

NORTH DAKOTA LEGISLATIVE COUNCIL

Minutes of the

BUDGET COMMITTEE ON GOVERNMENT SERVICES

Tuesday, July 10, 2001
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, Ron Carlisle, Rachael Disrud, Mark A. Dosch, James Kerzman, Matthew M. Klein, Myron Koppang, Clara Sue Price, Robin Weisz; Senators Duaine C. Espeguard, Ralph L. Kilzer, Judy Lee, Elroy N. Lindaas

Members absent: Representatives Frank Klein, Dave Weiler; Senator Harvey Tallackson

Others present: See attached appendix

RULES OF OPERATION AND PROCEDURE

At the request of Chairman Delzer, the legislative budget analyst and auditor presented a memorandum entitled *Supplementary Rules of Operation and Procedure of the North Dakota Legislative Council*. Representative Delzer said he wants the committee to be aware of the rule that no bill draft may be approved by a committee for recommendation to the Council unless it has been considered by the committee recommending it on at least two meeting days, including consideration of revised drafts. He said he will not accept a motion requesting a bill draft at the committee's last meeting.

BUDGET MONITORING

The Legislative Council staff presented a memorandum entitled *Monitoring the Status of State Agency and Institution Appropriations - Background Memorandum* relating to the committee's responsibility to monitor the budget during the 2001-03 biennium. The Legislative Council staff said as part of this responsibility, the committee may wish to monitor expenditures of major state agencies such as charitable and penal institutions, Department of Public Instruction, and the Department of Human Services medical assistance and economic assistance programs.

The Legislative Council staff said since the 1987-89 biennium, a report on agency compliance with legislative intent has been prepared for each interim. This report includes the status of state agencies implementing budgetary or programmatic changes and legislative directives and identifies agency budget concerns.

In response to a question from Senator Kilzer, the legislative budget analyst and auditor said the

Legislative Audit and Fiscal Review Committee's responsibility is to review audits of state agencies; however, these audits relate to completed fiscal years. He said budget monitoring reviews budget to actual expenditures for six-month periods within the current biennium.

In response to a request from Senator Lee, Chairman Delzer said he would take under advisement and possibly discuss with the chairman of the Legislative Council whether to request authority to study the issues of the definition of "medical needy" and standardization of recipient liability for medical assistance. The legislative budget analyst and auditor said the Budget Committee on Health Care has responsibilities that are also closely related to the issues of recipient liability but has a heavy workload. Representative Price said the Department of Human Services has expressed potential problems relating to changing recipient liability.

Chairman Delzer said he would like the committee to receive periodic reports from the Board of University and School Lands concerning its investment procedures and the status of the common schools trust fund, the State Investment Board, the Bank of North Dakota, and the Mill and Elevator Association. The legislative budget analyst and auditor said in the past, the committee with budget monitoring responsibilities has received reports from the Office of Management and Budget on the status of the general fund and received reports from the Legislative Council staff on oil prices and production. Chairman Delzer directed the staff to include these reports as part of the committee's budget monitoring responsibilities.

Ms. Pam Sharp, Deputy Director, Office of Management and Budget, presented a report on the status of the state general fund. A copy of the information presented is on file in the Legislative Council office.

Ms. Sharp said the June 30, 2001, general fund balance is currently projected to be \$59.8 million, \$7.1 million more than estimated during the 2001 Legislative Assembly. She said through May 2001, general fund collections from oil taxes amount to \$71.6 million for the biennium. She said collections exceeding \$62 million are required to be deposited in the permanent oil tax trust fund. She said approximately \$13 million will be deposited in the permanent

oil tax trust fund at the end of the 1999-2001 biennium.

In response to a question from Representative M. Klein, Ms. Sharp said the variances in the financial institutions tax is due to timing of the collections received from banks.

In response to a question from Senator Espgaard, Ms. Sharp said vehicle excise tax collections are \$2.5 million below estimates for the month of May 2001 due to an adjustment in the amount allocated to the state aid distribution fund. She said the new computer system was changed, but a reduction of approximately \$2.6 million was necessary for May motor vehicle excise tax collections to adjust for errors in the five previous months.

In response to a question from Representative Koppang, Ms. Sharp said sales tax collections did exceed estimates by \$3.2 million for May 2001; however, it is unknown if this is due to timing of collections or a start of a trend toward higher than estimated collections of sales taxes. She said the forecasted sales tax collections for the 2001-03 biennium are higher than the forecast made during the 2001 Legislative Assembly, but the projected growth rate has been reduced from previous bienniums. Representative Delzer said the 1999-2001 biennium revised forecast of \$584 million for sales tax collections is a reduction from the original 1999-2001 forecast.

