

NORTH DAKOTA LEGISLATIVE COUNCIL

Minutes of the

BUDGET COMMITTEE ON GOVERNMENT SERVICES

Wednesday, October 9, 2002
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, Frank Klein, Matthew M. Klein, Myron Koppang, Dave Weiler, Robin Weisz; Senators Ralph L. Kilzer, Gary A. Lee, Elroy N. Lindaas, Harvey Tallackson

Members absent: Representative Clara Sue Price; Senators Duaine C. Espeland, Judy Lee

Others present: See attached appendix

It was moved by Representative Carlisle, seconded by Representative Disrud, and carried on a voice vote that the minutes of the July 10-11, 2002, meeting be approved as distributed.

BUDGET MONITORING

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. She said the 2001 Legislative Assembly approved House Bill No. 1015, which allows for a contingent transfer from the Bank of North Dakota to the general fund, not to exceed the lesser of \$25 million or the revenue shortfall of actual collections compared to the March 2001 legislative forecast. She said the June 30, 2003, projected ending general fund balance prior to the Bank of North Dakota transfer is projected to be a negative \$14,711,812. She said this projected ending fund balance reflects the July 2002, 1.05 percent general fund allotment savings of \$18.3 million. She said in addition the Department of Human Services has a continuing appropriation of \$3.5 million for intergovernmental transfer pool payments. She said the June 30, 2003, projected ending general fund balance after the transfer is \$0, which is \$12 million less than the projected ending general fund balance made at the close of the 2001 legislative session.

Ms. Sharp said through September 30, 2002, general fund revenue collections are 1.4 percent or \$13.7 million more than estimated in the July 2002 preliminary revenue forecast. She said actual sales tax and individual income tax collections through September 2002 were 1 percent or \$3.8 million and

1.2 percent or \$2.9 million more, respectively, than the July 2002 preliminary revenue forecast.

Ms. Sharp said the Office of Management and Budget has to date received agency deficiency or supplemental appropriations requests for the 2001-03 biennium of \$28 million. She said the Office of Management and Budget has been notified that the Division of Emergency Management will also have a deficiency request, but the amount is currently unknown. The legislative budget analyst and auditor said the \$12 million requested by the Department of Transportation, according to 2001 Senate Bill No. 2112, is to be requested from the state highway fund rather than the general fund.

In response to a question from Representative Delzer, Ms. Sharp said projected 2001-03 biennium sales and use tax collections were not reduced significantly in the July 2002 preliminary revenue forecast as compared to the original 2001 legislative forecast. She said the reduction was approximately \$735,000. She said actual revenue collections through September 2002 were approximately 1.8 percent or \$18 million less than the original 2001 legislative revenue forecast.

In response to a question from Representative Koppang, Ms. Sharp said despite the fact that oil prices have increased, oil companies have been slow to begin drilling because of the volatility of oil prices. Representative Delzer said the drilling availability on North Dakota's grasslands has also affected oil production.

Ms. Stephanie Johnson, Fiscal Analyst, Legislative Council, presented a memorandum entitled *Oil Production, Oil Market Price, and Oil Tax Revenue Information for the 2001-03 Biennium*, which provides information on the statutory provisions relating to oil and gas production tax, oil extraction tax, the permanent oil tax trust fund, and information on oil production and oil market prices. She said through August 2002 general fund revenues from oil and gas production taxes are \$23.9 million, or \$2.4 million below estimates. She said general fund revenues from the oil extraction taxes are \$12.4 million or \$3.6 million below estimates for the same period.

Ms. Johnson said in September 2002 the average price per barrel of oil was \$24.53, \$3.86 more than the forecasted price of \$20.67 per barrel. She said oil

production in July 2002 totaled 2.5 million barrels, 328,000 barrels less than the estimated production of 2.9 million barrels. She said through August 2002, 74 oil wells have been drilled in calendar year 2002, 63 of which are producing wells. She said the average number of oil rigs in North Dakota in September 2002 was 12.

In response to a question from Representative Delzer, Ms. Johnson said based on the July 2002 preliminary revenue forecast, oil and gas production tax and oil extraction tax collections are anticipated to be approximately \$61 million for the 2001-03 biennium. She said collections in excess of \$62 million are transferred to the permanent oil tax trust fund. She said, however, because actual oil and gas production tax and oil extraction tax collections through September 2002 have exceeded the July 2002 revised revenue forecast by approximately \$800,000, it is possible that total collections for the biennium will exceed \$62 million.

