NORTH DAKOTA LEGISLATIVE MANAGEMENT

Minutes of the

GOVERNMENT FINANCE COMMITTEE

Tuesday, July 30, 2013
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, Larry Bellew, Joshua A. Boschee, Bette Grande, Craig Headland, Rick Holman, Lisa Meier, Kylie Oversen, Don Vigesaa; Senators Dwight Cook, Gary A. Lee, Donald Schaible, Ronald Sorvaag, Terry M. Wanzek, Rich Wardner

Member absent: Representative Clark Williams

Others present: See Appendix A

The Legislative Council staff reviewed the *Supplementary Rules of Operation and Procedure of the North Dakota Legislative Management* for the 2013-14 interim.

STATE BUDGET INFORMATION

At the request of Chairman Delzer, the Legislative Council staff reviewed a memorandum entitled *Other Responsibilities of the Government Finance Committee*. The Legislative Council staff said the committee was assigned the duty to monitor the status of the state budget, including state revenues and major state agency and institution appropriations.

Status of the General Fund

Ms. Pam Sharp, Director, Office of Management and Budget, presented information (Appendix B) regarding the status of the general fund and other state budget information. She presented the following information on the preliminary final status of the general fund for the 2011-13 biennium:

Unobligated general fund balance - July 1, 2011		$996,832,711
Add		
Total general fund revenue for the 2011-13 biennium		5,155,873,415
Balance obligated for authorized carryover from the 2009-11 biennium		106,945,443
Total estimated available		$6,259,651,569
Less		
2011-13 biennium general fund ongoing appropriations	($3,533,791,025)	
2011-13 biennium general fund one-time appropriations	(629,895,435)	
Contingent appropriations	(73,000,000)	
Balance obligated for authorized carryover from the 2009-11 biennium	(106,945,443)	
Emergency appropriations authorized by the 2013 Legislative Assembly	(164,532,041)	
Deficiency appropriations authorized by the 2013 Legislative Assembly	(60,314,701)	
Estimated unexpended general fund appropriations	30,000,000	
Carryover of 2011-13 biennium spending authority	(10,248,400)	
2011-13 biennium emergency appropriations utilized in the 2009-11 biennium	519,254	
Total appropriations and adjustments		($4,548,207,791)
Transfer to budget stabilization fund[1]		(181,060,585)
Estimated general fund balance - June 30, 2013		$1,530,383,193

[1]Pursuant to North Dakota Century Code Section 54-27.2-02, any end-of-biennium balance in excess of $65 million must be transferred to the budget stabilization fund, up to a cap of 9.5 percent of general fund appropriations. This amount does not reflect any potential transfers.

Ms. Sharp presented the following schedule detailing the estimated balance of selected special funds as of June 30, 2013:

Budget stabilization fund	$583,545,799
Legacy fund	$1,280,714,486
Foundation aid stabilization fund	$335,364,942
Property tax relief sustainability fund	$341,790,000

Ms. Sharp said general fund revenues for the 2011-13 biennium, excluding transfers, were 5.1 percent more than the revised revenue forecast adopted during the 2013 legislative session. She said the largest variances were in sales and use tax collections and income tax collections.

In response to a question from Representative Delzer, Ms. Sharp said major appropriations approved during the 2013 legislative session with emergency clauses related to transportation funding distributions to non-oil-producing counties and early transportation funding for state roadway projects.

Senator Wanzek said even though the estimated 2011-13 biennium ending general fund balance is approximately $1.5 billion, the Legislative Assembly based the 2013-15 general fund budget on the assumption there would be an ending fund balance in excess of $1.4 billion.

In response to a question from Representative Delzer, Ms. Kathryn Strombeck, Research Analyst, Tax Department, said some employers in the state have not yet adjusted employee income tax withholding for the new lower income tax rates. Ms. Strombeck said there may be additional income tax refunds requested by taxpayers due to overwithholding. She said legislation enacted by the 2013 Legislative Assembly provides for income tax withholding on oil royalty payments to nonresidents which may also affect income tax collections.

In response to a question from Senator Wanzek, Ms. Sharp said economic changes affecting the agriculture industry were considered when developing the revised general fund revenue forecast adopted by the Legislative Assembly in February 2013.

Chairman Delzer said the committee may receive updates at future meetings regarding the effect of changes in agriculture commodity prices on the state budget.

Chairman Delzer asked Ms. Sharp to provide information at a future meeting regarding the month-by-month general fund revenue forecast for the 2013-15 biennium.

Oil and Gas Development Information

Mr. Lynn Helms, Director, Department of Mineral Resources, presented information (Appendix C) regarding the status of oil and gas development in the state and the effect on state and local infrastructure. He said approximately 2,000 wells per year are expected to be drilled in western North Dakota. He said the operation of 185 drilling rigs generates approximately 22,000 temporary drilling jobs and another 13,000 temporary jobs building infrastructure. He said the first phase of drilling in the Bakken Formation is expected to be completed within one year, while the second phase of drilling will take approximately 20 years.

