoline and diesel is slightly above the national average of 19.7 cents per gallon for gasoline and 19.8 cents per gallon for diesel fuel.

The Legislative Council staff presented a schedule comparing annual motor vehicle registration fees for selected states in the region and said that North Dakota's rates are substantially below the regional average.

The Legislative Council staff reviewed a Federal Highway Administration report of revenue sources used for highway purposes in other states in addition to fuel taxes and registration fees summarized as follows:

Revenue Type	State(s)
Sales tax - General	Arizona, Illinois, Kansas, Nevada, Utah, Virginia
Motor vehicle excise tax	Iowa, Kansas, Michigan, Missouri, Nebraska, North Carolina, South Dakota
Motor fuels sales tax	California, Georgia, Michigan
Auto parts sales tax	Michigan
Gaming tax	Colorado
Rental car tax	Florida, Hawaii, Iowa, South Dakota, Utah
Severance tax	Arkansas, Kentucky, New Mexico, Oklahoma, Tennessee, Wyoming
Corporate income tax	Maryland
Lubricating oil tax	Alabama, Mississippi, Texas
Contractor tax	Mississippi

The Legislative Council staff reviewed alternative transportation revenue sources included in a report prepared by the Florida Department of Transportation, including:

1. Vehicle miles of travel fees - An annual assessment based on the number of miles traveled in the preceding year.
2. Weight distance fees - An annual assessment based on factors, including miles driven and vehicle weight.
3. New vehicle or auto parts sales tax - Taxes on new or used vehicle purchases or on sale of automobile parts.
4. Emissions fees - An annual fee based on a vehicle's emissions characteristics and on the annual number of miles traveled.
5. Highway right of way lease income - Collections from leases of highway right of way for fiber optic cables, cell phone towers, or other purposes.
6. Road branding fee - A fee charged for naming a segment of a highway for an individual or business.
7. Enhanced motor vehicle registration fees - Indexing motor vehicle registration fees to inflation to maintain adequate funding.

The Legislative Council staff said Congress approved the National Highway System Designation Act of 1995, which makes debt financing costs relating to federal aid highway projects eligible for federal reimbursement. Several states are utilizing this authority by issuing bonds to finance federal aid highway projects. These types of bonds are called grant anticipation revenue vehicles (GARVEE) bonds. Prior to passage of this Act, federal highway funds could not be used to pay interest costs. Payments of principal and interest on the bonds are paid at the same matching percentage as the highway project matching percentage that was financed by the bonds (80 percent federal, 20 percent state for most state highways).

Mr. David A. Sprynczynatyk, Director, Department of Transportation, provided information regarding the highway funding study.

Mr. Sprynczynatyk said in response to questions from the committee's previous meeting relating to tribal fuels taxes, a tribe may enact a fuels tax at a rate different than the state rate. He said the Standing Rock Indian Reservation is the only reservation that has a tribal fuels tax. He said any agreement between a tribal government and the state is developed by the Tax Department, the Governor's office, and the tribal government.

Mr. Sprynczynatyk commented on the status of the development of the statewide strategic transportation plan. He said the working group has received input from various state organizations and is analyzing the information.

Mr. Sprynczynatyk said state highway tax distribution fund revenues for the first two months of the 2001-03 biennium are approximately 6 percent less than the previous biennium. He believes revenues will recover and be very near projections for the 2001-03 biennium.

Mr. Sprynczynatyk said the department is not suggesting any change to the current highway tax distribution fund formula. He said when the statewide strategic transportation plan, which will contain a funding component, is complete, he will provide specific recommendations to the committee.

A copy of the report is on file in the Legislative Council office.

Senator Mathern said the organizations that have been presenting information to the committee have expressed a number of concerns regarding the deterioration of North Dakota's streets, roads, and highways and the lack of funding that is available to address these needs; however, he expressed concern that none of the organizations have made recommendations as to how to address these concerns. Mr. Sprynczynatyk said that while the department is not yet prepared to speak on specific recommendations, the development of the statewide strategic transportation plan will result in recommendations to address funding concerns.

Senator Andrist asked for the percentage of the Department of Transportation's budget that is spent on administration and the percentage that is spent on highway projects. Mr. Sprynczynatyk said the department will provide that information to the committee at its next meeting.

Representative Kretschmar asked if the statewide strategic transportation plan will include a recommendation to add more miles to the state highway system. Mr. Sprynczynatyk said a recommendation to add miles to the state highway system is a possibility in the development of the statewide strategic transportation plan.