Mr. Allen H. Knudson, Assistant Legislative Budget Analyst and Auditor, Legislative Council, presented a memorandum entitled *Preliminary Outlook - North Dakota 2003-05 General Fund Budget October 2002 Update*, which provides a preliminary outlook regarding North Dakota's 2003-05 biennium general fund budget and revised revenue estimates for the 2001-03 biennium. He said based on preliminary estimates the June 30, 2005, general fund deficit range could be between \$67.5 million and \$184 million. He said this projection includes total costs to continue for the 2003-05 biennium of approximately \$52.2 million. He said in addition possible increases in employee salaries, state aid to school districts, etc., are included in the projection but are not intended to be recommended amounts. He said the potential deficit may be reduced by up to \$21.7 million depending on reductions that may result from the Governor's 95 percent budget request guidelines. He said, however, if the proposed initiated measure providing an individual income tax credit for persons 21 to 29 years old as well as student loan reimbursements is approved at the November 2002 general election, individual income tax revenues are projected to be \$22 million less and funds available for transfer from the Bank of North Dakota could be reduced by up to \$33 million.

Mr. Knudson said the information provided is very preliminary and subject to many yet to be determined factors, including revised revenue estimates, agency 2001-03 deficiency appropriations requests, agency 2001-03 unspent appropriations or "turnback," and 2003-05 biennium agency budget requests.

In response to a question from Representative Delzer, Mr. Knudson said the projected 2001-03 general fund deficiency request, including an estimated \$12 million from the Division of Emergency Management relating to 1997-2001 disasters, is approximately \$28 million.

Representative Delzer said included in the 2003-05 biennium cost to continue estimate is

\$4.9 million to replace Department of Human Services funding sources available in the 2001-03 biennium which are not anticipated to be available in the 2003-05 biennium. He said these "refinancing funds" are not required and the 2003 Legislative Assembly will have to determine whether to replace the funding.

Representative Carlisle said the Legislative Council staff has distributed information on the effect of the youth initiative measure, if passed by voters, on the state's revenue collections, based upon information provided by the Tax Department and the Bank of North Dakota. Chairman Delzer said the 2003-05 biennium budget will be determined based on information provided by the Office of Management and Budget and the Legislative Council.

In response to a question from Representative Delzer, Mr. Knudson said the 2001-03 biennium budget was reduced by approximately \$18 million as a result of the 1.05 percent executive branch allotment. He said the 2003-05 biennium 95 percent budget is approximately \$40 million less than the amount originally appropriated for the 2001-03 biennium.

Mr. Knudson presented a memorandum entitled *Department of Human Services - Status of Select Grant Program Expenditures*. The report compares actual to projected expenditures for temporary assistance for needy families (TANF), medical assistance service payments for elderly and disabled (SPED), and expanded SPED. He said TANF expenditures through August 2002 were \$16.4 million, \$2 million more than estimated expenditures of \$14.4 million.

Mr. Knudson said actual Medicaid expenditures through August 2002 of \$787 million were \$3 million more than the June 2002 projection of \$784 million and \$30 million more than the original appropriation of \$757 million. He said the 2001-03 biennium general fund share of Medicaid expenditures is projected to be \$14.3 million more than the original appropriation.

Mr. Knudson said through August 2002 the Department of Human Services has spent \$8.2 million on the SPED program, \$1 million more than estimated expenditures of \$7.2 million. He said through August 2002 actual expenditures for the expanded SPED program were \$772,000, \$128,000 more than estimated expenditures of \$644,000.

Mr. Knudson said the largest increases in Medicaid expenditures through August 2002 relate primarily to drugs and inpatient and outpatient hospital costs. Representative Delzer said over the last four years the number of TANF cases has remained at fairly constant levels. He said the report indicates the number of TANF cases has exceeded estimates by up to 460 cases per month, which is a significant change from prior bienniums.

In response to a question from Representative Kerzman, Mr. Knudson said North Dakota's federal medical assistance percentage has dropped by approximately 1.5 percentage points. He said each 1 percent drop costs the state approximately \$5 million in federal revenues. He said the decrease

in federal revenues increases the state share cost for each of the programs.

In response to a question from Representative Delzer, Mr. Knudson said the 1999-2001 biennium appropriation for SPED was approximately \$12.8 million. Representative Delzer said near the end of the 1999-2001 biennium, the Department of Human Services had additional SPED funding available and thus increased the provider payments. He said after the 2001 legislative session the SPED caseload increased, resulting in fiscal year 2002 expenditures being greater than appropriation amounts.