Mr. Helms said pipeline infrastructure to transport oil and gas has expanded which is reducing the amount of truck traffic in oil and gas development areas. He said oil companies are also working to expand natural gas gathering lines which will decrease the amount of natural gas flared at oil wells.

In response to a question from Representative Delzer, Mr. Helms said a portion of the oil produced in the state is being shipped to markets on the East Coast where a higher price for the oil is received. He said the prices on the East Coast are generally higher than the posted price for West Texas Intermediate crude. He said the cost to ship oil by railroad is generally $3 to $5 per barrel higher than shipping oil by pipeline. He said mineral royalty payments are generally reduced due to transportation costs.

In response to a question from Senator Cook, Mr. Helms said there is a possibility that crude oil from the state may be shipped to the West Coast for refining. He said there are several projects in the planning stages that would transport oil by rail to the West Coast for refining.

In response to a question from Senator Wardner, Mr. Helms said oil drilling activity has recently increased in northern McKenzie County. He said the increased drilling activity has caused a strain on infrastructure and transportation, and greater communication is needed with local entities to assist in planning for the effects of increased drilling activity.

In response to a question from Representative Holman, Mr. Helms said new oil recovery techniques are generally included in projections for future oil production. However, he said, some recovery techniques are too new to determine their effectiveness.

In response to a question from Representative Delzer, Mr. Helms said some oil wells have been producing a significant amount of saltwater in comparison to the amount of oil produced. He said the problems are generally confined to specific areas of the oilfield.

In response to a question from Senator Cook, Mr. Helms said right-of-way costs are a factor in the construction of pipelines. He said high costs can limit the economic feasibility of constructing pipelines to transport oil and gas.

In response to a question from Representative Delzer, Mr. Helms said there have been efforts to reduce natural gas flaring at oil wells by installing new natural gas gathering pipelines and by upgrading existing infrastructure.

In response to a question from Representative Oversen, Mr. Helms said 72 percent of natural gas produced in the state is currently captured, and the remainder is flared. He said approximately 85 percent of oil wells are connected to natural gas gathering lines, but some wells are still being flared due to a lack of pipeline capacity. He said a greater percentage of gas is flared in North Dakota than in Texas.

Senator Cook suggested the committee receive additional information at a future meeting regarding housing infrastructure and housing prices in oil-impacted areas, including the Bismarck and Mandan areas.

Transportation Projects

Mr. Grant Levi, Director, Department of Transportation, presented information (Appendix D) regarding the status of various road construction projects in the state. He presented the following schedule detailing 2013-15 biennium funding for road construction projects:

2013-15 Biennium Road Construction Funding (Amounts Shown in Millions)			
	Western North Dakota	**Central and Eastern North Dakota**	**Total**
State funding for state highway projects	$1,161.6		$1,161.6
Statewide transportation improvement program (federal funds, state matching funds, local matching funds)	148.8	$450.0	598.8
Federal funding for emergency relief projects (carryover over 2011-13 biennium)	31.1	77.0	108.1
State funds for transportation funding distributions to non-oil-producing political subdivisions		100.0	100.0
State funds for non-oil-producing county roadway projects		120.0	120.0
State funds for oil-producing county roadway projects	160.0		160.0
State funds for oil-impacted township roads	8.8		8.8
Total	$1,510.3	$747.0	$2,257.3

Mr. Levi said the 2013 Legislative Assembly appropriated $620 million of funding from the general fund with an emergency clause to allow the Department of Transportation to begin road projects immediately. He said some of the projects this funding is being used for include a four-lane road project near Watford City and Alexander, highway bypasses at Williston and Watford City, and improvements to other state roadways in areas affected by energy development.

In response to a question from Representative Delzer, Mr. Levi said most of the federal funding for emergency relief projects is obligated for county roadway projects. He said there are significant guidelines for the use of emergency relief funding, including the use of hydrologic studies to determine roadway elevations when completing a grade raise due to water levels.

In response to a question from Senator Cook, Mr. Levi said some projects incur significant costs due to the acquisition of road right of way. He said it may cost over $100,000 to acquire one acre of land in certain industrial areas.

In response to a question from Senator Lee, Mr. Levi said the department is reviewing various maintenance issues for roadways, including ways to maintain roads after rumble strips are installed along the centerline of a roadway.

Representative Headland suggested the committee receive additional information regarding county roadway projects.

Chairman Delzer said the committee will monitor the status of county road projects throughout the interim.

In response to a question from Representative Vigesaa, Mr. Levi said the department is reviewing the motor vehicle and driver's license service areas. He said a consultant has been hired to review processing and determine if more efficiencies are possible.

