

## BUDGET SECTION

The Legislative Council's Budget Section is referred to in various sections of the North Dakota Century Code (NDCC) and the Session Laws of North Dakota. Although there are statutory references to the Budget Section, it is not created by statute. The Budget Section is an interim committee appointed by the Legislative Council. By tradition, the membership of the Budget Section consists of the members of the Senate and House Appropriations Committees, the majority and minority leaders and their assistants, and the Speaker of the House.

Budget Section members were Representatives Jack Dalrymple (Chairman), Ole Aarsvold, LeRoy G. Bernstein, James Boehm, Merle Boucher, Rex R. Byerly, Ron Carlisle, Al Carlson, Jeff Delzer, John Dorso, Pam Gulleon, Serenus Hoffner, Robert Huether, James Kerzman, Ed Lloyd, David Monson, Ronald Nichols, Jim Poolman, Ken Svedjan, Mike Timm, Ben Tollefson, Francis J. Wald, and Janet Wentz and Senators John Andrist, Bill L. Bowman, Tony Grindberg, Joel C. Heitkamp, Ray Holmberg, Aaron Krauter, Ed Kringstad, Elroy N. Lindaas, Pete Naaden, Gary J. Nelson, David E. Nething, Larry J. Robinson, Ken Solberg, Harvey D. Tallackson, and Steve Tomac.

Senator Rod St. Aubyn was a member of the committee prior to his resignation on August 30, 2000.

The Budget Section submitted this report to the Legislative Council at the biennial meeting of the Council in November 2000. The Council accepted the report for submission to the 57th Legislative Assembly.

The following duties, assigned to the Budget Section by statute, were acted on during the 1999-2001 biennium:

1. **Higher education campus improvements and building construction (NDCC Section 15-10-12.1)** - This section allows the State Board of Higher Education, subject to Budget Section approval, to construct buildings and campus improvements financed by donations, gifts, grants, and bequests or to sell real property or buildings received by gift or bequest. The Budget Section approval must include a specific dollar limit for each building or campus improvement project.
2. **Irregularities in the fiscal practices of the state (NDCC Section 15-14-03.1)** - This section requires the Office of the Budget to submit a written report to the Budget Section documenting:
  - a. Any irregularities in the fiscal practices of the state.
  - b. Areas in which more uniform and improved fiscal procedures are desirable.
  - c. Any expenditures or governmental activities contrary to law or legislative intent.
  - d. The use of state funds to provide bonuses, incentive awards, or temporary salary adjustments for state employees.
3. **Transfers exceeding \$50,000 (NDCC Section 54-16-04(2))** - This section allows the Emergency Commission to authorize, subject to Budget Section approval, a transfer exceeding \$50,000 from one fund or line item to another.
4. **Federal funds not appropriated (NDCC Section 54-16-04.1)** - This section allows the Emergency Commission to authorize, subject to Budget Section approval, the expenditure of more than \$50,000 of federal funds that have not been appropriated and which the Legislative Assembly has not indicated an intent to reject.
5. **Other funds not appropriated (NDCC Section 54-16-04.2)** - This section allows the Emergency Commission to authorize, subject to Budget Section approval, the expenditure of more than \$50,000 from gifts, grants, donations, or other sources that have not been appropriated and which the Legislative Assembly has not indicated an intent to reject.
6. **Children's Services Coordinating Committee grants (NDCC Section 54-56-03 and 1999 House Bill No. 1014, Section 2)** - These sections provide that the Children's Services Coordinating Committee must seek Budget Section approval before distributing any statewide grants not specifically authorized by the Legislative Assembly.
7. **Report from ethanol plants receiving production incentives (1999 Senate Bill No. 1019)** - Section 5 of this bill requires any North Dakota ethanol plant receiving production incentives from the state to file with the Budget Section a statement indicating whether the plant produced a profit during the preceding fiscal year after deducting incentive payments received from the state.
8. **Additional full-time equivalent (FTE) positions (1999 Senate Bill No. 2012)** - Section 6 of this bill requires the human service centers, State Hospital, and the Developmental Center to report to the Budget Section on the hiring of any FTE positions in addition to those authorized by the Legislative Assembly.
9. **Preliminary planning revolving fund (NDCC Section 54-27-22)** - This section provides that before any funds can be distributed from the preliminary planning revolving fund to a state agency, institution, or department, the Budget Section must approve the distribution.
10. **Form of budget data (NDCC Section 54-44.1-07)** - This section requires the director of the budget to prepare budget data in the form prescribed by the Legislative Council and to present it to the Legislative Assembly at a time and place set by the Legislative Council. The Legislative Council assigned the responsibility to the Budget Section.
11. **Expenditures of excess local fund revenues by higher education institutions (1999 House Bill No. 1003)** - Section 11 of this bill provides that the State Board of Higher Education must present a report to the Budget Section on the expenditures by higher education institutions of any local funds in excess of the amounts appropriated in Section 1 of the bill.
12. **Line item transfers by agencies that received program-based appropriations** - The following agencies that received program-based appropriations may, with Budget Section approval, transfer more than 10 percent of a line item,

as needed, to meet established performance measures:

- a. Highway Patrol (Section 4 of 1999 House Bill No. 1011).
  - b. Department of Transportation (Section 2 of 1999 House Bill No. 1012).
  - c. Land Department (Section 4 of 1999 House Bill No. 1013)
  - d. Department of Corrections and Rehabilitation - Adult Services Division (Section 3 of 1999 House Bill No. 1016).
  - e. State Auditor (Section 3 of 1999 Senate Bill No. 2004).
  - f. Office of Management and Budget (Section 7 of 1999 Senate Bill No. 2015).
  - g. Parks and Recreation Department (Section 9 of 1999 Senate Bill No. 2021).
13. **Transfers between the divisions of the Department of Corrections and Rehabilitation (1999 House Bill No. 1016)** - Section 2 of this bill authorizes the Department of Corrections and Rehabilitation to transfer, with Budget Section approval, appropriation authority between the divisions of the department.
  14. **Study grant preapproval process (1999 Senate Concurrent Resolution No. 4050)** - This resolution provides for a study of the feasibility and desirability of implementing a grant preapproval process for every state agency, except institutions under the control of the State Board of Higher Education.
  15. **State building construction projects (NDCC Section 48-02-20)** - This section provides that a state agency or institution may not significantly change or expand a building construction project approved by the Legislative Assembly, unless the change, expansion, or additional expenditure is approved by the Legislative Assembly, or the Budget Section if the Legislative Assembly is not in session.
  16. **Tobacco settlement funds (NDCC Section 54-44-04)** - This section provides that the director of the Office of Management and Budget is required to report to the Budget Section on the status of tobacco settlement funds and related information.
  17. **Expenditure of additional local funds for capital projects (1999 House Bill No. 1003)** - Section 8 of this bill provides that with the approval of the Budget Section, Bismarck State College and Lake Region State College may obtain and utilize any available funds in excess of the minimum required local matching funds of \$200,000 for the Bismarck State College music addition and \$495,000 for the Lake Region State College auditorium renovation project.
  18. **Home mortgage finance program available within Indian reservations (1999 House Bill No. 1015)** - Section 14 of this bill provides that the Industrial Commission and the Indian Affairs Commission are required to report to the Budget Section on the status of home mortgage finance programs of the Housing Finance Agency available within Indian reservations in the state.
  19. **Job Service North Dakota asbestos abatement project (1999 House Bill No. 1017)** - Section 6 of this bill provides that Job Service North Dakota must report to the Budget Section on the status of its asbestos abatement project.
  20. **Bovine tuberculosis disease (1999 Senate Bill No. 2009)** - Section 15 of this bill provides that the Agriculture Commissioner and the State Veterinarian report periodically to the Budget Section during the 1999-2000 interim on the status and associated costs of bovine tuberculosis disease in cattle.
  21. **Proposed reductions to the Northeast Human Service Center (1999 Senate Bill No. 2012)** - Section 18 of this bill provides that the Department of Human Services is required to report to the Budget Section, prior to the submission of the department's 2001-03 biennium budget request, on \$500,000 of general fund reductions in the proposed budget request for the Northeast Human Service Center for the 2001-03 biennium.
  22. **Traditional Medicaid grants (1999 Senate Bill No. 2012)** - Section 19 of this bill provides that the Department of Human Services is required to report periodically to the Budget Section during the 1999-2001 biennium on the status of funding for traditional Medicaid grants.
  23. **Federal class size reduction initiative grants (1999 Senate Bill No. 2013)** - Section 24 of this bill provides that the Department of Public Instruction is required to report to the Budget Section during the 1999-2001 biennium on the distribution of federal class size reduction initiative grants.
  24. **Increased payments to governmental nursing facilities (1999 Senate Bill No. 2168)** - Section 4 of this bill appropriates \$12,409,448 (\$3,618,391 from the general fund, \$8,788,057 from other funds) for making payments from the government nursing facility funding pool and for related administrative costs as provided in Senate Bill No. 2168. This section provides that any moneys that become available in excess of the \$12,409,448 are appropriated and may be spent for additional payments to government nursing facilities, subject to Emergency Commission and Budget Section approval.
  25. **Additional allocations from the health care trust fund (1999 Senate Bill No. 2168)** - Section 5 of this bill appropriates \$8,715,279 from other funds for payments from the health care trust fund, pursuant to Senate Bill No. 2168. This section provides that any moneys that become available, in excess of the \$8,715,279, are appropriated and may be spent by the Department of Human Services subject to Emergency Commission and Budget Section approval.
  26. **Grand Forks Corporate Center (1999 Senate Bill No. 2188)** - Section 5 of this bill provides that Budget Section approval is required prior to the refinancing of debt, the incurring of debt for improvements, or the voluntary sale of the Corporate Center in Grand Forks.
  27. **State water development projects (1999 Senate Bill No. 2188)** - Section 9 of this bill provides that during the 1999-2001 biennium, the State Engineer is required to report periodically to the Budget Section on the implementation of the comprehensive statewide water development program and state water management plan and the issuance of bonds for flood control projects, the Southwest Pipeline Project, a Devils Lake outlet, and a statewide water development program.