Ms. Roxanne Woeste, Fiscal Analyst, Legislative Council, presented a memorandum entitled *Status Report on State School Aid and Other Major State Grants to School Districts*. She said the total 2001-03 biennium appropriation for state school aid and other major state grants to schools is \$630,010,368, approximately \$48 million more than the 1999-2001 biennium appropriation, primarily due to teacher compensation payments and an increase in tuition fund distributions to school districts. She said the per student state school aid payment amounts for the first year of the 2001-03 biennium are \$2,597, \$10 more than the legislative appropriation. She said the 2002-03 per student state school aid payments are estimated to be \$2,647. She said approximately \$598,000 is estimated to be unspent at the end of the 2001-03 biennium in the state school aid program. She said 2001 House Bill No. 1344 provided that if any funds appropriated for state school aid remain unspent at the end of the 2001-03 biennium, the Superintendent of Public Instruction shall distribute the remaining funds as follows:

1. The first \$2 million to assist school districts that have experienced declining enrollment during the periods 1997-98 to 2000-01.
2. The second \$2 million as hold harmless payments to school districts for state aid and teacher compensation payments.
3. Any remaining amount as additional per student payments.

Ms. Woeste said the 2001 Legislative Assembly appropriated \$35 million for teacher compensation payments of \$1,000 the first year of the 2001-03 biennium and an additional \$2,000 the second year of the biennium to approximately 8,884 full-time equivalent (FTE) instructional personnel. She said due to changes in the actual number of qualifying personnel from year to year, approximately \$245,000 in teacher compensation payments is anticipated to be unspent at the end of the 2001-03 biennium. She said 2001 House Bill No. 1344 provides that any end of the biennium undistributed balance in the teacher compensation payment appropriation will be distributed as additional per student payments.

The Legislative Council staff presented a memorandum entitled *Comparison of Estimated and Actual FTE Positions, Expenditures, Revenues, and Populations at Charitable and Penal Institutions for the*

Period July 1, 2001, Through June 30, 2002. The Legislative Council staff said total expenditures at charitable and penal institutions for this period were \$81,813,493, \$3,088,220 or 3.6 percent less than estimated. Total revenues for the same period were \$26,132,975, \$3,781,206 or 12.6 percent less than estimated. The total institutional population for this period averaged 1,734, 31 or 1.8 percent less than estimated. The average monthly FTE employee positions for these institutions totaled 1,517.58, 95.6 FTE positions or 5.9 percent less than authorized.

In response to a question from Representative Carlisle, Ms. Johnson provided information regarding the alternative heating system at the Department of Corrections and Rehabilitation. She said the federal funding for the system was withdrawn after the September 11, 2001, terrorist attacks. She said the Department of Corrections and Rehabilitation is currently looking for alternative funding sources.

RISK-ASSOCIATED BEHAVIOR PROGRAMS

Tobacco Settlement Trust Fund Collections

The Legislative Council staff presented a memorandum entitled *Analysis of the Tobacco Settlement Trust Fund for the 2001-03 Biennium*. The Legislative Council staff said as of September 30, 2002, \$79.7 million has been received by the state and deposited into the tobacco settlement trust fund. During the first 15 months of the 2001-03 biennium \$26.8 million of tobacco settlement collections have been received by the state. He said total tobacco settlement trust fund collections are projected to be \$53.3 million for the 2001-03 biennium and the tobacco settlement trust fund collections are allocated among the community health trust fund, the common schools trust fund, and the water development trust fund, pursuant to North Dakota Century Code (NDCC) Section 54-27-25 as follows:

Fund	1999-2001 Actual Transfers From Tobacco Settlement Trust Fund	2001-03 Actual Transfers to Date From Tobacco Settlement Trust Fund	2001-03 Projected Remaining Transfers From Tobacco Settlement Trust Fund
Community health trust fund (10%)	\$5,290,078	\$2,678,072	\$2,653,645
Common schools trust fund (45%)	23,805,353	12,051,320	11,941,399
Water development trust fund (45%)	23,805,353	12,051,320	11,941,399
Total transfers from the tobacco settlement trust fund	\$52,900,784	\$26,780,712	\$26,536,443

In response to a question from Representative Delzer, the Legislative Council staff said

three dentists have been accepted into the dentist loan repayment program. The Legislative Council staff said a dentist from Minot (over 10,000 residents) and from Larimore (less than 2,500 residents) were approved for the first year of the 2001-03 biennium. A dentist from Minot (over 10,000 residents) has been accepted into the program for the second year of the 2001-03 biennium. Representative Disrud said the dentist from Minot approved for the second year of the biennium will also be spending a percentage of his time in smaller communities surrounding Minot.