In response to a question from Representative Delzer, Ms. Sharp said the 2001 first quarter taxable sales and purchases increased 5 percent as compared to the same quarter one year earlier as a result of increased activity in oil and construction.

In response to a question from Representative Delzer, Ms. Sharp said oil tax collections are projected to exceed the \$62 million needed for funds to be deposited in the permanent oil tax trust fund for the 2001-03 biennium. She said these projections are based on production of 90,000 to 95,000 barrels per day and a price range of \$20 to \$17 per barrel. She said the current price of oil in North Dakota is \$23 per barrel. Senator Krauter said the committee should monitor unitization and the number of wells drilled versus the number of producing wells in North Dakota. Chairman Delzer said the committee will request a report on oil prices and production for the next meeting.

RISK-ASSOCIATED BEHAVIOR PROGRAMS

The Legislative Council staff presented a memorandum entitled *Risk-Associated Behavior Programs - Background Memorandum* relating to the committee study, as directed in Section 6 of 2001 Senate Bill No. 2380, of programs dealing with the prevention and treatment of alcohol, tobacco, and drug abuse and other kinds of risk-associated behavior. The committee is to study whether better coordination among the programs offered by the Department of

Corrections and Rehabilitation, the Attorney General, the State Department of Health, the Department of Human Services, the Department of Public Instruction, the Department of Transportation, the National Guard, and the Supreme Court may lead to a more effective and cost-efficient way of operating the programs and providing services. The committee is also directed in Section 2 of Senate Bill No. 2380 to receive reports from the State Health Officer regarding the implementation of the community health grant program no later than December 31, 2001, and November 1, 2002.

The Legislative Council staff said based on estimates received from the identified agencies, approximately \$60 million, \$15 million from the general fund, will be spent during the 2001-03 biennium for various programs dealing with risk-associated behavior.

The Legislative Council staff said the purpose of the community health grant program, as established in 2001 Senate Bill No. 2380, is to reduce tobacco usage by strengthening community-based public health programs and providing assistance to public health units and communities throughout the state.

Chairman Delzer said the study directs the committee to review the status of funds for programs and program duplication. Senator Lee said there may be some programs that "overlap" each other and also some "gaps in services."

Representative Price asked that the Children's Services Coordinating Committee be contacted to determine if that agency provides any risk-associated behavior programs and whether they should be included in the study. She also asked that the committee monitor the tobacco settlement trust fund collections.

Representative Price said she has been contacted by a nonprofit group that would be willing to provide research information on alcohol use. She suggested the committee leave some flexibility in the study plan because risk-associated behavior is a changing field.

Representative Delzer said the committee should request each agency to identify the uses of the funding received for risk-associated behavior programs, including how much is used for administrative purposes.

Representative Price said each agency should also be requested to complete a standardized form detailing the tobacco and drug programs. She said she would like to know if any of the funding is being used to purchase equipment.

Representative Delzer requested that as part of the survey each agency identify the source of funding. Senator Lee asked that the survey identify whether the funds received are continuing or are only available for a limited duration and whether there are restrictions placed on the use of the funds.

Representative Koppang said the committee may want to review tobacco prevention programs that have been proven successful in other states.

Representative Price said there needs to be flexibility in the implementation of tobacco programs depending on the community.

Ms. Karen Romig Larson, Director, Division of Mental Health and Substance Abuse Services, Department of Human Services, said the funding received for substance abuse programs in the Department of Human Services is primarily federal funds, and there are a number of requirements as to what can and cannot be done with the moneys received. She said she is looking forward to providing the details of the programs to the committee.

In response to a question from Representative Carlisle, Chairman Delzer said it would be an expansion of the committee's study to receive reports from representatives of each North Dakota Indian reservation on the amount of taxes charged on a pack of cigarettes sold on the reservations. The legislative budget analyst and auditor said the Taxation Committee will study compliance and jurisdictional issues under the tobacco, alcohol, and fuels tax laws. Representative Delzer suggested that at a later meeting the committee receive information on the Taxation Committee's study of cigarette tax collections on Indian reservations.

Senator Lee asked that the 2001-03 biennium alcohol, drug, and tobacco program funding analysis that is included in the risk-associated behavior programs background memorandum be provided on a separate sheet for reference at future meetings.

