

NORTH DAKOTA LEGISLATIVE MANAGEMENT

Minutes of the

GOVERNMENT FINANCE COMMITTEE

Thursday, December 12, 2013
Harvest Room, State Capitol
Bismarck, North Dakota

Representative Jeff Delzer, Chairman, called the meeting to order at 9:30 a.m.

Members present: Representatives Jeff Delzer, Joshua A. Boschee, Bette Grande, Craig Headland, Rick Holman, Lisa Meier, Kylie Oversen, Don Vigesaa, Clark Williams; Senators Dwight Cook, Gary A. Lee, Donald Schaible, Ronald Sorvaag, Terry M. Wanzek, Rich Wardner

Member absent: Representative Larry Bellew

Others present: Vicky Steiner, State Representative, Dickinson
Blair Thoreson, State Representative, Fargo
Jerry Klein, State Senator, Fessenden
Representative Ron Guggisberg and Senator Ray Holmberg, members of the Legislative Management, were also in attendance.

See [Appendix A](#) for additional persons present.

It was moved by Senator Lee, seconded by Representative Grande, and carried on a voice vote that the minutes of the November 7, 2013, meeting be approved as distributed.

ASSIGNMENT OF ADDITIONAL COMMITTEE RESPONSIBILITY

Senator Holmberg, Chairman, Legislative Management, said he is assigning the committee an additional responsibility to review the potential purchase of the Research Enterprise and Commercialization Building on the campus of the University of North Dakota. He said the building was originally financed and constructed by a nonprofit entity. He said the Legislative Assembly through Section 23 of 2013 Senate Bill No. 2003 authorized the State Board of Higher Education to enter a purchase and financing agreement with a private entity to purchase the building using donations, gifts, or other funds. He asked the committee to review the status of the building purchase, including the source of any funds used in the purchase.

In response to a question from Representative Delzer, Senator Holmberg said the committee should complete its review of the building purchase prior to the final Budget Section meeting of the interim, which may be held in September 2014.

STATE BUDGET INFORMATION
Agriculture Prices and Farm Incomes

Dr. Frayne Olson, Crops Economist and Marketing Specialist, North Dakota State University, Fargo, presented information ([Appendix B](#)) regarding agriculture production levels and crop prices. He said a limited supply of corn last year led to high corn prices. However, he said, corn supplies have increased which is resulting in lower corn prices.

Dr. Olson said soybean production in 2013 was adequate, but available soybean supplies are somewhat limited. He said export sales and production levels in South America will affect soybean supplies and prices.

In response to a question from Representative Delzer, Dr. Olson said corn supplies are adequate so corn prices are expected to remain level. However, he said, the supply of oil seeds, including soybeans, is limited which will create volatile prices for oil seeds.

In response to a question from Representative Delzer, Dr. Olson said record levels of wheat were produced in Canada this year. He said Australian producers are also expecting a large wheat crop, but there may be concerns with the quality of the wheat.

In response to a question from Senator Wanzek, Dr. Olson said agricultural producers in the state have had near-record profits for the past several years. However, he said, commodity prices and farm incomes are expected to decrease in the next several years.

In response to a question from Representative Williams, Dr. Olson said corn prices are estimated to range from \$4.00 to \$4.50 per bushel in 2014, and wheat prices are expected to range from \$6.00 to \$6.50 per bushel in 2014. He said crop prices in the next several years will be near break-even amounts for producers.

In response to a question from Representative Delzer, Dr. Olson said agricultural land rental prices are expected to be stable during 2014 and then slowly decrease starting in 2015. He said agricultural land sales prices are expected to decrease after rental prices begin to decline.

Representative Delzer said the committee needs to be aware of how decreasing land values may affect property taxes.

In response to a question from Representative Grande, Dr. Olson said one reason for volatility in the agricultural market is due to businesses storing fewer commodities. He said many businesses try to reduce costs by limiting the amount of commodities in storage.