In response to a question from Representative Carlisle, the legislative budget analyst and auditor said states that have sold future tobacco settlement collections have received a discounted value of approximately 50 percent of anticipated future collections. He said the current statute would have to be changed to allow North Dakota to sell its future tobacco settlement collections or change the allocation of the tax collections.

In response to a question from Representative Kerzman, the Legislative Council staff said the March 2000, \$23 million bonding for the City of Grand Forks flood control projects has been spent. The Legislative Council staff said the City of Grand Forks is in its early stages of the construction of the project.

Community Health Grant Program

At the request of Chairman Delzer, Ms. Kathleen Mangskau, Tobacco Prevention and Control Program Administrator, State Department of Health, presented a report on the status of the implementation of the community health grant program, pursuant to Section 2 of 2001 Senate Bill No. 2380. A copy of the information presented is on file in the Legislative Council office. Ms. Mangskau said contracts to local public health units totaling \$4,689,279 have been approved and \$2,581,805 has been spent as of October 2002. She said the advisory committee agreed to make available to local public health units the remaining unallocated funding of \$10,721. She said public health units have been notified and the department is awaiting the unit's response. She said five city and county government units have been approved for tobacco education and cessation programs. She said contracts totaling \$59,212 have been approved for these programs and \$19,780 has been spent as of October 2002. She said to date the advisory committee has spent \$3,246 of the \$100,000 appropriated to the committee, primarily for travel and meeting costs.

Ms. Mangskau said the State Department of Health plans to submit legislation to make the following changes to NDCC Chapter 23-38 regarding the community health grant program:

- Clarification of the language in Section 23-38-01(1)(b) regarding whether all counties with a population of less than 10,000 are to receive a \$5,000 grant, regardless of whether the county meets the other requirements regarding submission of a qualifying plan.

- Expand tobacco cessation program opportunities beyond city and county employees, or reduce the required one-to-one match for the programs.
- Request funding support for the department to administer the community health grant program and provide technical assistance at the local level.

Ms. Mangskau said in addition the State Department of Health intends to request \$800,000 from the community health trust fund for a statewide quit smoking line. In response to a question from Representative Delzer, Ms. Mangskau said the department would most likely contract with an outside organization to administer the quit smoking line.

Ms. Arvy Smith, Deputy State Health Officer, State Department of Health, said the department plans to request the \$800,000 from the community health trust fund within the agency's appropriations bill. She said the department is considering various options for the quit smoking line, including cooperating with another state or organization.

In response to a question from Senator Kilzer, Ms. Mangskau said \$345,000 has been allocated by the local public health units for cessation treatment programs, a majority of which is for face-to-face services. She said local public health units have recently begun to implement public tobacco cessation programs.

In response to a question from Representative Delzer, Ms. Mangskau said the State Department of Health requires a quarterly community health grant program expense report from the local public health units. She said the department is compiling a data base of funds allocated and actual expenses incurred by the local public health units, which will be completed at the end of October. She said the program's first quarter ended on September 30, 2002.

In response to a question from Senator Kilzer, Ms. Mangskau said fees charged by the local public health units for clients participating in the cessation programs vary. She said most of the programs have no charge or a very minimal charge and some of the units have offered waivers for low-income individuals. She said there is no charge for the school tobacco cessation programs.

In response to a question from Representative Delzer, Ms. Mangskau said 50 percent of the total grant to each local public health unit was issued upon program approval. She said based on current spending trends, the community health grants will be spent by the end of the 2001-03 biennium.

Chairman Delzer requested that Ms. Mangskau provide an expense report from the data base when available. He said he would like the report to be sent to the committee members a week prior to the meeting of the Legislative Council, tentatively planned for November 19-20, 2002. He requested the report identify where and how the grants were spent and the amount spent for face-to-face counseling.

In response to a question from Representative Koppang, Ms. Mangskau said \$1.88 million of the community health grant program funding is for school programs, a vast majority of which is for evidence-based curriculum. She said the local public health units were asked to identify current school programs in order to enhance, not supplant, the current curriculum.

In response to a question from Representative Carlisle, Ms. Mangskau said she is aware that cigarettes sold on reservations are not subject to the same tax as the rest of the state. She said she has talked to two of the tribes about implementing the full 44 cents per pack cigarette tax. She said the department is also asking tribes to enact tobacco cessation programs. She said based on studies conducted by other states, the amount of tribal and cross-border cigarette sales is minimal.

