

NORTH DAKOTA LEGISLATIVE COUNCIL

Minutes of the

BUDGET AND FINANCE COMMITTEE

Tuesday, October 21, 2008
Roughrider Room, State Capitol
Bismarck, North Dakota

Representative Al Carlson, Chairman, called the meeting to order at 9:00 a.m.

Members present: Representatives Al Carlson, Ole Aarsvold, Rick Berg, Merle Boucher, Jeff Delzer, Bob Skarphol, Ken Svedjan, Clark Williams; Senators Randel Christmann, Ray Holmberg, Elroy N. Lindaas, David O'Connell, Larry J. Robinson, Bob Stenehjem

Members absent: Representative Bob Martinson; Senator Tony Grindberg

Others present: Jim W. Smith, Legislative Council, Bismarck

See attached [appendix](#) for additional persons present.

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

STATUS OF THE GENERAL FUND

Ms. Pam Sharp, Director, Office of Management and Budget (OMB), presented a report on the status of the general fund, including oil and gas tax distributions to local governments. She presented the following schedule showing the status of the general fund for the 2007-09 biennium as of September 30, 2008:

July 1, 2007, balance	\$295,541,176
Estimated revenues	2,634,848,870
Estimated available funds	\$2,930,390,046
Appropriations	(2,461,973,956)
Estimated June 30, 2009, balance	\$468,416,090

Ms. Sharp presented the following schedule showing the status of the permanent oil tax trust fund for the 2007-09 biennium as of September 30, 2008:

July 1, 2007, balance	\$143,270,662
Estimated revenues	634,601,015
Estimated available funds	\$777,871,677
Appropriations	(145,716,541)
Estimated June 30, 2009, balance	\$632,155,136

Through September 2008, Ms. Sharp said general fund revenues have exceeded the legislative forecast by \$247.8 million or 17.9 percent. She said major variances relate to sales tax and individual and corporate income tax categories. Compared to the July 2008 forecast, she said, revenues have exceeded estimates by approximately \$14.5 million.

Ms. Sharp presented a schedule of oil and gas tax and mineral royalty allocations to cities and counties for fiscal years 2004 through 2008 and through October 20, 2008, for fiscal year 2009. She said total allocations for fiscal year 2008 totaled \$40.8 million, \$13.2 million more than the \$27.6 million allocated for fiscal year 2007. A copy of the report is on file in the Legislative Council office.

Senator Christmann suggested that OMB provide revenue forecast assumptions relating to major agriculture commodities when the November 2008 revenue forecast is presented to the Budget Section in December.

Senator Stenehjem asked for the general fund effect of a \$10 change in the price per barrel of oil. Ms. Sharp said OMB would provide that information.

Representative Berg asked whether OMB has been reviewing the potential effect on general fund revenues of the national economic downturn. Ms. Sharp said while the impact to North Dakota is less than in many other states, the forecast will be considering the potential effect of the national economy. She said recent reductions in the stock market could affect North Dakota taxpayer's capital gains, and, subsequently, reduce individual income tax collections.

Ms. Kathryn L. Strombeck, Tax Department, provided information on the status of individual and corporate income tax collections to date for the 2007-09 biennium and on the status of property tax income tax credits claimed on 2007 tax returns. She said individual income tax collections for the 2007-09 biennium through September 2008 have exceeded the legislative forecast by \$62.7 million or 20.9 percent. She said corporate income tax collections through September 2008 have exceeded the legislative forecast by \$64.4 million or 82.1 percent.

In response to a question for Representative Carlson, Ms. Strombeck said 6,000 more individual income tax returns have been filed in 2007 compared to 2006. She said the number of corporate income tax returns filed in 2007 is similar to 2006.

Regarding property tax income tax credits, Ms. Strombeck said for the 2007 filing year to date, residential and agriculture-related income tax credits totaling \$36.9 million have been claimed by 149,057 taxpayers. She said \$3.6 million of commercial property tax income tax credits have been claimed by 14,319 taxpayers. In total, she said, \$40.4 million of

income tax credits have been claimed by 162,376 taxpayers. She said 6,053 taxpayers have claimed the maximum credit allowed. She said based on credits claimed to date, the Tax Department does not believe that the \$112 million in credits originally anticipated to be claimed under the program for the biennium will be realized. A copy of the report is on file in the Legislative Council office.

PROPOSED BILL DRAFT

The Legislative Council staff presented a bill draft [\[90344.0100\]](#) relating to Emergency Commission responsibilities to approve additional full-time equivalent (FTE) positions for agencies during the interim. The Legislative Council staff said the bill draft authorizes the Emergency Commission, subject to Budget Section approval, to authorize agencies to employ FTE positions in addition to those authorized by the Legislative Assembly.