In response to a question from Representative Grande, Mr. Levi said the department is working with the Upper Great Plains Transportation Institute when developing county roadway projects. He said data from the institute is being used in the engineering process to determine proper roadway load levels.

Oil and Gas Impact Grants

Mr. Lance Gaebe, Commissioner, Department of Trust Lands, presented information (Appendix E) regarding the use of funding appropriated for oil and gas impact grants during the 2013-15 biennium. He said the Legislative Assembly appropriated $240 million for oil and gas impact grants for the 2013-15 biennium. He said Section 15-01-02.6 provides no more than 60 percent of the grant funding may be awarded in any one fiscal year. He presented the following schedule detailing the tentative schedule for grant awards during the 2013-15 biennium:

2013-15 Biennium Oil and Gas Impact Grant Award Schedule		
Month	**Grant Recipients**	**Amounts Shown in Millions**
June - July 2013	Hub cities	$14
June - July 2013	Counties - Dust control	3
April - July 2013	Airports	25.6
April - July 2013	City infrastructure	40
June - August 2013	Elementary and secondary schools	12.5
September - November 2013	Emergency services	20
December 2013 - January 2014	Higher education institutions	4
February - April 2014	General (all other political subdivisions)	4
January - June 2014	Airports	10.4
April - July 2014	Airports	24
April - July 2014	City infrastructure	40
June - July 2014	Elementary and secondary schools	12.5
September - November 2014	Emergency services	4
February - April 2015	General (all other political subdivisions)	4
Unknown	New energy-producing counties	5
Unknown	Contingency amount	16.3
Total		$239.3

Mr. Gaebe said the Legislative Assembly designated $7 million of oil and gas impact grants to be provided to county sheriff's departments. He said $9.6 million was also appropriated from the strategic investment and improvements fund to the Attorney General for law enforcement grants in areas experiencing increases in crime.

Representative Delzer expressed concern regarding the recent decision of the Board of University and School Lands to place a lower priority on providing grants for staffing needs of sheriff's departments then grants for equipment and vehicle purchases. He said House Bill No. 1358 specified funding provided for grants to sheriff's departments can be used to address staffing needs.

Mr. Gaebe said a lower priority was given to staffing needs because hiring additional law enforcement personnel is an ongoing cost, and the grant program gives priority to one-time projects. He said providing funding for ongoing costs for one department may limit the ability to provide grants to other departments in the future.

In response to a question from Senator Cook, Mr. Gaebe said a non-oil-producing county is eligible to receive a law enforcement grant from the $9.6 million appropriated to the Attorney General's office if crime-related activity in oil-producing areas was found to originate in the non-oil-producing county.

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

STUDIES OF STATE EMPLOYEE COMPENSATION AND BENEFIT ISSUES

Study of the Process of Appropriating Funds for Salaries and Wages and the State's Classification System for Employees

At the request of Chairman Delzer, the Legislative Council staff presented a memorandum entitled *Study of the Process of Appropriating Salaries and Wages and the State's Employee Classification System*. The current process of appropriating salaries and wages involves state agencies submitting budget requests to the Office of Management and Budget (OMB) that include a request for full-time equivalent (FTE) positions and related funding. The requests are reviewed and adjusted for inclusion in the executive budget recommendation. As part of the adjustments, OMB may add or remove FTE positions and recommend state employee salary and benefit increases.

The executive budget recommendation is presented to the Legislative Assembly through the introduction of appropriation bills which contain line items for salaries and wages funding, including funding for temporary employee salaries and employee benefits. After the appropriation bills are introduced, the Legislative Assembly reviews the bills and makes adjustments as desired. Adjustments may be made to the level of salary increases, the number of FTE positions authorized, and any other funding item.

The Central Personnel System Act was approved by the 1975 Legislative Assembly and established a unified personnel administration system for classified employees of the state. Human Resource Management Services has the authority to administer the personnel system for classified state employees and can adopt policies, rules, and procedures regarding classification plans, compensation plans, salary administration, and personnel administration. Certain employees, such as employees of the legislative and judicial branches of government and employees under the control of the State Board of Higher Education, are excluded from the classification system.

Effective July 1, 2012, Human Resource Management Services adopted the Hay System to evaluate position classifications by objectively measuring the content of each job compared to other jobs based on classification factors applied to all jobs, determining its relative worth, and establishing equitable pay relationships among all jobs. Classification factors include knowledge, problem-solving, and accountability. When a job is evaluated, points are assigned to each factor based on the degree or level each factor is presented and a total point value is derived. The total points assigned to the position determine the grade the position is assigned and corresponding salary range.

As part of the implementation of the Hay System, a new set of salary grades was established. The grades range from A to V, and all job classes were reevaluated for placement into the new grades. For each grade, the minimum salary level represents 75 percent of the market policy point, and the maximum salary amount represents 125 percent of the market policy point. House Bill No. 1015 (2013) provides the goal of the classified state employee compensation program is for a compensation ratio of 95 percent of the market policy points used during state fiscal year 2013.