In response to a question from Representative F. Klein, Ms. Mangskau said city and county governments have indicated they have not participated in the tobacco education and cessation program because of the required dollar-for-dollar match and lack of trained cessation program individuals. She said other entities, including hospitals, have indicated an interest in the tobacco education and cessation program but do not want to limit the population to just city and county government employees.

Representative Weisz said city and county governments have experienced employee resistance to participating in the tobacco cessation programs.

In response to a question from Representative Weisz, Ms. Mangskau said based upon an interpretation from the Attorney General's office, counties with a population of less than 10,000 were issued a \$5,000 minimum grant.

In response to a question from Representative F. Klein, Ms. Mangskau said the City of Minot requested \$16,000 to conduct a six-month employee tobacco cessation program. She said without the required one-to-one match the city would have requested \$32,000. She said the cost of cessation programs tends to range between \$175 and \$235 per person.

STATUS OF LAND DEPARTMENT INVESTMENTS

At the request of Chairman Delzer, Mr. Gary Preszler, Commissioner, Land Department, presented a report on the current status of Land Department investments, including the 13 permanent educational trust funds and future investment plans. A copy of the information presented is on file in the Legislative Council office. Mr. Preszler said as of June 30, 2002, total permanent trust assets were \$652.9 million, \$14.5 million or 2.17 percent less than the balance on June 30, 2001. He said during fiscal year 2002, permanent trust additions from mineral royalties (\$7.1 million), oil extraction taxes (\$1.7 million), tobacco lawsuit settlement proceeds (\$12.1 million), and other sources were not enough to offset the

negative return incurred by the combined equity and convertible securities investment portfolio.

Mr. Preszler said the balance of the common schools trust fund as of June 30, 2002, was \$607,279,315, which is 1.84 percent less than the June 30, 2001, balance of \$618,667,672. He said the common schools trust fund experienced a smaller percentage decrease than the other 12 permanent educational trust funds due to:

- The common schools trust fund receiving revenues from the tobacco settlement proceeds and oil extraction taxes.
- The other 12 permanent educational trust funds distributing funds at a higher rate than the common schools trust fund due to legislative mandate.

Mr. Preszler said fixed income assets are the primary source of permanent educational trust fund distributions. He said the June 30, 2002, balance of fixed income assets was \$290.3 million. He said the permanent educational trust fund has realized a 9.37 percent total annual return since inception in 1995.

Mr. Preszler said in August 2002 the Board of University and School Lands agreed to hire an outside investment consultant to perform a study of the permanent educational trust funds under the board's control. He said the last time an allocation study was performed on the funds was in 1995.

Mr. Preszler said the projected 2001-03 biennium distributions from the permanent educational trust funds total \$63,029,813. He said the projected distributions for the 2003-05 biennium as approved by the Board of University and School Lands are \$64,530,400. He said if interest rates stay at or near current lows for an extended period of time, or decline further, fiscal year 2003 distributions may have to be reduced slightly from budgeted amounts and the 2003-05 biennium distributions may have to be reduced substantially from the board-approved amounts.

In response to a question from Representative Delzer, Mr. Preszler said capital gains are used as a cushion to meet the budgeted distributions to the agencies; however, if capital gains are fully distributed, future payments would have to be reduced. He said the Land Department may not be able to determine the actual payments to agencies until near the end of the 2003-05 biennium.

In response to a question from Representative Delzer, Mr. Preszler said the Board of University and School Lands approve distributions from each trust fund based upon anticipated earnings. He said in addition the board wants to maintain or slightly increase the common schools trust fund distributions. He said the board would like to reduce the dependence on capital gains for the other 12 permanent educational trust funds. He said approved distributions are based upon assumptions that may or may not be realized. He said the principal balance of the

13 permanent educational trust funds are required to be maintained by statute.

In response to a question from Representative Delzer, Mr. Preszler said the Board of University and School Lands consists of five members--the Governor, State Treasurer, Attorney General, Secretary of State, and the Superintendent of Public Instruction.

In response to a question from Senator Tallackson, Mr. Preszler said the reason North Dakota State University receives a larger distribution than the University of North Dakota is because the distributions are based on the amount of land that is held in each trust. He said the Ellendale trust is distributed to seven beneficiaries, including Dickinson State University, Minot State University, North Dakota State University - Bottineau, State Hospital, North Dakota Vision Services - School for the Blind, State College of Science, and the Veterans Home.