It was moved by Senator Lee, seconded by Representative Price, and carried on a voice vote that the committee proceed with the study of risk-associated behavior programs as follows:

1. **Receive testimony from representatives of each listed agency on programs offered for alcohol, drug, and tobacco prevention and treatment.**
2. **Survey identified agencies' risk-associated behavior programs and ask agencies to testify regarding the survey results, including information regarding:**
 - a. **Sources of the funds (general, federal, special, or grants).**
 - b. **Restrictions or limitations on the uses of the funds.**
 - c. **Uses of the funds, including administration, operations, grants, and equipment.**
 - d. **Descriptions of programs.**
 - e. **If the grants received are continuing or are of a limited duration.**
3. **Receive testimony from the State Health Officer on the implementation of the community health grant program and uses of funds from the community health trust fund and the Centers for Disease Control and Prevention, and any legislation planned for introduction that the**

Community Health Grant Program Advisory Committee considers appropriate to improve the program.

4. **Receive testimony from other interested persons, including private sector organizations, regarding programs dealing with the prevention and treatment of alcohol, tobacco, and drug abuse and other kinds of risk-associated behavior.**
5. **Develop committee recommendations and any related bill drafts regarding the coordination of alcohol, tobacco, and drug abuse programs among state agencies for a more effective and cost-efficient way of operating the programs and providing services.**
6. **Prepare a final report for submission to the Legislative Council.**

ADDITIONAL RESPONSIBILITIES

The Legislative Council staff presented a memorandum entitled *Budget Committee on Government Services - Additional Responsibilities* relating to the committee's other responsibilities to:

1. Approve any agreement between agencies of North Dakota and South Dakota to form a bistate authority.
2. Receive annual financial statements and a report from the governing board of the housing development fund.

The Legislative Council staff said that pursuant to North Dakota Century Code (NDCC) Section 54-40-01, an agency that is proposing to enter into an agreement to form a bistate authority with an agency of South Dakota must submit the proposed agreement to the Legislative Council. This committee has been assigned that responsibility during the 2001-02 interim.

In response to a question from Senator Espgaard, the legislative budget analyst and auditor said this legislation originated with the 1997 legislative session in part to allow joint projects such as highway maintenance. He said, however, South Dakota has not agreed to any bistate program. Senator Lindaas said he was part of the North Dakota/South Dakota Commission that reviewed the issue of bistate authority, and the original legislation was a result of that commission's work. Representative M. Klein said the legislation originated because snowplows from both states were working in the same general areas. He said there was an attempt to reach an agreement with South Dakota to divide the roads to be plowed.

Representative Price said the committee may want to consider expanding the bistate authority to other areas and be proactive in creating partnerships with South Dakota. Chairman Delzer said the Legislative Assembly may want to address that issue, but the committee is only responsible for considering matters as requested. Senator Lee said she would like to see

state agencies be more aware of this opportunity. Senator Espgaard said the Governors of North Dakota and South Dakota need to lead an effort to get the agencies of each state to form cooperative agreements.

Representative Koppang said he would like to see the bistrate authority legislation expanded to other states and Canadian provinces. Chairman Delzer said any change would have to be a legislative change. He said for the committee to consider a recommended legislative change would require the approval of the chairman of the Legislative Council.

Senator Lindaas said the demographics between North Dakota and South Dakota are similar which is the reason the bistrate authority legislation was created. Chairman Delzer requested a memorandum on the history of the bistrate authority legislation be presented at the next meeting.

Representative Kerzman said he was a member of the North Dakota/South Dakota Commission and his district covers a wide area along the North Dakota and South Dakota border. He said there are many problems besides roads between the two states, including moving livestock, veterinary medicine, reciprocity of schools, and State Department of Health-related issues.

It was moved by Representative Kerzman, seconded by Representative Disrud, and carried on a voice vote that the committee proceed with the responsibility related to bistrate agreements as follows:

- 1. Receive any proposed agreement from a state agency to form a bistrate authority with an agency of South Dakota.**
- 2. Receive testimony from interested persons on the proposed agreement.**
- 3. Review the proposed agreement regarding costs, effect on services, economic impacts, quality, etc.**
- 4. Approve or disapprove the proposed agreement.**
- 5. Prepare a final report for submission to the Legislative Council.**

The Legislative Council staff said NDCC Section 6-12-05 provides for a housing development fund program which allows a higher percentage of a housing construction project in rural North Dakota to be financed than would be available through traditional financing programs. Traditional financing programs generally provide financing based on the appraised value of the housing unit. Because in rural North Dakota the cost of new housing construction generally exceeds its appraised value, it is difficult to obtain an adequate amount of financing for new construction in these areas. This program is to provide the financing for the cost of construction that exceeds the appraised value, which will make housing construction projects more feasible in rural areas of the state.