Market adjustments to the grades are determined based on Job Service North Dakota data, regional state government data, Hay Group compensation database information, and information from a custom survey of 103 benchmark job classes to a broad range of North Dakota employers. The previous compensation system used data from Job Service North Dakota and 10 regional state governments. Ranges under the new system are established at 100 percent of market.

The Legislative Council staff presented the following proposed study plan for consideration by the committee:

1. Receive and review information from the Legislative Council regarding the current state employee classification system, the current process of appropriating funds for state agency salaries and wages, and the current process to authorize employee positions.
2. Receive and review information from the Legislative Council regarding total funding appropriated for salaries and wages for the 2013-15 biennium and FTE positions authorized.
3. Receive information from the Legislative Council regarding the number of temporary positions currently employed by state agencies and the process used by agencies for determining when temporary employees are used rather than FTE positions.
4. Receive and review information from the Legislative Council regarding the use of lump sum appropriations for salaries and wages in other states, including the process of authorizing the number of employees for each agency.
5. Receive testimony from interested persons regarding the study.

6. Develop recommendations and any bill drafts necessary to implement the recommendations.
7. Prepare a final report for submission to the Legislative Management.

In response to a question from Representative Delzer, the Legislative Budget Analyst and Auditor said all funding for state employee salaries and benefits is generally included in a salaries and wages line item or a program line item. He said funding for consultants or contractors would be included in the operating expenses line item.

Chairman Delzer said the committee will receive information at a future committee meeting regarding the process of appropriating salaries and wages in other states.

It was moved by Senator Cook, seconded by Representative Grande, and carried on a voice vote to approve the plan for the study of the process of appropriating salaries and wages and the state's classification system as presented.

Study of the Feasibility and Desirability of Establishing a Maximum State Contribution to the Cost of State Employee Health Insurance Premiums

At the request of Chairman Delzer, the Legislative Council staff presented a memorandum entitled *Study of State Contributions to State Employee Health Insurance Premiums - Background Memorandum*. The 1963 Legislative Assembly enacted Chapter 52-12 which authorized state agencies, either individually or jointly with other agencies, to enter a group hospitalization and medical care plan and group life insurance plan for each agency's employees. The agencies were required to pay $5 per month for each participating employee's insurance premium. An employee could elect to participate in either a single or family plan. The 1971 Legislative Assembly repealed Chapter 52-12 and enacted Chapter 54-52.1 establishing the uniform group insurance program. The program was placed under the authority of the Public Employees Retirement System (PERS) Board. The board was required to solicit bids and contract for the provision of insurance benefits coverage with an insurance carrier determined by the board.

Until 1993 the health insurance program charged premiums based on each employee's election of a single or family plan. Beginning in the 1993-95 biennium, the PERS Board began to charge a combination rate that is a blended rate per employee whether a single or family plan is chosen. The blended rate enables agencies to budget the same premium rate for all employees; therefore, an agency's budget is not adversely affected if an employee electing to receive single health insurance coverage quits and is replaced by an employee electing to receive family coverage.

The Legislative Council staff presented the following schedule detailing the premiums charged since the program began in 1963:

Biennium	Single Plan	Percentage Change	Family Plan	Percentage Change	Combination Rate	Percentage Change
1963-65	$5.00		$21.00			
1965-67	$8.55	71.0%	$21.50	2.4%		
1967-69	$10.75	25.7%	$25.00	16.3%		
1969-71	$14.45	34.4%	$34.90	39.6%		
1971-73	$15.95	10.4%	$41.90	20.1%		
1973-75	$14.46	(9.3%)	$41.90	0.0%		
1975-77	$19.50	34.9%	$59.95	43.1%		
1977-79	$25.50	30.8%	$67.42	12.5%		
1979-81	$34.84	36.6%	$87.40	29.6%		
1981-83	$42.68	22.5%	$107.07	22.5%		
1983-85	$50.28	17.8%	$140.28	31.0%		
1985-87	$60.00	19.3%	$168.00	19.8%		
1987-89	$68.28	13.8%	$191.28	13.9%		
1989-91	$99.82	46.2%	$280.39	46.6%		
1991-93	$108.00	8.2%	$304.00	8.4%		
1993-95					$254.00	
1995-97					$265.00	4.3%
1997-99					$301.00	13.6%
1999-2001					$349.72	16.2%
2001-03					$409.09	17.0%
2003-05					$488.70	19.5%
2005-07					$553.95	13.4%
2007-09					$658.08	18.8%

Biennium	Single Plan	Percentage Change	Family Plan	Percentage Change	Combination Rate	Percentage Change
2009-11					$825.66	25.5%
2011-13					$886.62	7.4%
2013-15					$981.69	10.7%

From 1963 through 1969, the state contributed $5 per month toward the cost of health insurance for state employees. State employees paid any additional amount for single or family coverage. During the 1969-71 biennium, the state contributed $7.50 per month. For the period 1973 through 1979, the state paid the cost of a single health insurance plan. Employees choosing a family plan paid any additional cost. Since 1979 the state has paid the full cost of either a single or family plan for eligible state employees.