In response to a question from Representative M. Klein, Mr. Preszler said all asset managers used by the department are required to submit quarterly statements which are evaluated by a comparison to peer managers. He said the department has changed investment managers in the past based on performance as compared to expectations.

In response to a question from Representative M. Klein, Mr. Preszler said the Board of University and School Lands is in the search process for hiring a consultant to conduct an asset allocation study. He said the board is currently drafting a request for proposals and has a list of prospective firms.

In response to a question from Representative M. Klein, Mr. Preszler said a portion of the permanent educational trust fund fixed income assets is managed by the Bank of North Dakota.

In response to a question from Senator Tallackson, Mr. Preszler said as Land Commissioner, he serves on the State Investment Board. He said the Board of University and School Lands uses three of the same investment managers as the Retirement and Investment Office. He said the permanent educational trust funds cannot be commingled with other pension assets; however, efforts have been made in the past to realize savings by "tagging on" to other state trust funds' fee structures.

In response to a question from Representative Dosch, Mr. Preszler said the value of the fund's equities has decreased approximately 20 percent during the third quarter of 2002. He said since 1995 the market value of the equities exceeds the overall equity cost.

STATE INVESTMENT BOARD INVESTMENTS

Chairman Delzer called on Ms. Connie Flanagan, Fiscal and Investment Officer, Retirement and Investment Office, who presented a report on the current status of the State Investment Board investments, including earnings, current balances, and future

investment plans. A copy of the report presented is on file in the Legislative Council office. Ms. Flanagan said the State Investment Board is responsible for 10 separate funds. She said these funds are combined into two trusts--the pension trust for qualified plans and the insurance trust for nonqualified investments.

Ms. Flanagan said the State Investment Board uses the services of 23 investment managers, who are responsible for implementing specific mandates or "investment missions." She said the investment managers make buy-or-sell decisions based on investment guidelines and report to the Retirement and Investment Office staff on a regular basis.

Ms. Flanagan said the historical market values of the pension trust are:

Pension Trust Historical Market Values	
August 31, 2002	\$2,202,947,000
June 30, 2002	\$2,327,032,000
June 30, 2001	\$2,546,599,000
June 30, 2000	\$2,724,262,000

Ms. Flanagan said the pension trust realized a gross return, which is the return before fees, of a negative 7.27 percent for the fiscal year ended 2002. She said the net return on the pension trust for the same period was a negative 7.77 percent, as compared to the policy benchmark of a negative 7.33 percent.

In response to a question from Representative Delzer, Ms. Flanagan said the policy benchmark is determined by multiplying each asset class benchmark by the percentage of assets held in each asset class. She said the teachers' board and the Public Employees Retirement System Board have developed expected returns based on needs for the funds, which are approximately 9.5 percent. Chairman Delzer said he would like to receive during the 2003 Appropriations Committee overview a comparison of the actual fund return to the board's expected return.

Ms. Flanagan said the historical market values of the insurance trust as of August 31, 2002, in comparison to the previous three fiscal yearends are:

Insurance Trust Historical Market Values	
August 31, 2002	\$987,211,000
June 30, 2002	\$985,408,000
June 30, 2001	\$965,755,000
June 30, 2000	\$941,846,000

Ms. Flanagan said the North Dakota health care trust fund had a market value on August 31, 2002, of \$60.8 million. She said the fiscal year ended 2002 return was a negative 2.41 percent. She said the North Dakota health care trust fund was added to the insurance trust in July 2001 with an initial contribution of \$53.5 million.

In response to a question from Representative Delzer, Ms. Flanagan said based upon the expected return from the current asset allocation and

anticipated future withdrawals from the North Dakota health care trust fund, the fund is anticipated to be depleted in the next four to six years.

The committee recessed for lunch at 12:05 p.m. and reconvened at 1:00 p.m.

STATUS OF BANK OF NORTH DAKOTA INVESTMENTS

At the request of Chairman Delzer, Mr. Eric Hardmeyer, President, Bank of North Dakota, presented a status report on investments, Bank profits and transfers to the state general fund, and future investment plans. A copy of the information presented is on file in the Legislative Council office. Mr. Hardmeyer said the Bank's earnings for calendar year 2002 are forecasted to be \$32 million, \$1.1 million less than the \$33.1 million earned in 2001. He said the Bank's forecasted 2001-03 biennium profit is approximately \$62 million.