Oil and Gas Information

Mr. Lynn Helms, Director, Department of Mineral Resources, presented information ([Appendix C](#)) regarding the status of oil and gas development in the state. He said as of the end of October 2013, the state had a total of 10,874 oil wells, of which 6,447 were drilled in the Bakken or Three Forks Formation. He said on December 12, 2013, there were a total of 191 oil rigs drilling in the state.

Mr. Helms said the current price for North Dakota light sweet crude is \$73.50 per barrel. However, he said, producers may receive a higher price if the oil is shipped by rail to facilities on the East Coast. He said producers may receive up to \$30 per barrel more transporting oil by rail to facilities on the East Coast rather than shipping the oil on a pipeline to regional refineries.

Mr. Helms said a total of 2,260 wells are estimated to be completed during 2013. He said as of November 1, 2013, approximately 460 wells were drilled but awaiting hydraulic fracturing. He said based on approvals made by the Industrial Commission, drilling activity in the state is expected to remain stable through the next five years.

Mr. Helms said oil spacing units and well pads are being designed to drill multiple wells. He said the Bakken and Three Forks Formations contain several layers and up to four different wells may be drilled into a layer. He said up to 20 wells may be drilled on a typical 1,280-acre spacing unit.

In response to a question from Representative Delzer, Mr. Helms said the average cost to drill a well has decreased from \$11 million to \$8.6 million.

In response to a question from Representative Williams, Mr. Helms anticipates oil prices to be lower during 2014 compared to 2013 prices. He said producers may ship more oil by rail in order to receive higher prices. He said the cost to transport oil by rail is approximately \$12 per barrel compared to \$6 per barrel to transport oil by pipeline.

In response to a question from Representative Oversen, Mr. Helms said the Industrial Commission is estimated to issue 2,700 drilling permits this year. He said the permit requests are subject to an 18-step review. He said approximately 10 percent of the total permit requests--or 270 requests--will be returned to the applicant because the request is not in an approvable format. He said an applicant may make revisions to the permit request and resubmit the request for approval. He said approximately 2 percent of the total permit requests--or 50 to 60 requests--will be denied.

In response to a question from Representative Delzer, Mr. Helms said wells in the Bakken and Three Forks Formations generally have high production during the first year of operation, but production then rapidly declines.

In response to a question from Representative Delzer, Mr. Helms said multiwell pads have reduced the number of truckloads of materials needed to complete a well from 2,000 per well to 900 per well. He said the number of truckloads needed to complete a well could be significantly reduced if pipelines are installed to deliver water to the pads.

In response to a question from Senator Wardner, Mr. Helms said research is being conducted to determine the effectiveness of carbon dioxide for enhanced oil recovery in the Bakken and Three Forks Formations. He said the

initial research results appear promising, but several more years of tests are needed to prove the technology is successful.

In response to a question from Representative Delzer, Mr. Helms said the transportation of oil by rail is important for oil development in the state. He said there may be an increase in the amount of oil transported by rail from oil production in other areas of North America, which would affect rail capacities.

In response to a question from Senator Wanzek, Mr. Helms said there could be a temporary capacity issue on rail lines caused by the increasing amount of oil transported by rail. However, he said, railroads are planning significant investments in the state to increase rail capacity.

In response to a question from Representative Grande, Mr. Helms said the federal Endangered Species Act may affect oil development. He said there is the possibility that certain species may be placed on the endangered list, which could affect oil development in certain areas of the state.

Mr. Adam Mathiak, Fiscal Analyst, Legislative Council, presented memorandums entitled [2013-15 Oil and Gas Tax Revenue Allocation Flowchart](#), [Oil Tax Revenue Collections and Allocations Summary, 2013-15 Biennium](#), [Oil Tax Revenue Collections and Allocations, 2013-15 Biennium](#), [Distributions to Political Subdivisions - Oil and Gas Gross Production Tax Collections](#), and [Forecast and Actual 2013-15 Biennium Oil Tax Revenue Collections and Allocations](#). He provided an overview of the allocation of oil and gas taxes to state funds and political subdivisions and provided information regarding estimated and actual oil and gas tax collections for the 2013-15 biennium.