The Legislative Council staff presented the following schedule which provides information on health insurance premiums and the cost of health insurance increases since the 1997-99 biennium:

State Employee Health Insurance Increases (Excluding Higher Education)						
Biennium	Monthly Premium	Increase From Previous Biennium	Percentage Increase	General Fund	Special Funds	Total
1997-99	$301	$36	13.6%	$7,026,674	$3,619,802	$10,646,476
1999-2001	$350	$49	16.2%	$6,989,537	$3,858,174	$10,847,711
2001-03	$409	$59	17.0%	$11,182,551	$6,001,252	$17,183,803
2003-05	$489	$80	19.5%	$8,027,122	$8,258,216	$16,285,338
2005-07	$554	$65	13.4%	$5,335,798	$7,903,870	$13,239,668
2007-09	$658	$104	18.8%	$9,115,817	$12,346,031	$21,461,848
2009-11	$826	$168	25.5%	$15,889,790	$20,215,824	$36,105,614
2011-13	$887	$61	7.4%	$7,179,809	$5,995,847	$13,175,656
2013-15	$982	$95	10.7%	$11,127,312	$9,700,989	$20,828,301

Section 54-52.1-18, as enacted by the 2011 Legislative Assembly, requires the PERS Board to develop and implement a high-deductible health plan with a savings account as an alternative to the regular health insurance plan. The section requires the difference between the cost of a single or family health plan for the regular health benefit and under the high-deductible plan be deposited in a health savings account for the benefit of the participating employee. The high-deductible health plan has higher annual deductibles and larger out-of-pocket costs which are partially offset by the employer contribution to the health savings account. The health savings account is not subject to federal income tax at the time of deposit, and funds may be carried over and used in subsequent years.

Chapter 54-52.1 provides group medical insurance is available to any employee who meets the eligibility requirements of being a permanent employee of the state. To be eligible, an employee must be at least 18 years of age, occupy a regularly funded position, work a minimum of 20 hours per week, and work at least 20 weeks each year. Temporary employees who work a minimum of 20 hours per week and 20 weeks per year may purchase health insurance at their own expense or the employing agency may pay the premium. As of April 2013, there were 15,262 state contracts for the regular health insurance benefit, and 122 employees were enrolled in the high-deductible health plan.

The Legislative Council staff presented the following proposed study plan for consideration by the committee:

1. Receive information from the Legislative Council regarding historical costs for state employee health insurance premiums and estimated future premium costs.
2. Receive information from the Legislative Council regarding expected employee out-of-pocket costs paid through deductibles, coinsurance, copays, and pharmaceutical costs based on the current state employee health insurance plan.
3. Receive information from the Legislative Council on the state's available high-deductible health plan, including an explanation of plan components and the number of participants in the plan.
4. Receive and review information from the Legislative Council staff regarding state contributions for state employee health insurance premiums in other states, private employer health insurance premium contributions for private sector employees, and associated employee out-of-pocket costs.
5. Receive information from PERS on the process used for determining health insurance premiums each biennium.
6. Receive testimony from interested persons regarding the study.

7. Develop recommendations and any bill drafts necessary to implement the recommendations.
8. Prepare a final report for submission to the Legislative Management.

Chairman Delzer asked the Legislative Council staff to provide information at a future meeting regarding total funding paid by the state for employee health insurance premiums. He also asked the Legislative Council staff to provide information regarding total funding budgeted for state employee compensation.

It was moved by Senator Wardner, seconded by Senator Wanzek, and carried on a voice vote to approve the plan for the study of the feasibility and desirability of establishing a maximum state contribution to the cost of state employee health insurance premiums as presented.

Study of State Employee Retirement Plans

At the request of Chairman Delzer, the Legislative Council staff presented a memorandum entitled *Study of State Employee Retirement Plans - Background Memorandum*. The Public Employees Retirement System is governed by Chapter 54-52 and includes the PERS main system, the judges' retirement system, the National Guard retirement system, the law enforcement with prior main service, the law enforcement without prior main service, and an optional defined contribution retirement plan; the Highway Patrolmen's retirement system; the Job Service North Dakota retirement plan; and the retiree health benefits fund. The plan is supervised by the PERS Board and covers most employees of the state, district health units, and the Garrison Diversion Conservancy District. A county, city, or school district may choose to participate on completion of an employee referendum and on execution of an agreement with the board.