The following duties, assigned to the Budget Section by statute or Legislative Council directive, are scheduled to be addressed by the Budget Section at its December 2000 meeting:

1. **Review and report on budget data prepared by the director of the budget (Legislative Council directive)** - Pursuant to Legislative Council directive, the Budget Section is to review and report on the budget data prepared by the director of the budget and presented to the Legislative Assembly during the organizational session.
2. **Salary increases for the second year of the biennium (1999 Senate Bill No. 2015)** - Section 11 of this bill provides that the Office of Management and Budget is required to report on the amounts provided by state agencies and institutions for salary increases for the second year of the biennium, line item transfers relating to the increases, the source of funding, and the impact on the provision of services.

The following duties, assigned to the Budget Section by statute or Legislative Council directive, did not require action by the Budget Section during the 1999-2000 interim:

1. **State Forester reserve account (NDCC Section 4-19-01.2)** - This section allows the State Forester to spend moneys in the State Forester reserve account only after receiving Budget Section approval.
2. **Investment in real property by the Board of University and School Lands (NDCC Section 15-03-04)** - This section prohibits the Board of University and School Lands from purchasing, as sole owner, commercial or residential real property without prior approval of the Legislative Assembly or the Budget Section.
3. **Game and Fish Department land acquisitions (NDCC Section 20.1-02-05.1)** - This section requires the Game and Fish Department to obtain Budget Section approval of every land acquisition of more than 10 acres or \$10,000.
4. **Reduction of the game and fish fund balance below \$10 million (NDCC Section 20.1-02-16.1)** - This section provides that the Game and Fish Department can spend moneys in the game and fish fund within the limits of legislative appropriations, only to the extent the balance of the fund is not reduced below \$10 million, unless otherwise authorized by the Budget Section.
5. **Provision of contract services by the Developmental Center (NDCC Section 25-04-02.2)** - This section provides that, subject to Budget Section approval, the Developmental Center may provide services under contract with a governmental or nongovernmental person.
6. **Termination of food stamp program (NDCC Section 50-06-05.1(17))** - This section provides that, subject to Budget Section approval, the Department of Human Services may terminate the food stamp program if the rate of federal financial participation in administrative costs is decreased or if the state or counties become financially responsible for the coupon bonus payments.
7. **Termination of energy assistance program (NDCC Section 50-06-05.1(19))** - This section provides that, subject to Budget Section approval, the Department of Human Services may terminate the energy assistance program if the rate of federal financial participation in administrative costs is decreased or if the state or counties become financially responsible for the energy assistance program payments.
8. **Job insurance trust fund balance (NDCC Section 52-02-17)** - This section requires Job Service North Dakota to report to the Budget Section if the balance of the job insurance trust fund is projected to fall below \$40 million.
9. **Transfers resulting in program elimination (NDCC Section 54-16-04(1))** - This section provides that, subject to Budget Section approval, the Emergency Commission may authorize a transfer that would eliminate or make impossible the accomplishment of a program or objective funded by the Legislative Assembly.
10. **Cash flow financing (NDCC Section 54-27-23)** - This section provides that in order to meet the cash flow needs of the state, the Office of Management and Budget may borrow, subject to Emergency Commission approval, from special funds on deposit in the state treasury. However, the proceeds of any such indebtedness cannot be used to offset projected deficits in state finances unless first approved by the Budget Section. Additional cash flow financing, subject to certain limitations, must be approved by the Budget Section.
11. **Budget stabilization fund (NDCC Section 54-27.2-03)** - This section provides that any transfer from the budget stabilization fund must be reported to the Budget Section.
12. **Objection to budget allotment or expenditure (NDCC Section 54-44.1-12.1)** - This section allows the Budget Section to object to a budget allotment, an expenditure, or the failure to make an allotment or expenditure if such action is contrary to legislative intent.
13. **Budget reduction resulting from initiative or referendum action (NDCC Section 54-44.1-13.1)** - This section provides that, subject to Budget Section approval, the director of the budget may reduce state agency budgets by a percentage sufficient to cover estimated revenue reduction caused by initiative or referendum action.
14. **Extraterritorial workers' compensation insurance (NDCC Section 65-08.1-02)** - This section authorizes the Workers Compensation Bureau to establish, subject to Budget Section approval, a casualty insurance organization to provide extraterritorial workers' compensation insurance.
15. **Expenditures in excess of amount appropriated for traditional Medicaid grants (1999 Senate Bill No. 2012)** - Section 19 of this bill provides that the Department of Human Services may not exceed the amount appropriated for traditional Medicaid grants for the 1999-2001 biennium without prior Budget Section approval.
16. **Reduction of nursing home limitations for cost categories (1999 Senate Bill No. 2012)** - Section 26 of this bill provides legislative intent that the Department of Human Services receive Budget Section approval prior to reducing below the levels included in the 1999-2001 biennium legislative appropriation the nursing home limitations for direct, other direct, and indirect cost categories.
17. **Establishment of a traumatic brain-injured facility (1999 Senate Bill No. 2012)** - Section 35 of this bill provides a contingent appropriation of \$200,000 (\$60,000 from the general fund, \$140,000 from federal funds) which may be spent if a facility for the traumatic brain-injured is established in western North Dakota and if the expenditure is approved

by the Emergency Commission.

18. **Transfers of positions to the Division of Independent Study (1999 Senate Bill No. 2013)** - Section 23 of this bill requires the Department of Public Instruction to report to the Budget Section on any transfers of positions to the Division of Independent Study from the other divisions of the department during the 1999-2001 biennium.
19. **Program terminations or reductions due to reduced federal funding (1999 Senate Bill No. 2015)** - Section 19 of this bill requires state agencies, departments, and institutions to receive Budget Section approval for the following:
  - a. To terminate a program for which federal funding is terminated.
  - b. To prioritize programs as necessary to make programmatic reductions, if federal funding for separate programs is combined in a block grant, resulting in a reduction of federal funds available for those programs.
20. **Transfers from the Bank of North Dakota to offset declines in general fund revenues (1999 Senate Bill No. 2015)** - Section 18 of this bill provides that the Budget Section may approve the transfer of up to \$40 million from the Bank of North Dakota to the state general fund if, during the 1999-2001 biennium, the director of the Office of Management and Budget determines that general fund revenues will not meet the legislative forecast.
21. **Disaster claims relating to spring 1997 flooding in the Red River Valley (1999 Senate Bill No. 2016)** - Section 4 of this bill provides that before the Division of Emergency Management may request loans from the Bank of North Dakota to affected political subdivisions relating to spring 1997 flooding in the Red River Valley, the disaster claims must be approved by the Division of Emergency Management, the Emergency Commission, and the Budget Section.
22. **Federal block grant hearings (1999 Senate Concurrent Resolution No. 4001)** - This resolution authorizes the Budget Section, through September 30, 2001, to hold any required legislative hearing for federal block grants.
23. **Expenditures for the service, access, growth, and empowerment (SAGE) project (1999 House Bill No. 1003)** - Section 12 of this bill provides that prior to purchasing goods or contracting for services for the SAGE project, the State Board of Higher Education must receive permission from either the Legislative Assembly or the Budget Section.

## OFFICE OF MANAGEMENT AND BUDGET

### Status of the State General Fund

At each Budget Section meeting, a representative of the Office of Management and Budget reviewed the status of the state general fund and revenue collections for the biennium.

The following is a summary of the status of the state general fund, based on actual revenue collections through August 31, 2000:

Unobligated general fund balance - July 1, 1999	\$61,114,425
Add	
Actual general fund collections through August 31, 2000	897,660,477
Remaining forecasted general fund revenues for the 1999-2001 biennium (based on the 1999 legislative forecast)	687,871,772
Total estimated general fund revenue for the 1999-2001 biennium	\$1,646,646,674
Less	
1999-2001 biennium adjusted general fund appropriations (legislative appropriations of \$1,594,038,538 less 1999-2001 emergency appropriations of \$4,452,065 spent during the 1997-99 biennium and a contingent 1999-2001 appropriation of \$4,262,410, which is not anticipated to be spent)	1,585,324,063
Estimated general fund balance - June 30, 2001 (\$50,003,755 more than the 1999 legislative estimate of \$11,318,856)	\$61,322,611

The Office of Management and Budget indicated oil prices in North Dakota as of September 2000 were approximately \$25 per barrel, and 20 rigs were currently operating in North Dakota compared to 11 rigs from one year previous. Oil revenue collections through August 31, 2000, have totaled \$40,521,239, approximately \$20 million more than legislative forecasts of \$20,496,000. Total general fund revenue collections through August 31, 2000, have been approximately \$32 million more than the legislative forecast of \$865,716,976.