In response to a question from Representative Delzer, Mr. Mathiak said the unobligated balance of the strategic investment and improvements fund is currently \$95 million. He said when the unobligated balance of the fund reaches \$300 million, a portion of revenues designated for the fund will be deposited instead into the legacy fund.

STUDY OF STATE EMPLOYEE COMPENSATION AND BENEFIT ISSUES

Total Appropriations for State Employee Salaries and Benefits

The Legislative Council staff presented a memorandum entitled [Funding for State Employee Salaries and Benefits \(Excluding Higher Education\)](#). The memorandum summarizes estimated total appropriations for state employee salaries and wages and total full-time equivalent (FTE) positions authorized each biennium since 2005. For the 2013-15 biennium, an estimated \$1,559,027,186 was appropriated for state employee salaries and benefits, which represents a 13.3 percent increase from the 2011-13 biennium.

North Dakota University System Employees

The Legislative Council staff presented a memorandum entitled [North Dakota University System Employees](#). The total headcount number of University System employees in October 2013, excluding students, was 12,016.

The Legislative Council staff said University System institutions have a continuing appropriation for special funds received, including tuition, fees, grants, and auxiliary revenues. Because of the continuing appropriation, the Legislative Assembly does not authorize FTE positions supported by special funds. However, the Legislative Assembly does authorize FTE positions supported with funding from the general fund. For the 2013-15 biennium, the University System was authorized 2,304.74 FTE general fund positions.

Chairman Delzer asked the Legislative Council staff to provide information to the committee comparing University System institution student enrollments to institution employees.

Employee Health Insurance Premiums Paid by Political Subdivisions

The Legislative Council staff presented a memorandum entitled [Summary of Employee Health Insurance Premiums Paid by Political Subdivisions](#). The memorandum summarizes information reported by political subdivisions to Blue Cross Blue Shield of North Dakota regarding the percentage of single and family health insurance premiums paid by the political subdivision.

The committee recessed for lunch at 11:50 a.m. and reconvened at 1:00 p.m.

State Employee Retirement Plans

The Legislative Council staff presented a memorandum entitled [Information Requested Regarding State Employee Retirement Plans in Other States](#). He reviewed a report prepared by the Wisconsin Legislative Council that compares major state employee retirement plans. Areas compared include employee and employer contribution rates, plan coordination with Social Security, benefit formulas, and plan funding ratios.

The Legislative Council staff reviewed changes made to state employee retirement plans in other states, including Rhode Island, Georgia, and Illinois. He reviewed the status of lawsuits filed in other selected states relating to changes made to state employee retirement plans.

Chairman Delzer asked the Legislative Council staff to provide committee members a copy of the 2012 Wisconsin Legislative Council state employee retirement program comparison report when it is available.

The Legislative Budget Analyst and Auditor presented information ([Appendix D](#)) regarding the most recent actuarial valuation report of the Public Employees Retirement System. As of June 30, 2013, the plan had 21,201 active plan members with an average age of 47.1 years and average service of 10.4 years. The actuarial funded ratio of the plan was currently 61.6 percent on June 30, 2013.

In response to a question from Representative Grande, Ms. Sharon Schiermeister, Chief Operating Officer, Public Employees Retirement System, said the long-term projections for the retirement plan estimate a funding ratio of 80 percent will be achieved in approximately 30 years. She said the estimate is based on the recently increased employee and employer contribution rates and an 8 percent annual investment return. She said if the employee and employer contribution rates had not been increased, the funding ratio would have been projected to decrease.

Health Insurance Plan

Ms. Kathy Allen, Benefit Programs Manager, Public Employees Retirement System, presented information ([Appendix E](#)) regarding how the federal Affordable Care Act may affect premiums paid for employee health insurance. She said an existing health care plan may be exempt from certain provisions of the federal Affordable Care Act if certain existing plan benefits are maintained. She said a health care plan may be subject to expanded coverage requirements if the employer contribution to employees' health insurance premiums is reduced by more than 5 percent below the contribution rate in effect on March 23, 2010.