The Public Employees Retirement System had 21,091 active members on July 1, 2012. Of this total, 20,738 were active members of the main system, 49 were active members of the judges' retirement system, 32 were active members of the National Guard retirement system, 207 were active members of the law enforcement retirement system with prior main service, and 65 were active members of the law enforcement retirement system without prior main service. The Highway Patrolmen's retirement plan had 145 active members, and the Job Service North Dakota retirement plan had 19 active members.

The Public Employees Retirement System main system defined benefit plan receives funding from employer contributions, employee contributions, and investment earnings. Contributions are calculated based on a percentage of gross pay. From 1977 through 1989, the employer contribution was 5.12 percent, and the employee contribution was 4 percent. In lieu of state employee salary increases in 1983 and 1984, the state began to pay the 4 percent employee contribution. In 1989 the employer contribution was reduced by 1 percent and reallocated for a retiree health benefit credit.

The Legislative Council staff presented the following summary of employer and employee contributions to the retirement plan since 1989:

1989 Through December 31, 2011		Effective January 1, 2012		Effective January 1, 2013		Effective January 1, 2014	
Employer	**Employee**	**Employer**	**Employee**	**Employer**	**Employee**	**Employer**	**Employee**
4.12%	4.00%[1]	5.12%	5.00%[1]	6.12%	6.00%[1]	7.12%	7.00%[1]

[1]The state pays 4 percent of the employee share of retirement contributions.

Members of the main public employees retirement plan are eligible for a normal service retirement benefit at age 65 or when age plus years of service is equal to at least 85 (commonly known as the "Rule of 85"). Retirement benefits under the defined benefit plan are calculated using the following mathematical formula provided in Section 54-52-17(4):

Final average salary[1] x benefit multiplier (2%)[2] x years of service credit[3] = monthly single life retirement benefit

[1]For employees who retired prior to August 1, 2010, the final average salary was the average of an employee's highest salaries in 36 of the last 120 months worked. For members who terminate employment on or after August 1, 2010, it is the average of the employee's highest salaries in 36 of the last 180 months worked.

[2]The benefit multiplier is the rate at which benefits are earned. The current benefit multiplier is 2 percent.

[3]The service credit is the amount of public service an employee has accumulated under PERS for retirement purposes.

The Legislative Council staff presented the following summary of benefit changes approved by the Legislative Assembly since 1977:

Year	Benefit Multiplier	Change in Retirement Rule Levels
July 1977	1.04%	
July 1983	1.20%	
July 1985	1.30%	Rule of 90 established as an alternative for retirement eligibility
July 1987	1.50%	
July 1989	1.65%	
July 1991	1.69%	
August 1993	1.725%	Rule of 90 changed to Rule of 88
January 1994	1.74%	
August 1997	1.77%	Rule of 88 changed to Rule of 85
August 1999	1.89%	
August 2001	2.00%	

The actuarial funded ratio of a retirement fund is the percentage of the retirement fund's actuarial value of assets to its actuarial accrued liabilities. The actuarial value of assets is determined by spreading market appreciation or depreciation over five years. This procedure results in recognition of all changes in market value over five years.

The Legislative Council staff presented the following schedule summarizing the actuarial funded ratio of the PERS plan since 1990:

Year	Actuarial Funded Ratio
1990	101%
1991	101%
1992	101%
1993	100%
1994	99%
1995	103%
1996	104%
1997	109%
1998	111%
1999	109%
2000	115%
2001	111%
2002	104%
2003	98%
2004	94%
2005	91%
2006	89%
2007	93%
2008	92%
2009	85%
2010	73%
2011	70%
2012	65%

The Legislative Assembly authorized the use of an optional defined contribution retirement plan effective January 1, 2000. Chapter 54-52.6 provides the plan is available to state employees who are in positions not classified by Human Resource Management Services, excluding employees of the judicial branch and employees under the control of the State Board of Higher Education. Additionally, between October 1, 2014, and July 31, 2017, any new state employee may elect to participate in the plan. An eligible employee may make an election at any time during the first six months of employment to participate in the defined contribution plan rather than the defined benefit plan. An election to participate in the defined contribution plan is irrevocable. A plan participant will remain in the defined contribution plan if the employee becomes reemployed in a classified position.

The Legislative Council staff presented the following summary of contribution levels for the defined contribution retirement plan:

Prior to December 31, 2011		Effective January 1, 2012		Effective January 1, 2013		Effective January 1, 2014	
Employer	Employee	Employer	Employee	Employer	Employee	Employer	Employee
4.12%	4.00%[1]	5.12%	5.00%[1]	6.12%	6.00%[1]	7.12%	7.00%[1]

[1]The state pays 4 percent of the employee share of retirement contributions.

Individual accounts are designated for each defined contribution plan participant, and retirement benefits are based on the employer and employee contributions to the account plan and investment earnings on funds in the account. As of June 2013, there were 218 active members enrolled in the defined contribution retirement plan.