### Fiscal Irregularities

Pursuant to NDCC Section 54-14-03.1, the Budget Section received a report from the Office of Management and Budget on irregularities in the fiscal practices of the state. Fiscal irregularities include the use of state funds to provide bonuses, cash

incentive awards, and temporary salary adjustments for state employees. The report identified the State Board for Vocational and Technical Education as granting six employees a cash incentive award of \$500 each to become an "agency expert" in one area of the software package used by the department. The report said \$500 cash incentive awards were provided to these employees in 1998 and 1999. The report identified the North Dakota University System for providing one-time salary adjustments to 25 employees during the 1999-2000 fiscal year. The salary adjustments ranged from \$300 to \$1,500. The report identified three agencies--the State Treasurer, Indian Affairs Commission, and Securities Commissioner--who overspent their line item appropriation authority for salaries and wages or operating expenses but did not exceed their overall appropriation authority for the 1997-99 biennium.

The Budget Section stated its opposition to the practice of state agencies and institutions making irregular salary payments until standards relating to this practice have been established by the Legislative Assembly and that the Budget Section opposition to this practice be communicated to all state agencies and institutions.

The Budget Section received a summary of state employee bonus programs in other states. The Central Personnel Division presented information on the establishment of a performance-based bonus system for North Dakota classified state employees. The proposed bonus plan would require a performance evaluation process that identifies at least three levels of performance. Eligible employees must be employed for at least one year and may receive no more than one bonus per year. The chairman of the Budget Section suggested the Central Personnel Division seek funding for the performance-based bonus program in the 2001-03 biennium executive budget to ensure that the Legislative Assembly addresses the issue during the 2001 legislative session.

### **Preliminary Planning Revolving Fund**

Pursuant to NDCC Section 54-27-22, the Budget Section received reports from the Office of Management and Budget on recommendations for the use of moneys in the preliminary planning revolving fund. The preliminary planning revolving fund received funding through a \$200,000 general fund appropriation by the 1997 Legislative Assembly. The report listed the following criteria used to evaluate agency requests for moneys from the preliminary planning revolving fund:

- External mandates, such as a court order or health, life safety, and building code concerns.
- Program needs, such as the impact of the facility on achieving departmental goals or program requirements.
- State policy direction, including gubernatorial and legislative priorities.
- Funding for the project, including the amount available from nongeneral fund sources.
- Scope of the project, including the estimated cost and the need to complete the project in multiple phases.

Based on the above criteria, the Office of Management and Budget requested moneys be provided from the preliminary planning revolving fund for the following five projects which the Office of Management and Budget plans to recommend to future legislative assemblies:

<b>Project Description</b>	<b>Agency</b>	<b>Recommended Funding From the Preliminary Planning Revolving Fund</b>
Main Hall/McFarland Auditorium renovation	Minot State University	\$65,000
Multipurpose/food service building at the Missouri River Correctional Center	Department of Corrections and Rehabilitation	19,500
Penitentiary parking lot		6,000
Murphy Hall renovation	Dickinson State University	45,000
Minard Hall renovation	North Dakota State University	62,000
Total		\$197,500

Pursuant to NDCC Section 54-27-22, the Budget Section approved the distribution of \$197,500, of the \$200,000 balance from the preliminary planning revolving fund, as recommended by the Office of Management and Budget.

### **Tobacco Settlement Proceeds**

Pursuant to NDCC Section 54-54-04, the Budget Section received reports on tobacco settlement proceeds received by the state. The Office of Management and Budget reported that as of June 2000, approximately \$30 million has been received by the state and deposited in the tobacco settlement trust fund. The proceeds have been apportioned among the community health trust fund, common schools trust fund, and water development trust fund as follows pursuant to 1999 House Bill No. 1475:

Fund	Amount Transferred From the Tobacco Settlement Trust Fund
Community health trust fund (10 percent)	\$2,995,461
Common schools trust fund (45 percent)	13,479,574
Water development trust fund (45 percent)	13,479,574
Total transfers from the tobacco settlement trust fund	\$29,954,609

The committee learned through the year 2025 it is estimated the community health trust fund will receive \$77.6 million based on a 10 percent share of tobacco settlement moneys; the water development trust fund will receive \$349 million based on a 45 percent share of tobacco settlement moneys; and the common schools trust fund will receive \$349 million based on a 45 percent share of tobacco settlement moneys.

### 2001-03 Biennium Budget Form Changes

Pursuant to NDCC Section 54-44.1-07, the Office of Management and Budget presented a report to the Budget Section on the form of budget data to be presented to the 2001 Legislative Assembly. The Office of Management and Budget reported there will be no proposed changes to the budget forms for the 2001-03 biennium.

The committee learned the Budget Committee on Government Services was studying state agency office space needs to determine the feasibility and desirability of transferring state agencies or state employees to rural areas. The Budget Section learned the Budget Committee on Government Services was considering ways to incorporate agency analyses of job tasks that could be performed away from the agency's central office setting into the budgeting process. The chairman of the Budget Committee on Government Services asked the Budget Section to approve budget form changes to incorporate this analysis in the 2001-03 biennium budget request forms.

Pursuant to NDCC Section 54-44.1-07, the Budget Section requested that the budget data prepared by the Office of Management and Budget include an analysis to be completed by each agency of the feasibility and desirability, including the cost and benefits, of locating any new positions, new programs, or new capital construction away from a central office setting.

## STATE WATER COMMISSION

### Status of Water Projects

Pursuant to Section 9 of 1999 Senate Bill No. 2188, the Budget Section received periodic reports from the State Water Commissioner on the implementation of the state water development program and water management plan and the issuance of bonds for various water projects. The Budget Section learned as of October 2000 the State Water Commission was awaiting determination of federal funding for three major projects: The Dakota Water Resources Act, dealing with Garrison Diversion, which may be funded by the end of 2000; The Northwest Area Water Supply Project, which is being delayed due to concerns by Canada over possible biota transfer; and The Devils Lake outlet project, which is awaiting the issuance of a permit from the United States Army Corps of Engineers.

The Budget Section learned \$32.1 million of bonds were issued by the State Water Commission on March 23, 2000. The bond sale provided \$23 million for Grand Forks flood control and \$4.5 million for the Southwest Pipeline Project. The State Water Commission plans on issuing an additional \$31.5 million of bonds authorized in 1999 Senate Bill No. 2188 during the 2001-03 biennium for water projects in Grand Forks, Wahpeton, Grafton, and potentially Devils Lake.

The Budget Section learned the State Water Commission has identified \$40.84 million of new projects for the 2001-03 biennium. The report indicated, when combined with \$31.5 million of projects authorized in 1999 Senate Bill No. 2188, the total cost of projects for the 2001-03 biennium could equal \$72.34 million. The priority water development needs are as follows:

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Projects	State Costs (In Millions of Dollars)
Municipal and rural water supply	\$15.00
Irrigation (statewide)	3.29
General water management	5.00
Flood control	5.75
Eastern Dakota water supply	0.15
Devils Lake	4.00
Missouri River management	0.00
Northwest Area Water Supply Project	0.00
Southwest Pipeline Project	7.30
Weather modification	0.35
Subtotal	\$40.84
Senate Bill No. 2188 authorized projects	31.50
Total	\$72.34

## HIGHER EDUCATION

### Local Funds Report

The University System presented a comparison of budgeted expenditures to actual expenditures of local funds at each institution of higher education for the 1997-99 biennium. The local funds report indicated the 1997 Legislative Assembly appropriated \$92.8 million of local funds, and the State Board of Higher Education increased that amount by \$6.1 million.

The Budget Section received a request from the North Dakota University System to modify the format of future annual local fund tracking reports. The format changes were requested in order to address audit concerns, including consistent reporting between campuses, and to simplify the reporting requirements. The Budget Section accepted the University System's request to modify the annual local fund tracking report by reporting revenues rather than expenditures by source and providing the functional detail for actual expenditures rather than for budgeted figures.

### Capital Projects

During the 1999-2000 interim, the Budget Section received information relating to the following University System capital projects: **University of North Dakota - Biomedical Research Facility** - Pursuant to NDCC Sections 15-10-12.1 and 48-02-20, the Budget Section approved the University of North Dakota's request to increase the spending limit for the construction of the biomedical research facility from \$6 million to \$6,716,803 to reflect a grant from the National Institutes of Health to be used to renovate unfinished space in the basement of the existing medical complex, the construction of a tunnel connecting the new facility with the lower level of the existing medical complex, and the installation of an elevator and stairwell. **University of North Dakota - Renovation of School of Medicine and Health Sciences Building** - Pursuant to NDCC Section 15-10-12.1, the Budget Section authorized the University of North Dakota to spend up to \$350,000 from private sources during the 1999-2001 biennium for the renovation of the front entrance, foyer, and hallway of the University of North Dakota School of Medicine and Health Sciences.