Ms. Sharp commented on the bill draft. She expressed OMB's support for the bill draft.

Representative Delzer suggested the bill draft be amended to provide that the Budget Section authorize additional FTE positions and that the Emergency Commission's role be to provide a recommendation to the Budget Section.

It was moved by Senator Stenehjem, seconded by Representative Berg, and carried on a voice vote that the bill draft be amended to provide that the Budget Section may authorize additional FTE positions considering a recommendation by the Emergency Commission.

It was moved by Representative Skarphol, seconded by Representative Svedjan, and carried on a roll call vote that the amended bill draft relating to powers and duties of the Budget Section and Emergency Commission to authorize state agencies to hire additional FTE positions be approved and recommended to the Legislative Council. Representatives Carlson, Aarsvold, Berg, Boucher, Skarphol, and Svedjan and Senators Christmann, Lindaas, Robinson, and Stenehjem voted "aye." Senator O'Connell voted "nay."

Ms. Sharp provided information relating to the 2009-11 biennium budget. She said to date, 59 agencies have submitted their budget request; however, she said, a number of larger agencies have been granted additional extensions and, therefore, have not yet submitted their request.

2009-11 BUDGET INFORMATION

Ms. Sharp said no additional cost-to-continue items have been identified in addition to those provided to the committee at its previous meeting.

Ms. Sharp said the Governor has proposed a number of initiatives, including:

- Providing an additional \$34 million for higher education tuition assistance.
- Providing \$300 million for property tax relief.
- Providing \$100 million for income tax relief.

- Providing an additional \$100 million for elementary and secondary education.
- Providing \$4 million to increase the medically needy income level.
- Providing \$5 million for improving child care in the state.

In response to a question from Representative Carlson, the Legislative Council staff said if measure No. 1 is approved, creating a constitutional permanent oil tax trust fund, provisions included in 2007 Senate Bill No. 2178 repeal the current statutory permanent oil tax trust fund on July 1, 2009.

Ms. Karlene Fine, Executive Director and Secretary, Industrial Commission, provided information on outstanding bonded indebtedness and outstanding special assessment balances of state agencies on July 1, 2007, and July 1, 2009, and options available to prepay these bonds or special assessments during the 2009-11 biennium.

Ms. Fine said as of June 30, 2008, the North Dakota Building Authority had \$129.1 million in outstanding bonds compared to \$107.8 million projected outstanding on June 30, 2009.

Ms. Fine said prepaying the \$107.8 million of outstanding bonds by July 2009 would cost \$114.6 million. She said because of the additional cost to prepay the bonds at the present time based on current market conditions, she would recommend not prepaying the bonds at this time. She said the Industrial Commission will continue to monitor market conditions and analyze the cost-benefit of prepaying outstanding bonds.

In response to a question from Representative Skarphol, Ms. Fine said eliminating the state's outstanding debt would not have a significant effect on the state's bond rating, which is currently a AA rating.

Representative Carlson asked for the potential additional bonding that could be incurred by the 2009 Legislative Assembly and still remain within the statutory guideline that general fund bond payments may not exceed the equivalent of 10 percent of 1 percent of the sales tax. Ms. Fine said based on current projections, the state will have available debt service of \$12.1 million in the 2011-13 biennium which would allow the 2009 Legislative Assembly to issue debt of between \$70 million and \$80 million and still remain within the statutory bond payment guideline.

Ms. Fine presented information on special assessments outstanding of state agencies as of January 2008. She said the remaining outstanding special assessments balance on July 1, 2009, of higher education institutions and state agencies is \$2.1 million. She said the estimated future savings resulting from paying the outstanding special assessments balance is approximately \$800,000. A copy of the report is on file in the Legislative Council office.

Representative Delzer asked the Legislative Council staff to review any statutory or administrative requirements providing that the State Investment Board sell bonds to meet minimum investment values.

Senator Christmann asked for a 10-year history of outstanding state indebtedness. Later in the day, Ms. Fine provided a schedule of outstanding principal bond balances of the North Dakota Building Authority since 1997. The amount of outstanding bonds of the state has ranged for \$73.8 million on June 30, 1997, to \$140 million on June 30, 2006. A copy of the information is on file in the Legislative Council office.

Ms. Roxanne Woeste, Assistant Legislative Budget Analyst and Auditor, presented a memorandum on agency budget requests for the 2009-11 biennium entitled [State Agencies' 2009-11 Biennium General Fund Budget Requests](#) and a memorandum entitled [Major General Fund Increases Included in 2009-11 Agency Budget Requests](#). She said the memorandums include information submitted to date and major general fund ongoing and one-time requests and requests for additional FTE positions. She said of the state agency budget requests that have been submitted to date, major general fund ongoing increases total \$185.2 million. She said agencies have requested an additional 215.88 FTE positions and have made one-time general fund requests totaling \$284.2 million.