The Legislative Council staff presented the following proposed study plan for consideration by the committee:

1. Receive information from the Legislative Council regarding the current state employee retirement plans, including the number of participants enrolled in each plan, recent changes to retirement contributions, and estimated fund balances.
2. Receive information from the Legislative Council regarding the use of defined benefit and defined contribution plans in other states, including recent changes to the plans.
3. Receive and review information from the Legislative Council regarding options to transition to a defined contribution plan for all newly hired state employees, including estimated costs, benefits, or other effects.
4. Receive testimony from interested persons regarding the study.
5. Develop recommendations and any bill drafts necessary to implement the recommendations.
6. Prepare a final report for submission to the Legislative Management.

In response to a question from Representative Bellew, the Legislative Council staff said employees of North Dakota University System institutions are either enrolled in the PERS defined benefit plan or the TIAA-CREF plan depending upon the employee's position.

Chairman Delzer said there have been several changes to state employee retirement plans in other states. He asked the Legislative Council staff to provide information at a future meeting regarding the use of defined benefit and defined contribution retirement plans in other states.

It was moved by Representative Vigesaa, seconded by Senator Wanzek, and carried on a voice vote to approve the plan for the study of state retirement plans as presented.

STUDY OF THE FOUNDATION AID STABILIZATION FUND

At the request of Chairman Delzer, the Legislative Council staff presented a memorandum entitled *Study of the Foundation Aid Stabilization Fund - Background Memorandum*. The foundation aid stabilization fund was created in 1994 when the voters of North Dakota approved a constitutional amendment--now Article X, Section 24, of the Constitution of North Dakota--to provide 20 percent of oil extraction tax revenue be allocated as follows:

- 50 percent (of the 20 percent) to the common schools trust fund.
- 50 percent (of the 20 percent) to the foundation aid stabilization fund.

The principal of the foundation aid stabilization fund may only be spent upon order of the Governor to offset foundation aid reductions made by executive action due to a revenue shortfall. Section 54-44.1-12 provides the Director of the Budget may order an allotment to control the rate of expenditures of state agencies. This section provides an allotment must be made by specific fund and all departments and agencies that receive money from a fund must be allotted on a uniform percentage basis, except appropriations for foundation aid, transportation aid, and special education aid may only be allotted to the extent the allotment can be offset by transfers from the foundation aid stabilization fund. One budget allotment has occurred since the foundation aid stabilization fund was created in 1994. During the 2001-03 biennium, funding of $5,500,639 was transferred to the Department of Public Instruction to offset a reduction in state school aid and special education payments resulting from a 1.05 percent budget allotment ordered by Governor John Hoeven in July 2002.

Article X, Section 24, of the Constitution of North Dakota, provides the interest income of the foundation aid stabilization fund must be transferred to the general fund on July 1 of each year. During the 2009-11 biennium, $511,593 of interest from the foundation aid stabilization fund was allocated to the general fund. For the period July 1, 2011, through May 31, 2013, $368,799 of interest from the foundation aid stabilization fund has been allocated to the general fund.

The Legislative Council staff presented the following schedule which compares the foundation aid stabilization fund balance at the end of each biennium since 1999 to the total funding for foundation aid or state aid to schools appropriated each biennium:

	Foundation Aid Stabilization Fund Balance at the End of the Biennium	Total Foundation Aid or State Aid to Schools Appropriated for the Biennium[1]	Foundation Aid Stabilization Fund Balance at the End of the Biennium as a Percentage of the Total Foundation or State Aid Appropriated for the Biennium
1999-2001	$10,517,143	$585,734,476	1.80%
2001-03	$8,991,303	$628,345,368	1.43%
2003-05	$16,098,385	$665,628,056	2.42%
2005-07	$29,009,838	$698,565,879	4.15%
2007-09	$65,750,547	$780,765,879	8.42%
2009-11	$140,193,764	$1,274,254,480[2]	11.00%
2011-13 estimated	$333,300,116	$1,350,992,316[3]	24.67%
2013-15 estimated	$615,436,791	$1,835,700,000[4]	33.53%

[1]Total foundation aid appropriated from the general fund and state tuition fund.

[2]The Legislative Assembly provided, as part of state school aid, $295 million from the general fund for mill levy reduction grants to school districts. In addition to funding from the general fund and the state tuition fund, the 2009 Legislative Assembly provided, as state school aid, $85.6 million from federal funds available through the American Recovery and Reinvestment Act of 2009.

[3]The Legislative Assembly provided, as part of state school aid, $341.8 million from the general fund for mill levy reduction grants to school districts and $5 million from the oil and gas impact grant fund for rapid enrollment growth grants.

[4]The Legislative Assembly provided integrated formula payments totaling $1.75 billion that includes $656.5 million for the property tax relief component. The Legislative Assembly also provided $13.6 million for rapid enrollment growth grants.