- **Bismarck State College - Student Union project** - The Budget Section authorized Bismarck State College to use local funds to expand the Student Union project pursuant to NDCC Section 48-02-20. The project was increased from \$250,000 to \$600,000.
- **Bismarck State College - Music center addition** - Pursuant to Section 8 of 1999 House Bill No. 1003, the Budget Section approved the Bismarck State College request to use an additional \$362,000 of local funds for the Bismarck State College music addition project, increasing the estimated costs of the project from \$400,000 to \$762,000.
- **Lake Region State College - Expand auditorium renovation project** - Pursuant to Section 8 of 1999 House Bill No. 1003, the Budget Section authorized \$190,000 of local funds for the Lake Region State College auditorium renovation project, increasing the estimated cost of the project from \$994,544 to \$1,184,544.
- **Minot State University - Minot State dome entrance** - Pursuant to NDCC Section 15-10-12.1, the Budget Section authorized \$378,000 of local funds to Minot State University for an addition of a north lobby/entrance to the Minot State dome.

## Flood Damage

The Budget Section received information from North Dakota State University and the University of North Dakota on flood damage and potential deficiency appropriation requests to be made to the 2001 Legislative Assembly.

The University of North Dakota is estimating a deficiency appropriation of approximately \$3.1 million for the 1999-2001 biennium. Through September 30, 2000, there are two flood recovery projects related to the 1997 flood ongoing at the University of North Dakota--steamline replacement and sewer system restoration. The steamline replacement project is estimated to be completed by June 2001. Repair work to the water and sanitary sewer systems will be determined by an assessment of the damage and availability of funding sources.

North Dakota State University is estimating a deficiency appropriation of approximately \$4.75 million for the 1999-2001 biennium. There was an estimated \$15.5 million of damage to buildings and contents at North Dakota State University as a result of the June 2000 flood.

## DEPARTMENT OF HUMAN SERVICES

### Funding for Medicaid

Pursuant to Section 19 of Senate Bill No. 2012, the Budget Section received periodic reports from the Department of Human Services on funding for traditional Medicaid grants. The Budget Section learned through August 2000, the Department of Human Services appropriation for Medicaid grants was \$278,015,753. Actual expenditures for this period were \$270,299,225 for a savings of \$7,716,528 for all services, of which \$1,682,045 is from the general fund. Because overall expenditures are anticipated to be less than the amount appropriated, the Department of Human Services does not anticipate reducing any services provided to Medicaid recipients or reimbursements provided to Medicaid providers during the remainder of the 1999-2001 biennium.

### Intergovernmental Transfer Program

Pursuant to 1999 Senate Bill No. 2168 the intergovernmental transfer program was established to provide loan and grant funds to nursing facilities and other entities to develop appropriate alternatives to nursing facility care especially in the rural communities of North Dakota. The bill allows the Department of Human Services to create a funding pool, the balance of which is determined by calculating, for each nursing facility in the state, the difference between the average Medicare nursing rates and the average rates for Medicaid recipients.

Pursuant to Section 4 of 1999 Senate Bill No. 2168, the Budget Section approved the Department of Human Services request to increase federal and other funds spending authority and the grants-medical assistance line item of the economic assistance subdivision by \$24,653,060 of federal Medicaid funding (\$17,360,685) and a loan from the Bank of North Dakota (\$7,292,375) for making government nursing facility funding pool payments.

The following is a summary of funds provided to the health care trust fund from the intergovernmental transfer program:

<b>Funding Summary</b>					
	<b>Original Projections 1999-2001 Appropriation</b>	<b>First Year 1999-2000</b>	<b>Second Year 2000-01</b>	<b>Total 1999-2001</b>	<b>Total Increase (Decrease)</b>
Government nursing facility funding pool payments					
Federal funds	\$8,564,819 <sup>1</sup>	\$25,922,739	\$17,360,685	\$43,283,424	\$34,718,605
State matching funds	3,618,391	10,888,876	7,292,375	18,181,251	14,562,860
Total	\$12,183,210 <sup>1</sup>	\$36,811,615	\$24,653,060	\$61,464,675	\$49,281,465
Health care trust fund	\$8,524,820	\$25,902,739 <sup>2,3</sup>	\$17,340,685 <sup>2</sup>	\$43,243,424 <sup>3</sup>	\$34,718,604 <sup>4</sup>
<sup>1</sup> This amount reflects the \$12.4 million appropriation in Section 4 of Senate Bill No. 2168, net of \$226,238 of department administrative costs.					

<sup>2</sup> This amount is less than the government nursing facility funding pool federal funds amount as a result of the \$20,000 that is retained by the two government nursing facilities (Dunseith and McVile) prior to the funds being deposited in the health care trust fund.

<sup>3</sup> This amount may be reduced by \$13 million depending on the outcome of the Department of Human Services appeal of the federal Health Care Financing Administration decision to deny \$13 million of North Dakota's first-year government nursing facility funding pool payment.

In addition, on August 31, 2000, the Health Care Financing Administration informed the Department of Human Services it did not agree with the method used by the department to calculate North Dakota's first-year payment. The Health Care Financing Administration has indicated North Dakota claimed \$13 million more than its plan allowed. The department, however, believes its claim was in accordance with its approved plan. The department intends to appeal the Health Care Financing Administration decision.

<sup>4</sup> The department received Emergency Commission and Budget Section approval in June 2000 to increase spending authority from the health care trust fund by \$2,218,429 to provide additional grants and loans under provisions of Senate Bill No. 2168.

### **Northeast Human Service Center**

Pursuant to Section 18 of 1999 Senate Bill No. 2012, the Budget Section received information from the Department of Human Services on \$500,000 of general fund reductions to the Northeast Human Service Center 2001-03 biennium budget request related to the efficiencies resulting from the collocation of service delivery. The Budget Section learned the Northeast Human Service Center was concerned about the adverse impact the required reductions would have on the services in the region. The Budget Section was informed the Department of Human Services never intended or stated it would be able to find \$500,000 of general fund reductions through efficiencies in the Northeast Human Service Center budget but would keep a hold-even operating budget while achieving long-term departmentwide savings as a result of the collocation of agencies in the new facility. Budget Section members expressed concern with the way the Department of Human Services addressed the funding reductions and indicated the Appropriations Committees in the 2001 Legislative Assembly should review the issue. The Department of Human Services 2001-03 base budget request for the Northeast Human Service Center reflects a reduction of \$500,000, and a restoration of approximately \$484,000 is requested through optional adjustment requests.

### **Health Insurance Portability and Accountability Act**

The Budget Section received information from the Department of Human Services on the status of the Health Insurance Portability and Accountability Act (HIPAA). The Budget Section learned the HIPAA's goal is to reduce the costs and administrative burdens of health care by standardizing electronic transmission of health care data. There will be nine different areas that will require compliance once the rules are finalized. The regulations for electronic transactions were finalized on August 17, 2000, and the Department of Human Services must be in compliance by October 16, 2002. The timeframe for implementation of the remaining areas is not known at this time. The Budget Section learned the Department of Human Services will request, as an optional adjustment, \$25 million to cover the estimated cost to implement the proposed HIPAA regulations. This request will consist of \$7.75 million from the general fund and \$17.25 million of federal funds. An emergency clause will be requested as part of the appropriations bill in order to begin as soon as possible with the necessary computer changes to implement the electronic transaction regulations.

### **Proposed Reduction to the Social Service Block Grant**

The Budget Section received a report from the Department of Human Services on the status of the current funding reduction proposed for the federal social service block grant. The Budget Section learned legislation pending in Congress would have reduced North Dakota's annual allocation of social service block grant funds from its current level of \$4.2 million to \$1.4 million for the year 2001 and beyond. The Budget Section later learned Congress is expected to fund the social service block grant program at approximately \$4 million.

### **Additional Full-Time Equivalent Positions at Department of Human Services Agencies and Institutions**

Pursuant to Section 6 of 1999 Senate Bill No. 2012, the Budget Section received information on full-time equivalent (FTE) positions at human service centers, the State Hospital, and the Developmental Center. The report indicated the Department of Human Services added 18.75 FTEs to the number approved by the Legislative Assembly at a cost of approximately \$1.2 million, with \$237,000 from the general fund, for the 1999-2001 biennium. The federal funds additions to the human service centers' budget were through either Emergency Commission approval or transfers from areas previously contracted. The report also indicated the State Hospital and the Developmental Center did not add any additional FTEs to what was authorized by the 1999 Legislative Assembly.

## **NORTH DAKOTA HOUSING FINANCE AGENCY**

## Home Mortgage Finance Programs Available Within Indian Reservations

Pursuant to Section 14 of 1999 House Bill No. 1015, the Budget Section received information on the status of home mortgage finance programs of the North Dakota Housing Finance Agency available within Indian reservations in the state of North Dakota. The Budget Section learned home mortgage finance program funding is now available within North Dakota Indian reservations. The program is funded through the sale and issuance of federally tax exempt mortgage revenue bonds, the proceeds of which are used to purchase eligible home loans originated by participating North Dakota lenders.

