



GOVERNMENT FINANCE COMMITTEE

Wednesday, September 20, 2023
Roughrider Room, State Capitol
Bismarck, North Dakota

Senator Dean Rummel, Chairman, called the meeting to order at 10:00 a.m.

Members present: Senators Dean Rummel, Jeff Barta, Todd Beard, Kristin Roers, Donald Schaible, Ronald Sorvaag, Michael A. Wobbema; Representatives Bert Anderson, Larry Bellew, Craig Headland, Jeff A. Hoverson, Lisa Meier, Mike Nathe, Emily O'Brien, Brandy Pyle, Paul J. Thomas, Steve Vetter, Don Vigesaa

Member absent: Representative Keith Kempenich

Others present: Senators Kyle Davison, Fargo and Brad Bekkedahl, Williston, members of the Legislative Management

Allen H. Knudson, Legislative Council, Bismarck

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

Mr. Adam Mathiak, Senior Fiscal Analyst, Legislative Council, reviewed the [Supplementary Rules of Operation and Procedure of the North Dakota Legislative Management](#).

STATE BUDGET INFORMATION Legislative Council

Mr. Mathiak presented:

- A report entitled *Budget and Fiscal Trends* ([Appendix B](#)) regarding revenues, appropriations, and other state budget information since the 2013-15 biennium.
- The [2023 North Dakota Finance Facts](#) regarding information on recent trends in the state budget and the state's economy.
- A report entitled [68th Legislative Assembly State Budget Actions for the 2023-25 Biennium](#) regarding details on the revenue forecast and appropriations for the 2023-25 biennium as approved by the 2023 Legislative Assembly.
- A memorandum entitled [Estimated Revenue Sources and Distributions for Major State Funds for the 2023-25 Biennium](#), which is a flowchart of an overview of the revenues and appropriations for major state funds.
- A memorandum entitled [Oil and Gas Tax Revenue Allocation Flowchart - 2023-25 Biennium](#), which is a flow chart of the estimated oil and gas tax revenue allocations for the 2023-25 biennium.
- A memorandum entitled [General Fund Revenues Monthly Update](#) regarding general fund revenues for July 2023.
- A memorandum entitled [Oil and Gas Tax Revenues Monthly Update](#) regarding oil and gas tax revenues for August 2023.

Office of Management and Budget

Ms. Susan Sisk, Director, Office of Management and Budget, presented information ([Appendix C](#)) regarding:

- The final status of the general fund for the 2021-23 biennium, including unspent 2021-23 biennium appropriation authority.

- The cashflow forecast for the general fund for the 2023-25 biennium.
- The status of the general fund for the 2023-25 biennium.
- Selected special fund balances.
- The status of the federal State Fiscal Recovery Fund expenditures.
- The status of the federal Coronavirus Capital Projects Fund for career centers and any use of the Bank of North Dakota line of credit for the centers.

Ms. Sisk noted:

- The June 30, 2023, ending fund balance of the general fund was \$1.49 billion, which was approximately \$290 million more than the 2023 legislative forecast primarily related to additional tax and fee revenue collections during the 2021-23 biennium and unspent 2021-23 biennium general fund appropriations (turnback).
- Turnback was 5.5 percent of total general fund appropriations for the 2021-23 biennium, compared to an average of 1.3 percent since the 2011-13 biennium, primarily due to the availability of additional federal funding which decreased the need for general fund spending.
- \$397.4 million of the \$1,007.6 million appropriated from the federal State Fiscal Recovery Fund was spent through August 2023.
- The Department of Career and Technical Education accessed \$10,000,000 from the Bank of North Dakota line of credit for career academy construction projects and accrued interest of \$165,000 on the line of credit, but the loan and interest were repaid by September 2023.