Mr. Charles Morman, Morton County Highway Department, commented on the highway funding study. Mr. Morman said Morton County is primarily a rural county. Although fewer farmers are operating in the county, he said, traffic on rural roads is increasing. He said this increase is primarily due to the longer distances that farmers need to travel to their fields.

Mr. Morman said because of the lack of funding to maintain roads, certain roads in the county have been recycled from asphalt to gravel. He said Morton County is conducting a comprehensive plan for its county roads which he anticipates will result in more county roads being designated as minimum maintenance roads.

Mr. Jon Mill, Burleigh County Highway Department, commented on the highway funding study. Mr. Mill discussed ways that counties are maintaining roads within counties with the limited funding that is available. He said counties are increasing roads that are designated as minimum maintenance roads and continuing to use gravel roads rather than paving roads as is being requested by the traveling public. In addition, he said, counties are using innovative methods to reduce costs, including the recycling of asphalt and concrete to be used as base in road projects and recycling bridge components for use in constructing new bridges.

Mr. Mill said North Dakota contains about 56,000 miles of township roads. He said townships are allocated approximately \$96 per mile per year for the maintenance of these roads.

Mr. Wade Williams, North Dakota Association of Counties, commented on federal highway fund allocations by road type. Mr. Williams suggested the committee consider reviewing sales tax exemptions. He suggested that some of the exemptions could be eliminated and the proceeds allocated to the highway tax distribution fund. He suggested reducing the cost of highway projects by the state, county, and cities coordinating their highway projects that are in close proximity of each other.

Mr. Bill Wocken, Bismarck City Administrator, commented on the highway funding study. Mr. Wocken said Bismarck received approximately \$2 million in fiscal year 2000 from its share of the highway tax distribution fund. He said these funds

are used exclusively for road and street maintenance within Bismarck. Mr. Wocken said the city uses city sales tax collections or bond proceeds for the city match on projects within city limits that involve the federal government, the state, and the city.

Mr. Wocken commented on how the city and Burleigh County coordinate road maintenance. He said with a fringe area roads agreement, the city plows certain county roads and the county plows certain city streets to reduce costs.

Mr. Wocken said the city of Bismarck does not recommend changing the highway tax distribution fund formula. He said the state, counties, and cities are all in need of additional funding and all are integral parts of the transportation system in North Dakota. He said generating additional highway tax distribution fund revenue is more important than changing the formula. A copy of the report is on file in the Legislative Council office.

### COMMITTEE DISCUSSION

Chairman Mathern said that he will monitor the action of the Administrative Committee on Veterans Affairs and if the administrative committee recommends any statutory changes prior to the next committee meeting, he will work with the Legislative Council staff to prepare a bill draft for the committee's consideration at the next meeting.

Representative Hawken asked for information on the uses of veterans' postwar trust fund moneys. Chairman Mathern asked the Legislative Council staff to provide this information for the committee at its next meeting.

Representative Maragos said he believes the Veterans Home has made substantial progress in improving its accounting system in the last few years.

Representative Hawken said regarding the highway funding study, if the committee believes road improvements are necessary, the committee needs to recommend ways to provide additional funding.

Senator Nething said this committee may wish to wait for the recommendations of the statewide strategic transportation plan before it makes any recommendation to the Legislative Council.

Representative Thoreson said in order to provide better roads in North Dakota, the committee may need to consider alternative funding sources. He suggested imposing an additional fee on hunters, with the revenue allocated for rural road improvements.

Mr. Jim W. Smith, Legislative Budget Analyst and Auditor, Legislative Council, said the Legislative Council staff could provide information on the estimated revenues that would be generated by removing various sales tax exemptions as suggested by the North Dakota Association of Counties. Chairman Mathern asked the Legislative Council staff to provide this information to the committee for its next meeting.

Chairman Mathern announced the next committee meeting would be held over the Interactive Video Network (IVN) system on January 7, 2002, beginning at 9:00 a.m.

**It was moved by Senator O'Connell, seconded by Representative Hawken, and carried on a voice vote that the committee be adjourned subject to the call of the chair.** The committee adjourned at 3:00 p.m.

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Allen H. Knudson  
Assistant Legislative Budget Analyst and Auditor

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Jim W. Smith  
Legislative Budget Analyst and Auditor

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