## CHILDREN'S SERVICES COORDINATING COMMITTEE

### Statewide Grants

Pursuant to NDCC Section 54-56-03 and Section 2 of 1999 House Bill No. 1014, the Budget Section received a report from the Children's Services Coordinating Committee on grants to be distributed by the Children's Services Coordinating Committee in addition to specific statewide grants approved by the 1999 Legislative Assembly. The Children's Services Coordinating Committee requested approval for distribution of \$388,942 of grants for the first year of the 1999-2001 biennium and \$243,768 for the second year. The Budget Section approved the distribution of grants as recommended by the Children's Services Coordinating Committee in the amount of \$632,710.

## DEPARTMENT OF PUBLIC INSTRUCTION

### Federal Class Size Reduction Initiative Grants

Pursuant to Section 24 of 1999 Senate Bill No. 2013, the Budget Section received information from the Department of Public Instruction on the status of the class size reduction program. The Budget Section learned the purpose of the class size reduction program is to help schools improve student achievement by reducing class size ratios in the earliest years--kindergarten through grade 3. The class size reduction program provides funds to school districts to recruit, hire, and train fully qualified teachers who are assigned to primary grade classrooms. North Dakota was allocated \$5.6 million for school districts during 1999-2000. Of North Dakota's 229 public school districts, 186 applied to access their allocation, and 43 did not apply. North Dakota was also awarded \$6 million in class size reduction funding for 2000-01.

## DEPARTMENT OF CORRECTIONS AND REHABILITATION

### Transfers

Pursuant to Section 2 of 1999 House Bill No. 1016, the Department of Corrections and Rehabilitation requested a transfer of appropriation authority from the Adult Services Division to the central office. The request was for a transfer to provide a salary increase for eight central office employees; additional salary adjustments for the new information technology assistant, for an administrative assistant, and for the information technology administrator; and other additional expenses relating to annual and sick leave payment, workers' compensation, and temporary salaries.

Additional 1 percent salary increase	\$3,900
Salary adjustment for new information technology assistant	3,350
Salary adjustment for administrative assistant	2,696
Salary adjustment for the information technology administrator	1,895
Other additional expenses	3,159
Total transfer request	\$15,000

The Budget Section authorized the Department of Corrections and Rehabilitation to transfer \$15,000 of appropriation authority from the Adult Services Division to the central office.

## **GRAND FORKS CORPORATE center**

Pursuant to Section 5 of 1999 Senate Bill No. 2188, the Budget Section received a request for approval for a proposed purchase option agreement for the Corporate Center in Grand Forks. The Budget Section learned the Corporate Center will consist of two buildings connected by a skywalk and has approximately 69,000 square feet. The city of Grand Forks is constructing the building as a strategy to recover the city's central business district after the fire and flood of 1997. The city of Grand Forks and three major tenants of the Corporate Center have negotiated a lease with an option to purchase at a future date. Section 5 of 1999 Senate Bill No. 2188 requires Budget Section approval prior to the refinancing of debt, the incurring of debt for improvements, or the voluntary sale of the Corporate Center. The sale of the Corporate Center would not take place until at least 21 years from the inception of the lease; however, bonds will need to be issued to finance construction of the building. Budget Section approval was requested because bond purchasers need to be aware of any proposed sale of the building. Senate Bill No. 2188 provides that if Grand Forks makes money on the Corporate Center, after the payment of bonds or in the event the building is sold, the proceeds must be used for flood control projects.

Pursuant to the provisions of 1999 Senate Bill No. 2188, the Budget Section approved the request of the city of Grand Forks Office of Urban Development to enter into an agreement with the three initial tenants of the Corporate Center for the future sale of all or a portion of the Corporate Center as provided in the proposed purchase agreement.

## **STATE GRANT PREAPPROVAL PROCESS**

### **Survey of States**

Pursuant to 1999 Senate Concurrent Resolution No. 4050, the Budget Section studied the feasibility and desirability of implementing the grant preapproval process for state agencies except the institutions of higher education.

The Budget Section received information on the state grant preapproval processes. The Legislative Council staff surveyed the 50 states and the District of Columbia to gather information on grant preapproval processes. Of the 46 responses to the survey, seven states--California, Connecticut, Delaware, Illinois, Oregon, Wisconsin, and Wyoming--utilize a preapproval process for grants. Of the seven states that utilize a grant preapproval process: Five states utilize an executive branch agency or office to grant the preapproval (California, Connecticut, Illinois, Wisconsin, and Wyoming), and two states utilize a legislative committee or a committee including legislative and executive branch members to grant the preapproval (Delaware and Oregon). Three states subject all state agencies and institutions to the preapproval requirement (Connecticut, Delaware, and Wisconsin), one state excludes only higher education institutions (Oregon), one state excludes only agencies dealing with highways (California), and two states exclude all agencies and institutions not under the direct control of the Governor (Illinois and Wyoming). Three states require preapproval for federal and private grants (Connecticut, Delaware, and Wyoming), and four states require preapproval for only federal grants (California, Illinois, Oregon, and Wisconsin).

### **Recommendation**

The Budget Section recommends [Senate Bill No. 2031](#) relating to the review of state agency applications for grants from the federal government and private entities. The bill includes the following provisions: State agencies, except institutions of higher education, will be required to receive approval before submitting an application to the federal government or a private entity for a grant that has not been approved or appropriated by the Legislative Assembly. To receive approval to submit an application for such a grant, a state agency will be required to forward a copy of the application, along with a report summarizing the grant, to the Emergency Commission, which will have 30 days to consider the application. If the Emergency Commission denies the grant application, the state agency will be allowed to submit the request to the Budget Section for consideration at its next meeting.

## **BOVINE TUBERCULOSIS DISEASE**

Pursuant to Section 15 of 1999 Senate Bill No. 2009, the Budget Section received information from the State Veterinarian on the status and associated costs of bovine tuberculosis disease in cattle. The report indicated a herd of 123 cattle was destroyed and indemnity was paid to the producer based on the appraised value of the herd, less the salvage value and the federal indemnity. The 1999 Legislative Assembly appropriated \$65,000 for the tuberculosis case. The State Board of Animal Health has incurred costs of \$58,449 related to the case, with one additional indemnity of \$1,050 to be paid.

## **CORRESPONDENCE FROM ETHANOL PLANTS**

Pursuant to 1999 House Bill No. 1019, the Budget Section received a report from the North Dakota ethanol plant that received production incentives from the state. The Alchem, Ltd., plant was the only plant to receive production incentives from the state during the calendar years 1998 and 1999. The Budget Section learned that after deducting payments received from the state, the Alchem, Ltd., plant did not produce a profit.

## **ASBESTOS ABATEMENT PROJECTS**

### **Job Service North Dakota**

Pursuant to Section 6 of 1999 House Bill No. 1017, the Budget Section received information from Job Service North Dakota on the status of its asbestos abatement project. The Budget Section learned the asbestos abatement project is estimated to cost \$2.92 million, which is \$1.77 million more than the settlement received as part of a lawsuit against an asbestos manufacturer. Federal funds have been requested for the additional \$1.77 million, but if these funds are not provided, the cost could be financed from the agency federal advance interest repayment account established in NDCC Section 52-04-22. One of the authorized uses of the agency federal advance interest repayment account is to finance major agency facility renovation projects. The sources of funds in the account are interest on delinquent contributions and penalties provided by the unemployment compensation law.

### **Department of Transportation**

The Budget Section received information from the Department of Transportation regarding its building asbestos abatement project. The Department of Transportation's share of the settlement against an asbestos manufacturer was \$2.5 million. Preliminary cost estimates for the abatement project is estimated at \$1.5 million for the relocation of employees and in excess of \$5 million for asbestos abatement and reconstruction. The Budget Section learned the Department of Transportation will request additional funding in its 2001-03 budget for completion of the project. The Budget Section learned that when the final cost estimates are determined, a decision will have to be made as to whether the project is completed all at once, which would take 12 to 18 months, or if a phased approach should be used doing one floor at a time, which could last from four to five years.

## **TOBACCO SETTLEMENT COSTS AND FEE RECOVERIES**

The Budget Section received a request from the Attorney General's office which had been approved by the Emergency Commission. The request was to increase the Attorney General's other funds spending authority and the grants line item by \$197,714 for funds available from cost and fee recoveries relating to the tobacco settlement case to be used for additional local gaming enforcement grants. The request was made pursuant to Section 5 of 1999 Senate Bill No. 2015, which allows the Attorney General's office to transfer between line items for the purpose of providing additional local gaming enforcement grants. The requested transfer would have been from tobacco settlement cost and fee recoveries in excess of actual costs incurred by the Attorney General's office. The Budget Section reviewed the following: The legislative intent of Section 5 of 1999 Senate Bill No. 2015. Information presented and committee discussion during the 1999 legislative session relating to the use of tobacco settlement cost and fee recoveries anticipated to be received in excess of costs incurred by the Attorney General's office. Information on amounts anticipated to be received and actually received for cost and fee recoveries relating to the tobacco settlement.