REPORTS

Salary Increase Report

Mr. Lynn Hart, Total Rewards Manager, Human Resource Management Services, Office of Management and Budget, presented information ([Appendix D](#)) regarding executive branch employees who received a cumulative salary increase of 15 percent or more between March 31, 2021, and June 30, 2023, pursuant to North Dakota Century Code Section 54-44-04. He noted 1,822 state employees received cumulative salary increases of 15 percent or more during the 27-month period ended June 30, 2023, of which 1,161 state employees had a cumulative salary increase exceeding the threshold before the June 2023 targeted market equity adjustments and an additional 661 state employees had cumulative salary increases exceeding the threshold after the June 2023 targeted market equity adjustments.

In response to a question from a committee member, Mr. Hart noted the 15 percent threshold for the report may have been selected relative to the size of the legislatively approved annual salary increases, which ranged from 0 to 2.5 percent during the 2017-19 biennium through the 2021-23 biennium.

Legacy Fund Earnings Report

Mr. Ryan Skor, Chief Financial Officer and Chief Operating Officer, Retirement and Investment Office, presented information ([Appendix E](#)) regarding the amount of legacy fund earnings that would have been transferred to the legacy earnings fund if Senate Bill No. 2330 (2023) had not been passed by the Legislative Assembly pursuant to Section 62 of Senate Bill No. 2015 (2023). He noted \$486.57 million was transferred from the legacy fund to the legacy earnings fund on June 30, 2023, which was \$26.44 million more than the \$460.13 million that would have been transferred if the definition of legacy fund earnings had not been changed.

Emergency Snow Removal Grants Report

Mr. Justin Messner, Disaster Recovery Chief, Department of Emergency Services, presented a report ([Appendix F](#)) regarding grants awarded before June 30, 2023, to tribal governments, counties, cities, and townships for emergency snow removal pursuant to Senate Bill Nos. 2015 and 2183 (2023). He noted:

- The department distributed \$18.14 million for emergency snow removal grants, including \$5.66 million for early season grants and \$12.48 million for full season grants.
- The department submitted a request to the Emergency Commission to provide correction payments to six political subdivisions for errors made by the department.

STATE AGENCY FEES STUDY

Mr. Mathiak presented a memorandum entitled [State Agency Fees - Background Memorandum](#) regarding the committee's study of state agency fees pursuant to Section 54-35-27. He noted 46 state agencies had 40 or fewer fees, including 15 state agencies with no fees and 31 state agencies with at least 1 fee but no more than 40 fees.

Ms. Sisk presented information ([Appendix G](#)) regarding the agency fee report ([Appendix H](#)) for state agencies with 40 fees or fewer which was presented in September 2022.

The committee expressed support to proceed with the proposed study plan, which includes:

- Reviewing the September 2022 report;
- Receiving reports from the Office of Management and Budget in September 2024 regarding fees imposed by state agencies that have more than 40 fees and any fees that were added, deleted, or changed since the 2021-23 biennium;
- Identifying potential state agency fees to review; and
- Making recommendations regarding state agency fees.

STATE GUARDIANSHIP PROGRAMS STUDY

Mr. Mathiak presented a memorandum entitled [State Guardianship Programs Study - Background Memorandum](#) regarding the committee's study of state guardianship programs pursuant to Section 65 of Senate Bill No. 2015 (2023).

Office of Management and Budget

Ms. Sisk provided comments regarding the Office of Management and Budget's administration of guardianship programs, including the funding provided for the 2023-25 biennium. She noted the Legislative Assembly appropriated \$7.1 million for the 2023-25 biennium which the agency distributes to the North Dakota Association of Counties for payments to private agencies and individuals.

Judicial Branch

Ms. Sally Holewa, State Court Administrator, presented information ([Appendix I](#)) regarding the judicial branch's administration of guardianship programs, including the funding provided for the 2023-25 biennium. She noted:

- The judicial branch appoints guardians and provides guardianship monitoring services.
- The Legislative Assembly appropriated \$624,008 and authorized 2 FTE positions for the judicial branch to provide guardianship monitoring.
- The judicial branch supports the concept of consolidating guardianship programs and funding under one state agency.