Ms. Woeste said the Legislative Council staff will continue to update the reports as budget requests are submitted.

The Legislative Council staff presented a memorandum entitled [Special Funds - 2009-11 Biennium Preliminary Estimate of Funds Available](#). The Legislative Council staff said the schedule provides the projected June 30, 2009, balance, preliminary estimated revenues for the 2009-11 biennium, and the preliminary estimated funds available for the 2009-11 biennium for major special funds of state government, including the budget stabilization fund, foundation aid stabilization fund, permanent oil tax trust fund, resources trust fund, and state aid distribution fund.

The Legislative Council staff presented a memorandum entitled [Preliminary Outlook - North Dakota 2009-11 Biennium General Fund Budget](#). The Legislative Council staff said the memorandum provides preliminary information on general fund ongoing and one-time revenues and expenditures anticipated for the 2009-11 biennium. The Legislative Council staff said ongoing revenues for the 2009-11 biennium are currently anticipated to increase by 8 percent compared to the revised 2007-09 biennium estimates, which would provide for additional ongoing spending of approximately \$500 million compared to 2007-09 biennium ongoing appropriations. The Legislative Council staff provided information on ongoing revenues and potential optional spending levels for the 2009-11 biennium. The options presented ranged from an 8 percent increase to a 21.6 percent increase compared to 2007-09 biennium ongoing appropriations.

The committee recessed for lunch at 12:20 p.m. and reconvened at 2:30 p.m.

COMMITTEE DISCUSSION

Representative Carlson suggested the committee consider recommending a sustainable level of ongoing spending for consideration by the Legislative Council and the 2009 Legislative Assembly.

Senator Robinson expressed concern with the committee recommending spending levels. He suggested the committee distribute the 2009-11 biennium budget-related information it has been receiving to all legislators for their information.

Representative Berg said it is important for the Legislative Assembly to clearly identify ongoing and one-time revenues and expenditures. He suggested one-time revenues be deposited in a special fund and used only for one-time purposes. He said this will allow the Legislative Assembly to more closely monitor one-time expenditures.

Representative Boucher expressed support for providing information to other legislators and the public in an easy-to-understand format. He said it is important to specifically identify one-time and ongoing initiatives.

Senator Christmann expressed concern with the current projected revenue level for the 2009-11 biennium. He said because of recent significant reductions in oil and agriculture commodity prices, general fund revenues may be less than current projections.

Representative Aarsvold said it may not be appropriate for the committee to set spending targets now because of economic changes that may occur prior to the legislative session.

Representative Carlson said the committee was established to better prepare the Legislative Assembly for making budget-related decisions during the legislative session. He said the Legislative Assembly has the constitutional responsibility to set the state budget. Therefore, he said, the Legislative Assembly should not rely on the executive budget to establish revenue and spending parameters.

Representative Skarphol said the state is currently experiencing similar economic conditions to those experienced by the state in 1981. He said in 1981 the Legislative Assembly was anticipating significant revenues from oil and, as a result, substantially increased spending levels. Because oil prices decreased substantially in the 1980s, he said, state revenues and associated spending levels also were affected. He said the Legislative Assembly needs to consider the volatility of oil prices when establishing revenue and spending levels.

Representative Svedjan suggested the committee develop recommended budget targets based on the current financial condition of the state. He said the committee could consider setting targets for spending increases, workforce changes, and reserve amounts.

Representative Carlson suggested the committee provide a summary report of preliminary 2009-11 budget information for distribution to the Legislative Council and other legislators identifying the most current budget information available prior to the

Legislative Council meeting to assist all legislators in understanding anticipated budget issues that will be considered during the 2009 legislative session.

It was moved by Senator Robinson, seconded by Representative Berg, and carried on a roll call vote that the Legislative Council staff prepare a summary preliminary budget report for the 2009-11 biennium identifying preliminary ongoing and one-time revenue and alternative general fund spending levels and major special fund balances anticipated to be available for the 2009-11 biennium. Representatives Carlson, Aarsvold, Berg, Boucher, Skarphol, and Svedjan and Senators Christmann, Lindaas, O'Connell, Robinson, and Stenehjem voted "aye." No negative votes were cast.

It was moved by Representative Skarphol, seconded by Senator Robinson, and carried on a

voice vote that the chairman and the staff of the Legislative Council be requested to prepare a report and the bill draft recommended by the committee and to present the report and recommended bill draft to the Legislative Council.

It was moved by Representative Skarphol, seconded by Senator Robinson, and carried on a voice vote that the committee be adjourned sine die. Chairman Carlson adjourned the meeting sine die at 3:45 p.m.

Allen H. Knudson
Legislative Budget Analyst and Auditor

ATTACH:1