The Budget Section reviewed Legislative Council staff memorandums relating to the issue. The first memorandum on *Tobacco Settlement Costs and Attorney Fees* dealt with the question of whether all moneys received by the state from the tobacco settlement, including cost and fee recovery moneys, were required by 1999 House Bill No. 1475 to be deposited in the tobacco settlement trust fund. The Budget Section learned there were two possible conclusions that could be reached concerning the appropriate handling of cost and fee recoveries under the tobacco settlement. The first conclusion is that cost and fee recoveries are part of all moneys received by the state pursuant to the judgment, and NDCC Section 54-27-25 requires those funds to be deposited in the tobacco settlement trust fund. The second conclusion is the one reached by the Attorney General's office, which is that there is nothing in the legislative history suggesting or implying that cost or fee recoveries were intended to go to the tobacco settlement trust fund. The North Dakota Supreme Court has held that Attorney General's opinions are entitled to respect, and the court will follow them if they are persuasive. The memorandum indicated an argument could be made for either case.

The second memorandum on *Local Gaming Enforcement Grants - 1999-2001* deals with the emergency request presented by the Attorney General to increase the grants line item by \$197,714 of other funds for providing additional local gaming enforcement grants. The report indicated there was no legislative intent that would preclude the use of other funds for gaming enforcement grants if approved by the Emergency Commission and Budget Section.

The Budget Section recommended the chairman of the Legislative Council request the Attorney General's office retain in the Attorney General refund fund the \$197,714 received from excess tobacco settlement legal cost and fee recoveries; that the funds be identified as required for gaming enforcement as provided for in subsection 5 of NDCC Section 54-12-18; and these moneys remain in the Attorney General's refund fund until appropriated by the 57th Legislative Assembly. The Attorney General's office later transferred these funds to the general fund.

## **LEGISLATIVE HEARINGS FOR FEDERAL BLOCK GRANTS**

## Background

The Budget Section was informed of the 13 block grant programs listed in the 1999 catalog of federal domestic assistance, only the community services block grant requires a public hearing held by the Legislative Assembly. The required public hearing will be held as part of the appropriation hearing for the Office of Management and Budget during the 2001 legislative session.

## Recommendation

The Budget Section recommends [Senate Concurrent Resolution No. 4002](#) to authorize the Budget Section to hold public legislative hearings required for the receipt of federal block grant funds during the period from the recess or adjournment of the 57th Legislative Assembly through September 30, 2003.

## FEDERAL FUNDS

The Budget Section reviewed a report on federal funds anticipated to be received by state agencies and institutions for bienniums ending June 30, 2001, and June 30, 2003. The report indicated for the 1999-2001 biennium, state agencies and institutions anticipate receiving \$1.747 billion of federal funds, approximately \$70 million more than the amount appropriated. For the 2001-03 biennium, state agencies and institutions anticipate receiving approximately \$1.779 billion of federal funds. The 2001-03 biennium requests if funded would require \$262,157,269 of general fund matching dollars, \$22,968,751 more than that provided for the 1999-2001 biennium.

## LEGISLATIVE COUNCIL REPORTS

The Budget Section received the following reports prepared by the Legislative Council staff: *An Analysis of 56th Legislative Assembly Changes to Recommended Appropriations in the Executive Budget - 1999-2001 Biennium*. The report provided information on legislative changes to the executive budget, FTE changes, major programs, and related legislation for each state agency. The report also included an analysis of various special funds and statistical information on state appropriations. *Irregular Salary Payments to State Employees - Related Statutes and Budget Section Action*. The memorandum indicated that NDCC Section 54-06-24 establishes a state employee suggestion incentive program that allows one-time bonus payments to state employees for approved cost-saving ideas. Section 54-14-04.3 provides that severance pay or financial incentives to encourage retirement or resignation may be paid to state employees in certain circumstances. Section 54-14-03.1 provides that fiscal irregularities, including the use of state funds to provide bonuses, cash incentive awards, and temporary salary adjustments discovered by the Office of Management and Budget must be reported to the Budget Section. *State Employee Bonus Programs in Selected States. 1999-2001 Biennium Report on Agency Compliance with Legislative Intent*.

## BUDGET TOUR REPORTS

The Budget Section reviewed memorandums summarizing the visitations of the budget committees and the budget tour groups. These memorandums will be compiled for submission to the Appropriations Committees during the 2001 legislative session.

The Budget Committee on Government Services, Senator Aaron Krauter, Chairman, toured the State Penitentiary, Missouri River Correctional Center, Youth Correctional Center, Roughrider Industries, Badlands Human Service Center, Dickinson State University, Dickinson Research Extension Center, Northwest Human Service Center, Williston State College, and Williston Research Extension Center.

The Budget Committee on Institutional Services, Representative Merle Boucher, Chairman, toured the South Central Human Service Center, Northeast Human Service Center, State Hospital, James River Correctional Center, School for the Blind, and the Developmental Center.

The Budget Committee on Human Services, Representative Jeff Delzer, Chairman, toured the West Central Human Service Center.

The Budget Committee on Health Care, Representative Clara Sue Price, Chairman, toured the North Central Human Service Center, Minot State University - Bottineau, Forest Service, Minot State University, State Fair, North Central Research Extension Center, and the International Peace Garden.

The Higher Education Committee, Senator David E. Nething, Chairman, toured the University of North Dakota, Mayville State University, Bismarck State College, North Dakota State University, State College of Science, Valley City State University, Main Research Center, and the Division of Independent Study.

## **AGENCY REQUESTS AUTHORIZED BY THE EMERGENCY COMMISSION**

Pursuant to NDCC Sections 54-16-04, 54-16-04.1, and 54-16-04.2, the Budget Section considered agency requests that had been authorized by the Emergency Commission and forwarded to the Budget Section.

From the June 9, 1999, meeting to the October 4, 2000, meeting, the Budget Section considered 73 requests, all of which were approved except for the Attorney General's request to transfer funds for local gaming enforcement grants.

The attached appendix provides a description of each agency request considered by the Budget Section.

## **OTHER ACTION**

The Budget Section received a report on a performance contracting initiative at the State College of Science. The Budget Section learned performance contracting is a method for a building owner to make capital improvements to a facility, finance all associated costs for the improvements, and receive a guarantee from a third-party contractor that the resulting operational savings will cover the debt service.

The Budget Section received a report on the development of a technology research park at North Dakota State University. The Budget Section learned the mission statement of the proposed North Dakota State University research and technology park is to achieve successful, technology-based economic development through the establishment of a park where partnerships between startup entrepreneurs, high-tech businesses, and the research of North Dakota State University will lead to the creation of new business ventures.

The Budget Section received a report on the construction of a regional technology center by the Valley City-Barnes County Development Corporation on property owned by Valley City State University. The Budget Section learned Valley City State University received permission from the State Board of Higher Education to enter into a lease agreement with the development corporation for the use of Valley City State University land. The lease will be for either 1.5 or 3.5 acres for a term of 75 years at a cost of \$1 per year. The development corporation will build and own the building and will be responsible for all related debt. Valley City State University will be a tenant in the building. The true market value of the Valley City State University's land will be used to calculate a fair price for the land lease, and the lease value of the land will be deducted from Valley City State University's lease cost each year.

The Budget Section received a report from the University of North Dakota on the issuance of revenue bonds to refinance existing lease purchase obligations and to acquire additional aircraft.

The Budget Section received a report from the Information Technology Department on the development of a business plan, pursuant to 1999 Senate Bill No. 2043. The Budget Section learned the business plan was recently completed and includes four major goals for the department:

1. To provide statewide leadership and direction for technology use.
2. To align technology with customers' business needs.
3. To provide value to the department's customers.
4. To address human resource issues, including the retention and recruitment of key technical staff.

The report also indicated that in addition to goals included in the business plan, goals for the department include:

- Maintaining a statewide perspective on information technology use so that individual agency decisions can be evaluated with a broad perspective.
- Promoting partnerships with higher education, the private sector, and state agencies.
- Establishing trust relationships with the Legislative Assembly and the department's customers.

The Budget Section received a report from the Department of Public Instruction on the new business communication specialist position hired. The Budget Section learned the business communication specialist position replaces a federally funded director's position that was eliminated. A major element of the new position is to establish and implement guidelines and standards for the format and design of the agency's educational and informational resources. The position is also responsible for the setup and delivery of an electronic newsletter notifying schools and the public about items of educational improvement.

This report presents Budget Section activities through October 2000. Because one of the major responsibilities of the Budget Section is to review the executive budget, which by law is not presented to the Legislative Assembly until after December 1, a supplement to this report will be submitted for distribution at a later date.

## APPENDIX

Pursuant to NDCC Sections 54-16-04, 54-16-04.1, and 54-16-04.2, the Budget Section considered 73 agency requests that were authorized by the Emergency Commission. All requests were approved by the Budget Section, with the exception of the request from the Attorney General as noted. The following is a list of agency requests approved through October 2000:

1. Adjutant General

- March 9, 2000 - To increase federal funds spending authority and the capital improvements line item by \$500,000 for a grant from the Federal Emergency Management Agency to expand the Fraine Barracks Emergency Operations Center addition which was authorized by the 1999 Legislative Assembly.

2. Department of Agriculture

- March 9, 2000 - To increase federal funds spending authority and the waterbank program line item by \$440,303 for a grant from the Environmental Protection Agency for waterbank program costs in the Devils Lake Basin and priority watersheds.
- June 21, 2000 - To increase federal funds spending authority by \$289,583 (\$220,833 for operating expenses and \$68,750 for salaries and wages) from the Environmental Protection Agency for the dairy pollution prevention program.