Ms. Cynthia Feland, Judge, District Court, provided comments regarding the history of guardianship services. She noted:

- The number of individuals needing guardianship services has exceeded forecasts; and
- A shortage of guardians limits the options for courts to appoint guardians.

Department of Health and Human Services

Ms. Michelle Gayette, Assistant Director, Adult and Aging Services Division, Department of Health and Human Services, presented information ([Appendix J](#)) regarding the Department of Health and Human Services' administration of guardianship programs, including the funding provided for the 2023-25 biennium. She noted the department's budget includes:

- \$423,000 under the Adult and Aging Services Division for guardianship services;
- \$300,000 under the Developmental Disabilities Division for legal assistance for guardians;
- \$4,488,544 for payments for corporate guardianships for individuals with developmental disabilities; and
- \$1,470,000 for guardians serving children.

In response to a question from a committee member, Ms. Sara Stolt, Interim Commissioner, Department of Health and Human Services, noted the department coordinates with the federal government to acquire assistance for unaccompanied minors who may need guardianship services after entering the country unlawfully because the department is not authorized to provide services to those minors through any existing programs.

Comments

Mr. Scott Bernstein, Executive Director, Guardian and Protective Services, provided comments ([Appendix K](#)) regarding the committee's study of state guardianship programs. He noted each of the state's guardianship programs serves a distinct function and suggested keeping the programs separate rather than combining them under one agency.

Ms. Donna Byzewski, Program Director, Corporate Guardianship Program, Catholic Charities North Dakota, provided comments ([Appendix L](#)) regarding the committee's study of state guardianship programs. She noted Catholic Charities North Dakota provides guardianship services to individuals who are incapacitated due to developmental disabilities and those services require different expertise from other types of guardianship services.

Senator Judy Lee, West Fargo, provided comments ([Appendix M](#)) regarding the committee's study of state guardianship programs. She noted Senate Bill No. 2345 (2023) created a task force on guardianship monitoring to address guardianship accountability and provided additional funding to the judicial branch to enhance guardianship monitoring.

Mr. Aaron Birst, Executive Director, North Dakota Association of Counties, provided comments regarding the committee's study of state guardianship programs. He noted:

- Counties designated the association to serve as public administrators on behalf of the counties.
- The association does not use state funding for costs associated with administering the guardianship grants.
- The association uses the funding from the Office of Management and Budget to reimburse private agencies and individuals \$17 per day to serve as guardians.

Discussion

The committee expressed support to proceed with the proposed study plan, which includes:

- Receiving information and comments from the Office of Management and Budget, judicial branch, and Department of Health and Human Services regarding the existing guardianship programs and the feasibility and desirability of consolidating the programs under one agency; and
- Receiving comments from private agencies and individuals that provide guardianship services.

DEPARTMENT OF FINANCIAL INSTITUTIONS BUDGET STUDY

Mr. Mathiak presented a memorandum entitled [Department of Financial Institutions Appropriations Procedures Study - Background Memorandum](#) regarding the committee's study of the appropriations procedures for the Department of Financial Institutions pursuant to Section 3 of House Bill No. 1008 (2023).

Department of Financial Institutions

Ms. Lise Kruse, Commissioner, Department of Financial Institutions, presented information ([Appendix N](#)) regarding the current appropriation procedures for the Department of Financial Institutions and alternative appropriation methods. She noted:

- The agency receives appropriation authority from the Legislative Assembly each biennium in the same manner as other state agencies.
- The agency is funded through fees collected from the industry for costs associated with the regulatory process with the fees set by the State Banking Board and the State Credit Union Board.
- The regulatory agencies in Oklahoma and Texas do not need legislative authorization to spend funds but provide reports regarding their operations and expenditures.