The Legislative Council staff presented the following proposed study plan for consideration by the committee:

1. Receive and review information from the Legislative Council regarding the history and purpose of the fund.
2. Review constitutional and statutory provisions relating to the fund.
3. Receive information from the Legislative Council regarding the sources of revenue deposited in the fund, estimated future fund deposits and earnings, and estimated fund balances.
4. Review previous expenditures from the fund due to budget allotments.
5. Review the feasibility and desirability of establishing a maximum fund balance, including what an appropriate maximum fund balance would be.
6. Review options for the reallocation of revenues deposited in the fund if a maximum fund balance is reached.
7. Receive testimony from interested persons regarding the study.
8. Develop recommendations and any bill drafts necessary to implement the recommendations.
9. Prepare a final report for submission to the Legislative Management.

Representative Delzer said any changes to the revenues deposited in the foundation aid stabilization fund must be made through a constitutional amendment submitted to and approved by the voters of the state.

It was moved by Senator Schaible, seconded by Representative Meier, and carried on a voice vote to approve the plan for the study of the foundation aid stabilization fund as presented.

STUDY OF THE LASTING BENEFITS OF THE LEGACY FUND

At the request of Chairman Delzer, the Legislative Council staff presented a memorandum entitled *Study of the Lasting Benefits of the Legacy Fund - Background Memorandum*. The legacy fund was created in 2010 when the voters of North Dakota approved a constitutional amendment--now Article X, Section 26, of the Constitution of North Dakota--to provide 30 percent of oil and gas gross production and oil extraction taxes on oil and gas produced after June 30, 2011, be transferred to the legacy fund. The principal and earnings of the legacy fund may not be spent until after June 30, 2017, and any expenditure of principal after that date requires a vote of at least two-thirds of the members elected to each house of the Legislative Assembly. Not more than 15 percent of the principal of the legacy fund may be spent during a biennium. The Legislative Assembly may transfer funds from any source to the legacy fund, and such transfers become part of the principal of the fund. The State Investment Board is responsible for investment of the principal of the legacy fund. Interest earnings accruing after June 30, 2017, are transferred to the general fund at the end of each biennium.

The Legacy and Budget Stabilization Fund Advisory Board was created by the 2011 Legislative Assembly as the result of the enactment of Section 21-10-11. The board was established for the purpose of developing recommendations for the investment of funds in the legacy fund and the budget stabilization fund to present to the State Investment Board. Section 21-10-11 also provides the goal of investment for the legacy fund is principal preservation while maximizing total return.

The Legislative Council staff presented the following schedule detailing deposits of oil and gas tax revenue directly into the legacy fund during fiscal year 2012 and during each month of fiscal year 2013 through May 2013:

Fiscal year 2012 total	$446,334,850
August 2012	43,464,073
September 2012	45,425,341
October 2012	53,869,764
November 2012	57,588,723
December 2012	60,838,520
January 2013	54,982,692
February 2013	79,273,665
March 2013	85,466,178
April 2013	78,432,705
May 2013	90,597,908
Total 2011-13 biennium (through May 2013)	$1,096,274,419[1]

[1]Does not include transfers of revenues from the strategic investment and improvements fund.

The Legislative Council staff presented the following proposed study plan for consideration by the committee:

1. Receive and review information regarding the current investment strategy of the fund and estimated future fund earnings.
2. Review current sources of revenue deposited in the fund and if changes need to be made.
3. Receive information on the estimated investment earnings that will be transferred from the legacy fund to the general fund during the 2017-19 biennium and beyond.
4. Consider whether investment earnings transferred from the legacy fund to the general fund should be used for general government purposes or be designated for specific purposes, and if so, what purposes.
5. Receive information to determine if the 2017 Legislative Assembly can make appropriations from the legacy fund for the 2017-19 biennium.
6. Review the desirability of appropriating funds from the legacy fund when available and what the funds should be used for if appropriated.
7. Receive testimony from interested persons regarding the study.
8. Develop recommendations and any bill drafts necessary to implement the recommendations.
9. Prepare a final report for submission to the Legislative Management.

In response to a question from Senator Sorvaag, the Legislative Budget Analyst and Auditor said investment income of the legacy fund generated after June 30, 2017, is required to be transferred to the general fund. However, he said, the Legislative Assembly could choose to transfer the funding back to the legacy fund.

It was moved by Senator Wanzek, seconded by Senator Lee, and carried on a voice vote to approve the plan for the study of the lasting benefits of the legacy fund as presented.

OTHER BUSINESS

Representative Grande distributed materials (Appendix F) to committee members regarding state employee retirement plans.

Chairman Delzer announced the committee is tentatively scheduled to meet in November 2013.

No further business appearing, Chairman Delzer adjourned the meeting at 2:20 p.m.

____

Brady A. Larson
Assistant Legislative Budget Analyst and Auditor

____

Allen H. Knudson
Legislative Budget Analyst and Auditor

ATTACH:6