3. Attorney General

- March 9, 2000 - To increase other funds spending authority and the grants line item by \$197,714 for funds available from cost and fee recoveries relating to the tobacco settlement case to be used for additional local gaming enforcement grants. The Budget Section asked that the chairman of the Legislative Council request the Attorney General's office retain in the Attorney General refund fund the \$197,714 received from excess tobacco settlement legal cost and fee recoveries; that the funds be identified as required for gaming enforcement as provided for in subsection 5 of NDCC Section 54-12-18; and that these moneys remain in the Attorney General refund fund until appropriated by the 57th Legislative Assembly.

4. Bismarck State College

- June 9, 1999 - To increase other funds spending authority by \$60,000 of excess tuition income for salaries and wages (\$40,000) and operating expenses (\$20,000). (Request was approved by the Emergency Commission subject to approval by the State Board of Higher Education.)

5. Children's Services Coordinating Committee

- October 27, 1999 - To increase other funds spending authority by \$448,889 to reflect a Robert Wood Johnson Foundation grant to be used for administration (\$25,000) and grants (\$423,889).
- October 27, 1999 - To increase other funds spending authority and the grants line item by \$442,851 to reflect unspent funds from the 1997-99 biennium generated through "refinancing."

6. Department of Corrections and Rehabilitation

- October 4, 2000 - To increase federal funds spending authority and the Adult Services Division victim services line item by \$525,000 to accept a grant from the Office of Victims of Crime to provide grants to victim services agencies and crime victims.
- October 4, 2000 - To increase federal funds spending authority and the Juvenile Services Division grants line item by \$1,713,400 to accept a grant from the United States Department of Justice, Office of Justice Programs, for community sanctions and other programs for juvenile offenders.
- October 4, 2000 - To increase federal funds spending authority by \$252,238 for a grant from the Department of Justice, Bureau of Justice Assistance, for costs incurred for the imprisonment of undocumented criminal aliens who are convicted of felony offenses or two or more misdemeanors.
- October 4, 2000 - To transfer \$283,032 of spending authority from the program services line item to the support services line item to reflect the department's decision to account for psychiatric evaluations and related costs at the James River Correctional Center under the support services line item rather than under the program services line item.
- October 4, 2000 - To increase other funds spending authority and the operating expenses line item by \$64,920 for the Youth Correctional Center to accept passthrough funds from the Children's Services Coordinating Committee to contract for the services of a chaplain and to provide a work program for juveniles.

7. Council on the Arts

- October 4, 2000 - To increase federal funds spending authority and the grants line item by \$101,124.75 to accept additional federal funds and carryover funds from the 1997-99 biennium for various art education programs.
8. School for the Deaf
- June 21, 2000 - To increase federal funds spending authority by \$125,006 (\$49,000 for salaries and wages, \$71,426 for operating expenses, and \$4,580 for equipment) for the North Dakota deaf/blind services project.
9. Dickinson Research Center
- June 21, 2000 - To increase other funds spending authority by \$419,000 (\$239,000 to repair storm damage to buildings and equipment; and \$180,000 to make capital improvements to the Out Wintering Research Facilities).
10. Department of Economic Development and Finance
- October 27, 1999 - To increase other funds spending authority and the operating expenses line item by \$820,575 for \$452,499 of federal funds and \$368,076 of special funds to be used for the manufacturing extension partnership program.
11. Division of Emergency Management
- March 9, 2000 - To increase federal funds spending authority by \$410,000 (\$50,000 for salaries and wages, \$35,000 for operating expenses, \$325,000 for grants) for a grant from the United States Department of Justice to enhance state and local capabilities to respond to domestic terrorism.
  - October 4, 2000 - To increase federal funds spending authority by \$40,068,995 (\$39,500,000 for grants, \$375,300 for salaries and wages, \$156,540 for operating expenses, and \$37,155 for equipment) to accept funds from the Federal Emergency Management Agency (FEMA) for the expenses associated with flood disasters in 1996, 1997, 1998, and 1999.
  - October 4, 2000 - To increase federal and state loan funds spending authority by \$49,727,698 (\$49,486,310 for grants, \$206,238 for salaries and wages, \$30,150 for operating expenses, and \$5,000 for equipment) to accept funds from FEMA (\$43,460,475) and a Bank of North Dakota loan (\$6,267,223) for expenses associated with flooding during the spring and summer of 2000.
12. Game and Fish Department
- June 9, 2000 - To increase federal funds spending authority and the Lonetree Reservoir line item by \$65,000 for the operation and management of the Lonetree area.
13. State Department of Health
- October 27, 1999 - To increase federal funds spending authority by \$733,000 for salaries and wages (\$66,700), operating expenses (\$151,000), equipment (\$180,300), and grants (\$335,000) for the following programs--public health preparedness and response for bioterrorism, to reduce the burden of arthritis and other rheumatic conditions, and to increase booster seatbelt use among children.
  - June 21, 2000 - To increase federal funds spending authority by \$725,100 (\$85,800 for salaries and wages - FTE positions authorized by the Emergency Commission for duration of federal funding, \$12,500 for operating expenses, \$16,800 for equipment, and \$610,000 for grants for tobacco use prevention and bioterrorism programs).
14. Highway Patrol
- June 21, 2000 - To increase federal funds spending authority by \$720,000 for field operations to accept federal passthrough funds from the Department of Human Services to be used for programs related to the enforcement of underage drinking.
  - June 21, 2000 - To increase federal funds spending authority by \$630,000 for field operations to accept federal funds for the Upper Great Plains Transportation Institute at North Dakota State University (\$500,000 for the development of a system related to border checks on drivers and vehicles, \$90,000 for the development of a business plan and study the feasibility of new technology relating to the motor carrier industry, and \$40,000 for a study of commercial vehicle accidents in North Dakota).
  - June 21, 2000 - To increase federal funds spending authority by \$754,000 for field operations to accept federal funds for the Upper Great Plains Transportation Institute at North Dakota State University to develop Aspen, a computer software package, that will assist state and federal law enforcement agencies in the safety inspection of commercial vehicles.
  - October 4, 2000 - To increase federal funds spending authority and the field operations line item by \$100,000 to accept passthrough funds from the Department of Transportation to purchase digital cameras for Highway Patrol officers.

15. State Historical Society

- October 27, 1999 - To increase federal funds spending authority by \$89,391 for salaries and wages (\$21,679), operating expenses (\$67,597), and equipment (\$115) for preliminary planning and design of an interpretive center at Fort Buford, a Historical Records Advisory Board's development plan, and a shelving project.
- March 9, 2000 - To increase federal funds spending authority and the operating expenses line item by \$250,000 for a grant from the National Historical Publications and Records Commission for research and the cataloging of records relating to the Fort Buford state historic site.
- October 4, 2000 - To increase federal funds spending authority and the capital improvements line item by \$480,000 to accept passthrough funds from the Department of Transportation to be used for improvements at Fort Abercrombie.

16. Department of Human Services

- October 27, 1999 - To transfer general fund spending authority of \$5.5 million from program and policy (Subdivision 3) to economic assistance (Subdivision 2) and to transfer federal funds spending authority of \$5.5 million from economic assistance (Subdivision 2) to program and policy (Subdivision 3) to meet federal maintenance of effort requirements for the temporary assistance for needy families (TANF) grant.
- October 27, 1999 - To increase federal funds spending authority for the Northeast Human Service Center by \$85,100 for a retired and senior volunteer program.
- March 9, 2000 - To increase federal and other funds spending authority and the salaries and wages line item of the economic assistance subdivision by \$219,160 for funds available from federal child support enforcement funding (\$144,645) and the department operating fund (\$74,515) to correct a shortage in salaries and wages funding and to provide funding for additional costs relating to the completion of the computerized fully automated child support enforcement system.
- March 9, 2000 - To transfer \$2 million from the operating expenses line item of the program and policy subdivision to the Northwest Human Service Center (\$400,000), the Lake Region Human Service Center (\$400,000), the Northeast Human Service Center (\$400,000), the South Central Human Service Center (\$400,000), and the Badlands Human Service Center (\$400,000) to provide services to severely emotionally disturbed children in each region.
- March 9, 2000 - To transfer within the management and councils subdivision \$221,131 from operating expenses to salaries and wages (\$53,914) and grants (\$167,217) and to transfer within the economic assistance subdivision \$34,729 from operating expenses to salaries and wages to provide additional funding for temporary salaries for the Medicaid/TANF computer project and to allow certain counties to acquire new computers with the speed and capacity necessary to operate the system being developed.
- March 9, 2000 - To increase federal funds spending authority by \$426,000 (\$317,000 for operating expenses within the management and councils subdivision and \$109,000 for operating expenses within the program and policy subdivision) for a grant from the Social Security Administration for a computerized system to process disability claims.
- March 9, 2000 - To increase federal funds spending authority by \$1.2 million (\$151,000 for salaries and wages, \$43,000 for operating expenses, and \$1,006,000 for grants) for a grant from FEMA to provide counseling and assistance to persons living in areas included in the June 1999 presidential disaster declaration.
- March 9, 2000 - To increase federal and other funds spending authority and the grants - medical assistance line item of the economic assistance subdivision by \$24,628,405 for funds available from Medicaid funding (\$17,357,920) and a loan from the Bank of North Dakota (\$7,270,485) for making government nursing facility funding pool payments, pursuant to Section 4 of 1999 Senate Bill No. 2168.
- June 21, 2000 - To increase federal funds spending authority for grants by \$552,000 to use carryover funds from year five of the partnership program and to allow expenditure of those funds during the 1999-2001 biennium.
- June 21, 2000 - To increase federal funds spending authority by \$417,135 to accept a grant (\$360,000) and to utilize unspent funds carried over from the 1997-99 biennium (\$57,135) for operating expenses associated with programs to combat underage drinking.
- June 21, 2000 - To increase federal and other funds spending authority by \$2,193,860 (\$439,632 for operating expenses and \$1,754,228 for grants); to accept federal funds (\$439,632) for substance abuse and treatment, \$907,717 for expansion of services to the refugee population, and \$307,353 from the federal independent living program; and to accept other funds (\$539,158) from the Bush Foundation for training of infant and toddler caregivers.
- June 21, 2000 - To increase other funds spending authority by \$2,218,429 from the health care trust fund to support the development of basic care facilities, assisted living facilities, and other alternatives to nursing facility care.
- August 18, 2000 - To increase federal and other funds spending authority and the grants - medical assistance line item of the economic assistance subdivision by \$24,653,060 of federal Medicaid funding (\$17,360,685) and a loan from the Bank of North Dakota (\$7,292,375) for making government nursing facility funding pool payments, pursuant to Section 4 of 1999 Senate Bill No. 2168.
- October 4, 2000 - To increase federal funds spending authority by \$205,100 (\$160,000 for salaries and wages and \$45,100 for operating expenses) to accept funds from FEMA to provide crisis counseling for Devils Lake area residents recovering from a severe windstorm and for residents in the Grand Forks and Fargo areas recovering from heavy rainfall and subsequent flooding.
- October 4, 2000 - To increase federal funds spending authority and the grants line item by \$288,925 to accept funds from