While the Housing Finance Agency provides lower cost financing for eligible home buyers and homeowners and administers multifamily housing programs that provide lower cost financing alternatives through the issuance of tax-exempt revenue bonds, its programs operate similarly to traditional financing methods which do not provide financing costs that exceed appraised value.

North Dakota Century Code Section 6-12-05 allows a financial institution or group of financial institutions to establish a corporation or limited liability company to operate the housing development fund. The fund may be used for making loans in housing development projects in the state. The loans may be made for any housing project in the state, but the primary focus must be to provide funding for multifamily housing projects in rural areas that are experiencing or expecting to experience a shortage of housing as a result of economic development. The bill allows a credit against a financial institution's taxes equal to the difference between the participating financial institution's share of interest earned on the loan from the fund and the amount the institution would have earned by applying an interest rate of 300 basis points more than a comparable treasury security rate.

The Legislative Council said the program is effective for the first four taxable years beginning after December 31, 1998, and the governing board overseeing a housing development fund must report to this committee each year in which a housing development fund is in operation. The report is to analyze the impact of the fund on the state's economy, business and employment activity generated by loans from the fund, and the effects of that activity on state and local tax revenues. There have been no housing development funds established as of July 2001.

Senator Lee said the Bank of North Dakota or another agency should be encouraged to take a leadership role in establishing a housing development fund. She said there was a bill introduced in the 2001 legislative session that addressed the taxable valuations of multifamily projects and low-income tax credit funds. She said the bill failed because it was not fully understood, and there needs to be legislation to encourage low-income and multifamily housing projects. She said the committee may want to review the benefits provided under the homestead tax credit, which are very modest and have not changed in many years.

Senator Espgaard said a housing development fund program is needed, but the credit does not offset the risk associated with the projects. He said there needs to be other state agencies involved to establish a housing development fund. Chairman Delzer said the committee is responsible for only the receipt of a housing development fund report, and the study cannot be expanded without receiving approval from the chairman of the Legislative Council. The

legislative budget analyst and auditor said the Taxation Committee has a study of special and property tax assessments, including determining the full value of subsidized housing for property tax assessments and the homestead tax valuation for senior citizens.

Chairman Delzer requested the Legislative Council staff to prepare a memorandum on the history of the housing development fund for the next meeting. Chairman Delzer said the committee can look at improving or adding to the study plan for the housing development fund at the next meeting. Senator Lee said she would like to see some collaboration between the Taxation Committee and the Budget Committee on Government Services on this issue.

RECRUITMENT AND RETENTION BONUS PILOT PROGRAM

The Legislative Council staff presented a memorandum entitled *Monitoring the Status of State Agency Recruitment and Retention Bonus Pilot Programs* relating to the committee's responsibility, as directed in Section 1 of 2001 House Bill No. 1120, to receive periodic reports from the Central Personnel Division on the implementation, progress, and bonuses provided under agency recruitment and retention bonus pilot programs. The Legislative Council staff said the recruitment and retention bonus pilot program is effective from March 15, 2001, through June 30, 2003. In order for agencies to participate in the program, the agencies must have a written policy identifying the positions or occupations eligible to receive the bonuses, and the agencies must file the policy and report any bonuses provided to the Central Personnel Division. The recruitment and retention bonuses are to be funded within the agencies' salaries and wages budget.

Senator Kilzer said during the Grand Forks flood, there was a significant amount of bonuses paid to employees of the Department of Transportation. He said this bill was created to provide standardized procedures for providing bonuses.

Mr. Ken Purdy, Acting Director, Central Personnel Division, presented information on the recruitment and retention bonus pilot program. A copy of the information presented is on file in the Legislative Council office. Mr. Purdy said three agencies have filed recruitment and retention bonus program policies with the Central Personnel Division--the Department of Human Services, the Department of Transportation, and the Bank of North Dakota. He said the Department of Transportation has provided 15 recruitment bonuses, and the Department of Human Services has provided nine retention and one recruiting bonus. He said three other agencies--the Highway Patrol, the Insurance Department, and Job Service North Dakota--are in the process of developing a policy.

Mr. Purdy presented a copy of a model policy that was sent to each state agency. The model policy

includes a description of House Bill No. 1120, definitions of recruitment and retention bonuses, an explanation of types of circumstances and positions that may receive the bonuses, a sample service agreement, and reporting requirements of the agency.