In response to a question from Representative Delzer, Ms. Allen said she will provide the committee with information regarding the health care excise tax, including whether any plans in the state are subject to the tax.

Committee Discussion

Representative Delzer said the committee needs to consider whether changes should be made to the existing state employee retirement plan.

Senator Schaible suggested the committee receive information regarding the estimated cost to have new employees participate in a defined contribution plan, while existing employees remain in the current defined benefit plan.

Senator Sorvaag suggested the committee request an actuarial review of options to have new employees participate in a defined contribution plan.

Representative Grande suggested the committee receive information from private businesses that have converted from a defined benefit retirement plan for employees to a defined contribution plan. She also suggested the committee receive information regarding the process used to discontinue the Old-Age and Survivor Insurance System plan.

Representative Holman said the committee should also review the use of defined benefit and defined contribution hybrid plans.

Chairman Delzer asked the Legislative Council staff to prepare a summary document for the committee detailing the various retirement plan types.

STUDY OF THE LASTING BENEFITS OF THE LEGACY FUND

The Legislative Budget Analyst and Auditor presented a memorandum entitled [Legacy Fund Clarifications](#). The Legislative Assembly has the ability to enact statutes to clarify constitutional provisions relating to the legacy fund. He reviewed potential statutory language which may be used to clarify issues previously identified by the committee regarding the definition of fund principal and earnings, how appropriation limits relating to the fund are determined, and when fund earnings are to be transferred to the general fund.

In response to a question from Representative Delzer, the Legislative Budget Analyst and Auditor said any funds transferred to the legacy fund become part of the fund's principal. He said this includes any funds that are deposited in the legacy fund as a result of the strategic investment and improvements fund reaching an unobligated balance of \$300 million.

In response to a question from Senator Wanzek, the Legislative Budget Analyst and Auditor said any fund earnings accruing prior to July 1, 2017, will remain in the fund unless appropriated or transferred by the Legislative Assembly.

Representative Delzer said it may be appropriate to designate the fund earnings accruing prior to July 1, 2017, as principal. He said the committee should establish the goal of the legacy fund and how the fund should be used.

In response to a question from Senator Lee, the Legislative Budget Analyst and Auditor said it may be possible to identify investment gains or losses attributable to the principal balance of the fund and investment gains or losses attributable to any earnings retained in the fund.

STUDY OF THE FOUNDATION AID STABILIZATION FUND

The Legislative Council staff presented a memorandum entitled [Use of the Foundation Aid Stabilization Fund and Budget Stabilization Fund](#). The Director of the Budget may order an allotment of appropriations in the event of a revenue shortfall. The foundation aid stabilization fund must be used to offset budget allotments of state school aid, and the budget stabilization fund may be used to offset any general fund allotments in excess of 2.5 percent as follows:

Use of Foundation Aid Stabilization Fund and Budget Stabilization Fund to Offset Allotments		
	State School Aid Payments	Other General Fund Appropriations
First 2.5 percent of allotment	A transfer from the foundation aid stabilization fund must be used to offset allotment.	No offset of allotment allowed.
Portion of allotment greater than 2.5 percent	A transfer from either the foundation aid stabilization fund or budget stabilization fund must be used to offset allotment.	The Governor may order transfer from the budget stabilization fund to offset allotment.

In response to a question from Representative Delzer, the Legislative Council staff said there is no maximum allotment amount specified in statute.

OTHER BUSINESS

At the request of Chairman Delzer, Mr. Darren Schulz, Deputy Chief Investment Officer, Retirement and Investment Office, introduced the new Chief Investment Officer, Mr. David Hunter, to the committee.

Chairman Delzer announced the committee is tentatively scheduled to meet in February and March 2014.

No further business appearing, Chairman Delzer adjourned the meeting at 3:00 p.m.

Brady A. Larson
Assistant Legislative Budget Analyst and Auditor

Allen H. Knudson
Legislative Budget Analyst and Auditor

ATTACH:5