the Social Security Administration to process an increased number of disability determinations being requested by claimants.

- October 4, 2000 - To increase federal funds spending authority and the grants line item by \$1.3 million to expend a larger portion of the federal fiscal year 2001 grant award during the current biennium to serve an increased number of vocational rehabilitation clients.
- October 4, 2000 - To increase the federal funds spending authority by \$260,000 (\$35,000 for operating expenses, \$30,340 for equipment, and \$194,660 for grants) to accept funds from the Department of Education for Vocational Rehabilitation - Older Blind Services.
- October 4, 2000 - To transfer \$249,780 from the Northwest Human Service Center to the operating expenses line item of the information management program of the management and councils subdivision for increased costs relating to the statewide area network upgrade.

#### 17. Information and Technology Department

- October 4, 2000 - To increase other funds spending authority by \$1.5 million (\$1.1 million for operating expenses and \$400,000 for equipment) to accept passthrough funds from Job Service North Dakota to provide computer application services to Job Service, which will allow services to be provided to citizens via the Internet.
- October 4, 2000 - To increase other funds spending authority by \$4,062,800 (\$1,642,400 for operating expenses and \$2,420,400 for equipment) to accept funds from agencies to implement a statewide area network for voice, video, and data as mandated by 1999 Senate Bill No. 2043.
- October 4, 2000 - To increase other funds spending authority and the operating expenses line item by \$1 million to accept funds from agencies to provide outside vendor contractual services on behalf of state agencies.

#### 18. Office of Intergovernmental Assistance

- June 9, 2000 - To increase federal funds spending authority and the grants line item by \$2 million for the low-income home energy assistance program (\$1 million) and the weatherization assistance program (\$1 million).

#### 19. Job Service North Dakota

- June 9, 1999 - To increase other funds spending authority and the new jobs program line item by \$12,900 of additional administrative revenue relating to the new jobs program.
- June 9, 1999 - To increase federal funds spending authority and the grants line item by \$404,000 for providing classroom training, relocation, and job search assistance for trade-affected North Dakota workers.
- March 9, 2000 - To increase other funds spending authority by \$80,000 (\$10,000 for salaries and wages, \$70,000 for grants) for a grant from the Grand Forks Office of Urban Development for youth employment and education activities.
- March 9, 2000 - To increase other funds spending authority by \$63,028 (\$7,958 for salaries and wages, \$2,663 for operating expenses, \$52,407 for grants) for a grant from the veterans' postwar trust fund to assist eligible veterans in obtaining employment.

#### 20. Parks and Recreation Department

- June 9, 1999 - To increase federal funds spending authority and the natural resources line item by \$250,000 for improvements of the On-A-Slant Mandan Indian Village at Fort Lincoln State Park.
- March 9, 1999 - To increase federal funds spending authority by \$1 million (\$500,000 for the natural resources program line item, \$500,000 for the recreation program line item) for grants from:

The National Park Service (\$400,000) for Phase II of the On-A-Slant Mandan Indian Village project.

The Federal Emergency Management Agency (\$100,000) for campground development costs relating to Devils Lake.

The national recreation trails program (\$300,000) for increased funding available for the recreation program.

The land and water conservation fund (\$200,000) for additional funding available for the recreation program.

- October 4, 2000 - To increase federal funds spending authority and the natural resource line item by \$1.4 million for a grant from FEMA for flood damage at the Turtle River State Park and for authority to obtain an emergency disaster loan of up to \$1.4 million from the Bank of North Dakota pursuant to NDCC Section 54-16-13.
- October 4, 2000 - To increase other funds spending authority by \$185,000 (\$60,000 for a Fort Lincoln interpretive program, \$35,000 for equipment, \$32,000 for seasonal salaries, \$33,000 for park operating expenses, and \$25,000 for additional ATV safety and educational programs).

21. Department of Public Instruction

- March 9, 2000 - To increase federal funds spending authority and the operating expenses line item by \$80,000 for a grant from the National Center for Education Statistics to contract for the development of an on-line reporting system to be used by schools to report data to the department.
- March 9, 2000 - To increase federal funds spending authority by \$116,469 (\$14,550 for salaries and wages, \$96,919 for operating expenses, \$5,000 for equipment) for a grant from the United States Department of Agriculture to assist certain school districts in transitioning to a new reporting system for free and reduced price meals.
- March 9, 2000 - To increase federal funds spending authority and the grants line item by \$340,000 for a grant from the United States Department of Health and Human Services to provide tutoring and extracurricular activities for refugee students, to provide training to educational personnel dealing with refugee students, and to establish a state advisory committee.
- March 9, 2000 - To increase other funds spending authority and the operating expenses line item by \$600,000 for payments from local school districts for processed food costs billed to the department rather than individual districts in order to achieve cost-savings.
- March 9, 2000 - To increase federal funds spending authority by \$600,000 (\$116,388 for salaries and wages, \$63,612 for operating expenses, \$420,000 for grants) for a grant from the United States Department of Education to establish character education programs in schools.
- October 4, 2000 - To increase federal funds spending authority and the operating expenses line item by \$420,000 for funds available from the United States Department of Agriculture to develop a web-enabled computer system for the management and administration of federal nutrition programs.

22. Public Service Commission

- June 9, 1999 - To increase federal funds spending authority and the operating expenses line item by \$35,000 for contracted services to eliminate safety hazards at an abandoned underground mine.

23. State Radio Communications

- June 9, 1999 - To transfer \$204,891 to the operating expenses line item from equipment (\$158,891) and salaries and wages (\$46,000) for expenses relating to the mobile data terminal project.
- October 27, 1999 - To increase other funds spending authority by \$84,855 for operating expenses (\$44,855) and equipment (\$40,000) for a computerized identification system to be integrated with the Federal Bureau of Investigation's data base.
- December 9, 1999 - To increase other funds spending authority by \$54,385 of federal funds from the Attorney General's office for operating expenses (\$17,885) and equipment (\$36,500) for a computerized identification system that will be integrated with the Federal Bureau of Investigation's national data base.

24. Secretary of State

- To increase other funds spending authority by \$120,000 (\$56,300 for salaries and wages, \$39,700 for operating expenses, and \$24,000 for equipment) from the general services operating fund to provide better and faster services for the public.

25. Tax Department

- March 9, 2000 - To increase other funds spending authority and the motor fuels federal grant line item by \$100,000 for a grant from the Department of Transportation for fuel tax compliance programs and a dyed fuel enforcement program in cooperation with the Department of Transportation and the Highway Patrol.

26. Department of Transportation

- October 4, 2000 - To increase federal funds and other funds spending authority by \$32,917,495 for funds available from the Federal Highway Administration and FEMA (\$7,023,400), the Federal Highway Administration (\$994,095), and cities and counties (\$24,900,000) for flood-related work performed in the Devils Lake Basin and other areas of the state.

27. State Water Commission

- June 21, 2000 - To increase federal and other funds spending authority by \$395,000 (\$325,000 of federal funds from the Division of Emergency Management; \$60,000 of other funds from Devils Lake area entities for the Devils Lake outlet awareness manager; and \$10,000 of federal funds from FEMA for equipment related to dam safety).