In response to a question from Senator Espgaard, Mr. Purdy said a retention bonus is most effective when there is a particular project or goal that needs to be accomplished. He said retention bonuses cannot replace a sound pay plan. Senator Espgaard said an unstructured retention bonus program is not an effective way of keeping employees beyond a short time period. Representative M. Klein said when the bill was drafted, the primary purpose was for recruitment bonuses, and retention bonuses were considered secondary. Chairman Delzer said the committee will receive future reports on the bonuses, including the use of recruitment and retention bonuses.

In response to a question from Representative Carlisle, Mr. Purdy said additional funds were provided during the 2001 legislative session to the Department of Transportation for addressing problems of recruiting and retaining engineers. He said the bonus pilot program provides an additional way for the department to retain engineers. He said the market equity fund that has been provided by the last two Legislative Assemblies has helped agencies address differences in classified salary ranges.

Representative Koppang said it is more difficult for smaller agencies to participate in the recruitment and retention bonus pilot program because the bonuses must be funded from the salaries and wages line item. He said he would prefer a separate appropriation be provided to allow all agencies to give bonuses. Mr. Purdy said because the positions that qualify for the recruitment and retention bonuses are those that are difficult to fill, there is often a period of time that the positions are vacant, thus freeing up funds to provide the bonuses.

In response to a question from Representative Disrud, Mr. Purdy said the employee service agreements under the retention and recruitment bonus pilot programs are from one to two years.

In response to a question from Representative Delzer, Mr. Purdy said the North Dakota University System does not qualify for the recruitment and retention bonus pilot program.

Ms. Laurie Sterioti Hammeren, Human Resource Director, Department of Human Services, said the department awarded nine retention bonuses to addiction counselors and licensed psychologists in Fargo. She said there is a high demand for these positions in the Fargo area, and the department felt there was a critical need to maintain these employees. She said the employees are required to pay back the retention bonus if they do not honor a one-year employment service agreement. She said a recruitment bonus was awarded to a registered nurse. She said the

retention bonuses were \$2,000 and the recruitment bonus was based on monthly salary.

In response to a question from Representative Carlisle, Ms. Sterioti Hammeren said within the Department of Human Services, the recruitment bonuses are prorated over the period of the contract; however, for retention bonuses, the agreement requires that the entire bonus is to be repaid if the employee leaves the agency before the end of the service agreement.

Senator Espegard said the policy model states that retention bonuses are to be used for situations when it is necessary to meet a critical deadline or complete a critical project. He said the Department of Human Services has more of a salary problem than a retention problem. Senator Lee said the policy model also states that bonuses may be used when recruitment has been difficult or the risk of losing an incumbent with rare skills is high, and the retention bonus should be proactive to retain staff with critical skills. Senator Espegard said he believes the policy model intends that retention bonuses be associated with a critical deadline or project.

In response to a request from Chairman Delzer, Ms. Sterioti Hammeren said she would provide a copy of the Department of Human Services recruitment and retention bonus pilot program policy to the committee at its next meeting.

Representative Carlisle said the recruitment and retention bonus pilot program expires on June 30, 2003, and the Legislative Assembly will have a better understanding of how to improve the program by the 2003 Legislative Assembly.

Ms. Chris Runge, Executive Director, North Dakota Public Employees Association, said the North Dakota Public Employees Association is concerned that an appropriation was not provided for the recruitment and retention bonus pilot program. She said it is important that these pilot programs are not replacing a good base salary program. She said the committee

may want to consider other potential work-related benefits that are nonmonetary, such as workplace structure, to recruit and retain employees.

It was moved by Senator Espegard, seconded by Representative M. Klein, and carried on a voice vote that the committee proceed with the responsibility to monitor state agency bonus programs as follows:

1. **Receive periodic reports from the Central Personnel Division on the implementation, progress, and bonuses provided under state agency recruitment and retention bonus pilot programs.**
2. **Receive testimony from other interested persons, including representatives of state agencies, on the implementation of retention bonus pilot programs.**
3. **Develop committee recommendations and any related bill drafts, including whether the bill should be extended beyond June 30, 2003.**
4. **Prepare a final report for submission to the Legislative Council.**

The committee adjourned subject to the call of the chair at 11:50 a.m.

Donald J. Wolf
Fiscal Analyst

Jim W. Smith
Legislative Budget Analyst and Auditor

ATTACH:1