Mr. Hardmeyer said 2001 House Bill No. 1015 provides that during the 2001-03 biennium, the Industrial Commission is to transfer up to \$60 million from the earnings and accumulated undivided profits of the Bank of North Dakota to the general fund. He said as of June 30, 2002, \$30 million has been transferred to the general fund, with the remaining \$30 million to be transferred during the second year of the 2001-03 biennium. He said 2001 House Bill No. 1015 also provides that if general fund revenue collections do not meet the March 2001 forecast, the Industrial Commission shall transfer to the general fund an amount not to exceed the lesser of \$25 million or the revenue shortfall of actual collections compared to the March 2001 legislative forecast. He said in August 2002 the Budget Section approved this transfer.

Mr. Hardmeyer said 10 years ago the Bank's investment portfolio was approximately 52 percent of total assets; currently, it is about 12 percent of assets. He said the Bank's loan portfolio 10 years ago was about 28 percent of assets, while the loan portfolio now comprises approximately 66 percent of the Bank's assets. He said the Bank's investment value as of September 30, 2002, was \$234 million. He said the Bank's investments have an average maturity of 2.5 years and an average yield of 3.06 percent.

In response to a question from Representative Carlisle, Mr. Hardmeyer said the Bank of North Dakota loan repayment rate, which is approximately 96 percent, is similar to the rate of other North Dakota banks. He said the Bank's delinquency rate on student loans is approximately 10 percent; however, the Bank has the lowest default rate in the nation on student loans, which is 1 percent or less.

In response to a question from Representative Delzer, Mr. Hardmeyer said the Bank of North Dakota has a student loan balance of \$360 million, which comprises approximately 70 to 80 percent of all student loans in North Dakota. He said the student loans are 98 percent guaranteed by the Department of Education. He said 55 percent of the Bank's loans

are either partially or fully guaranteed, which is not typical of most banks. He said because of the high percentage of guaranteed loans, the Bank's losses from default would be less than other banks.

STATUS OF NORTH DAKOTA PUBLIC EMPLOYEES RETIREMENT SYSTEM INVESTMENTS

The legislative budget analyst and auditor reviewed information that was presented at the October 2, 2002, Legislative Audit and Fiscal Review Committee by the North Dakota Public Employees Retirement System regarding the status of its investments. A copy of the information presented is on file in the Legislative Council office. The legislative budget analyst and auditor said the report includes a historical comparison of Public Employees Retirement System funding status as compared to market value. He said as of July 1, 2001, the Public Employees Retirement System had a net asset market value of \$1.1 billion, which equates to a funded ratio of 112.4 percent. He said the funded ratio is anticipated to fall below 100 percent during the fiscal year ended June 30, 2003, and remain below 100 percent for the next several years, dependent upon future returns and other variable assumptions.

RECRUITMENT AND RETENTION BONUS PILOT PROGRAM

Chairman Delzer called on Ms. Laurie Sterioti Hammeren, Director, Central Personnel Division, who presented a report regarding the implementation, progress, and bonuses provided under the recruitment and retention bonus pilot program authorized in Section 1 of 2001 House Bill No. 1120 and NDCC Section 54-06-31. A copy of the information presented is on file in the Legislative Council office. She said six agencies--Department of Human Services, Department of Transportation, Information Technology Department, Bank of North Dakota, Department of Corrections and Rehabilitation, and Highway Patrol--have given bonuses to a total of 103 employees since the recruitment and retention bonus pilot program legislation became effective. She said in addition Job Service North Dakota has adopted a policy but has not provided any recruitment or retention bonuses to date.

Ms. Sterioti Hammeren said the Central Personnel Division and participating agencies support the extension or removal of the recruitment and retention bonus pilot program's June 30, 2003, expiration date. She said the agencies would also support extending the program to nonclassified employees.

Information Technology Department

Ms. Ardyth Pfaff, Director, Human Resources, Information Technology Department, said the Information Technology Department supports the recruitment and retention bonus pilot program. She said seven employees were recruited to the Information

Technology Department from outside North Dakota through the use of recruitment bonuses. She said the average bonus provided was \$2,500, with 50 percent paid at the start of employment and 50 percent after completion of one year.

In response to a question from Representative M. Klein, Ms. Pfaff said the recruitment bonuses awarded by the department vary because the department can sometimes negotiate a "good deal" for the state based upon the needs of the employee.

In response to a question from Representative Carlisle, Ms. Pfaff said a majority of state employees are in classified positions; however, there are a number of key employees in nonclassified positions.