Comments

Mr. Rick Clayburgh, President and Chief Executive Officer, North Dakota Bankers Association, provided comments regarding the committee's study of the appropriation procedures for the Department of Financial Institutions. He noted the banking industry supports changing the appropriation procedures for the department to ensure the department has sufficient resources to adequately regulate the industry.

Discussion

The committee expressed support to proceed with the proposed study plan, which includes:

- Receiving information and comments from the Department of Financial Institutions regarding the current appropriation methods and staffing structures and the feasibility and desirability of changing the appropriation methods and staffing structures; and

- Receiving comments from the Office of Management and Budget regarding any changes to the appropriation methods.

FUND ADMINISTRATION STUDY

Mr. Mathiak presented a memorandum entitled [Administration of the State Fire and Tornado Fund and the State Bonding Fund Study - Background Memorandum](#) regarding the committee's study of the administration of the state fire and tornado fund and the state bonding fund pursuant to Section 63 of Senate Bill No. 2015 (2023).

Insurance Department

Mr. John Arnold, Deputy Director, Insurance Department, presented information ([Appendix O](#)) regarding the administration of the state fire and tornado fund and the state bonding fund. He noted:

- The 2019 Legislative Assembly authorized the Insurance Commissioner to contract with the North Dakota Insurance Reserve Fund for the administration of the funds.
- The North Dakota Insurance Reserve Fund increased insurance coverage to reflect adjustments in the value of covered property, which resulted in an increase in premiums charged to political subdivisions and state agencies.
- There are 22 other states with similar self-insurance programs, of which 17 administer the programs through a risk management agency.
- Other considerations for the administration of the funds include an adequate level of coverage for insured property, alternative insurance coverage models, and separate coverage options for political subdivisions and state agencies.

Office of Management and Budget

Mr. Tag Anderson, Director, Risk Management Division, Office of Management and Budget, provided comments regarding the committee's study of the administration of the state fire and tornado fund and the state bonding fund. He noted:

- The agency supports the study and the other considerations of administering the funds identified by the Insurance Commissioner.
- There could be administration challenges and increased costs if the North Dakota Insurance Reserve Fund does not continue to administer the funds and another administrative provider is required.

Comments

Mr. Brennan Quintus, Chief Executive Officer, North Dakota Insurance Reserve Fund, provided comments regarding the committee's study of the administration of the state fire and tornado fund and the state bonding fund. He noted the organization identified undervalued properties after taking over the administration of the funds and identified concerns related to reinsurance for the fund and an adequate fund balance.

In response to questions from a committee member, Mr. Quintus noted:

- The North Dakota Insurance Reserve Fund is a nonprofit organization providing self-insurance for governmental entities in North Dakota.
- Insurance coverage provided to governmental entities and claims against those governmental entities are subject to the provisions of the insurance contract documents, the same as other insurance products.
- Insurance coverage and claims for governmental entities have unique challenges, particularly with liability claims, due to the nature of governmental operations such as police and fire protection services.
- The organization is regulated by the Insurance Commissioner and processes approximately 1,800 claims per year.

Discussion

The committee expressed support to proceed with the proposed study plan, which includes:

- Receiving information and comments from the Insurance Commissioner regarding the current administration of the state fire and tornado fund and the state bonding fund and the feasibility and desirability of changing the administration of the funds; and
- Receiving comments from the Office of Management and Budget regarding the feasibility and desirability of changing the administration of the state fire and tornado fund and the state bonding fund.

STATE BUDGET MONITORING AND OTHER DUTIES

Mr. Mathiak presented a memorandum entitled [Other Duties of the Government Finance Committee - Background Memorandum](#). He noted the committee's additional duties include monitoring the status of the state budget, reviewing economic forecasting data, and receiving various reports from state agencies.

Chairman Rummel noted the Legislative Management assigned an additional study to the committee regarding state-owned aircraft.

No further business appearing, Chairman Rummel adjourned the meeting at 4:30 p.m.

Adam Mathiak
Senior Fiscal Analyst

ATTACH:15