Bank of North Dakota

Mr. Hardmeyer said the Bank of North Dakota has 20 unclassified positions primarily in upper level management, including loan and investment officers. He said the Bank competes with the private sector for these employees and supports opening the recruitment and retention bonus pilot program to nonclassified employees.

In response to a question from Senator Tallackson, Ms. Sterioti Hammeren said there are over 6,000 classified employees in the state of North Dakota. She said the nonclassified positions are exempt for various reasons, including difficulty in filling the positions.

In response to a question from Representative Delzer, Ms. Sterioti Hammeren said administrators have the option to establish the salary for nonclassified employees within certain parameters. She said if administrators provide a bonus to nonclassified employees, it may be considered a fiscal irregularity which has to be reported to the Budget Section.

Department of Human Services

Mr. Ronald Leingang, Director, Human Resources Division, Department of Human Services, said the Department of Human Services has provided 14 recruitment bonuses to registered nurses. He said 13 of these remain employed by the department; one registered nurse resigned and is reimbursing a prorated portion of the amount to the department. He said nine retention bonuses have been awarded to addiction counselors and licensed psychologists. He said to date all of these employees remain with the department and have completed their one-year obligation. A copy of the information presented is on file in the Legislative Council office.

Department of Transportation

Mr. Tom D. Freier, Deputy Director, Department of Transportation, said the Department of Transportation has provided recruiting bonuses to 44 individuals primarily in engineering and information technology fields. He said one person hired into an entry level engineering position was offered but declined a

recruitment bonus. A copy of the information presented is on file in the Legislative Council office.

Mr. Freier said the Department of Transportation also intends to implement a performance bonus program effective November 1, 2002. He said the program will recognize and award extraordinary performance.

Department of Corrections and Rehabilitation

Ms. Linda Houfek, Director, Human Resources, Department of Corrections and Rehabilitation, said in September 2001 the Department of Corrections and Rehabilitation implemented a recruitment and retention bonus policy. She said the policy provides that the bonus may not exceed one month's base salary, one-half paid upon starting employment and the remaining portion at the completion of one full year of service with the department. A copy of the information presented is on file in the Legislative Council office.

Ms. Houfek said in February 2002 the department used recruitment bonuses to fill two registered nurse II positions. She said in August 2002 the Division of Field Services used the recruitment bonus to hire a qualified parole and probation officer II.

Ms. Houfek said the Department of Corrections and Rehabilitation supports a request to expand the program to nonclassified employees to assist in recruiting and retaining qualified teaching staff.

In response to a question from Representative Delzer, Ms. Houfek said she agrees an individual should not receive more than one retention bonus from an agency.

Highway Patrol

Ms. Sterioti Hammeren said the Highway Patrol has provided bonuses to existing employees for referring an applicant who is hired and completes the academy training.

Bill Draft

The Legislative Council staff reviewed a bill draft [30092.0100] providing for an extension of the recruitment and retention bonus pilot program expiration date from June 30, 2003, to June 30, 2005. The Legislative Council staff said state agencies are to fund bonus pilot programs from within its agency's salary and wages budget. The Legislative Council staff said the bill draft does not extend the recruitment and retention bonus pilot program to nonclassified employees.

In response to a question from Representative Delzer, Ms. Sterioti Hammeren said employees' salaries are open records; however, she is not aware of any web site where the information is available.

In response to a question from Representative Disrud, Ms. Sterioti Hammeren said she is not aware of any complaints about the recruitment bonus program from long-term employees. She said the

recruitment and retention bonus pilot program policies may vary slightly between agencies.

Representative Carlisle said the Department of Transportation has used the recruitment bonus program effectively. He said during the 2003 legislative session the Legislative Assembly can consider amendments to the recruitment and retention bonus pilot program.

It was moved by Senator Tallackson, seconded by Representative M. Klein, and carried on a roll call vote that the bill draft providing for an extension of the recruitment and retention bonus pilot program until June 30, 2005, be approved and recommended to the Legislative Council. Representatives Delzer, Carlisle, Disrud, Dosch, Kerzman, F. Klein, M. Klein, and Weiler and Senators Kilzer, G. Lee, and Tallackson voted "aye." No negative votes were cast.

It was moved by Representative Carlisle, seconded by Representative Disrud, 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.

The meeting was adjourned sine die at 2:00 p.m.

Donald J. Wolf
Fiscal Analyst

Jim W. Smith
Legislative Budget Analyst and Auditor

ATTACH:1