

## BUDGET COMMITTEE ON GOVERNMENT SERVICES

The Budget Committee on Government Services was assigned responsibilities in eight areas. Section 8 of House Bill No. 1004 provided that the Legislative Council study the State Department of Health master plan for its facilities. Senate Concurrent Resolution No. 4006 directed the Legislative Council to study state agency office space needs to determine the feasibility and desirability of transferring state agencies or state employees to rural areas. Section 2 of Senate Bill No. 2411 directed the Legislative Council to study privatizing and contracting for services provided by state agencies. Senate Concurrent Resolution No. 4030 directed the Legislative Council to study the management responsibilities of the Industrial Commission, the mission and location of each entity within and under the direction of the Industrial Commission, and the membership and voting structure of the Industrial Commission. Based on a Legislative Council directive, the committee was assigned the responsibility of monitoring the status of state agency appropriations.

Section 6 of Senate Bill No. 2012 provided that the Legislative Council receive reports from the Department of Human Services on any hiring of full-time equivalent (FTE) positions at the human service centers, State Hospital, and Developmental Center in addition to those authorized by the Legislative Assembly for the 1999-2001 biennium. North Dakota Century Code Section 54-40-01 provides that between legislative sessions a committee of the Legislative Council may approve any agreement entered into by a state agency with the state of South Dakota to form a bistate authority to jointly exercise any function the agency is authorized to perform by law. Section 5 of House Bill No. 1383 provided that the Legislative Council receive financial statements and a report from the governing board overseeing any housing development fund established in the state. These responsibilities were assigned to the committee.

Committee members were Senators Aaron Krauter (Chairman), John Andrist, Bill L. Bowman, Ed Kringstad, Kenneth Kroepflin, Elroy N. Lindaas, and John T. Traynor and Representatives April Fairfield, Pat Galvin, Bette Grande, Robert Huether, Roxanne Jensen, James Kerzman, Matthew M. Klein, Myron Koppang, Chet Pollert, Wanda Rose, Ben Tollefson, Janet Wentz, and Lonny B. Winrich.

The committee 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.

## STATE DEPARTMENT OF HEALTH FACILITIES PLAN

Section 8 of House Bill No. 1004 required the State Department of Health to develop a master plan for its facilities; to develop a definitive plan and firm cost estimates for upgrading the department's laboratory facilities, for providing a state morgue for the State Medical Examiner, and for bringing the department's facilities into compliance with applicable building code requirements; and to submit the plans to the Legislative Council for it to study.

### 1999 Legislative Action

The 1999-2001 executive budget recommended \$3 million of bonding authority for the State Department of Health for constructing a facility for the State Medical Examiner and state laboratories. The Legislative Assembly did not approve the request for a \$3 million bonding authority and instead appropriated \$45,000 from the general fund for the department to develop a master plan for its facilities and report to the Legislative Council during the 1999-2000 interim.

### Current State Department of Health Facilities

The committee conducted a tour of each of the State Department of Health facilities. The following schedule presents information on each of the State Department of Health facilities:

	Owned/Leased	Total Square Feet in Building	Number of Employees in Building	Primary Department Program or Section	Annual Rent	Rental Cost Per Square Foot
State Capitol - Judicial Wing 600 East Boulevard Avenue Bismarck	State-owned	33,658	119	State Health Officer Administrative Services Health Resources Preventive Health	\$99,168	\$2.95
Storage	State-owned	1,164	0			

Missouri Office Building 1200 Missouri Avenue Bismarck	Leased	22,508	104	Environmental Health Section	213,276	9.48
Microbiology Laboratory 1205 Avenue A West Bismarck	Leased	6,720	17	Microbiology	88,151	12.38
Garage - Storage	Leased	400	0			
White House 1220 Missouri Avenue Bismarck	Leased	2,122	8	Municipal facilities	14,808	6.98
East Laboratory 2635 East Main Bismarck	State-owned	20,851	35	Forensic Examiner Toxicologist Crime Laboratory Chemistry	0	
Environmental Training Center 2639 East Main Bismarck	State-owned	5,944	7	Training facility	0	
	State-owned	61,617	161		\$99,168	N/A
	Leased	31,750	129		316,235	\$9.96
<b>Total</b>		<b>93,367</b>	<b>290</b>		<b>\$415,403</b>	<b>N/A</b>

The committee received information on the results of assessments conducted by the State Department of Health of its current facilities. The committee learned a number of deficiencies were found in the various facilities including:

1. Judicial Wing offices - Minor additional space is required for services housed offsite and for additional storage and file space.
2. Missouri Office Building and White House - A number of significant deficiencies relating to code compliance and physical space needs were identified including:
  - a. Lack of handicapped accessibility compliance.
  - b. Lack of proper fire rating of corridors and doorways.
  - c. Inadequate condition and capacity of heating and ventilation systems.
  - d. Inappropriate use of corridors and exit ways as office workspace.
  - e. Inadequate workspace for staff work areas.
  - f. Inefficiencies caused by municipal facilities division staff located at noncollocated facilities.
3. Environmental Training Center
  - a. Lack of adequate support and resource areas for the staff occupying the building.
  - b. Inefficiencies caused by the staff located at noncollocated facilities.
4. Microbiology Laboratory building
  - a. Inadequate ventilation system.
  - b. Lack of adequate workspace.
  - c. Noncompliance with building code.
  - d. Lack of handicapped accessibility compliance.
5. East Laboratory building
  - a. Inadequate ventilation system.
  - b. Lack of adequate workspace.
  - c. Noncompliance with building code.
  - d. Lack of handicapped accessibility compliance.

#### **State Morgue and Medical Examiner**

As authorized by the 1995 Legislative Assembly, the State Department of Health hired the State Medical Examiner in August 1996. The State Medical Examiner was housed in the East Laboratory facility and utilized the morgues of St. Alexius Medical Center and Medcenter One on a six-month rotating basis. Initially, these hospitals offered the use of their morgues until the State Department of Health could provide a permanent facility for the State Medical Examiner and staff. In November 1998, St. Alexius Medical Center discontinued providing the state use of its morgue facilities. During the 1999-2000 interim, the State Department of Health constructed a temporary morgue in the department's Environmental Training Center facility.

The committee considered the following options for housing the State Medical Examiner:

1. Renting or purchasing and converting an existing building.
2. Constructing a new facility.
3. Collocating the office with the University of North Dakota School of Medicine and Health Sciences in Bismarck or Grand Forks.

The committee heard testimony from representatives of the State Department of Health, the University of North Dakota School of Medicine and Health Sciences, the Office of Management and Budget, the judicial branch, the Bureau of Criminal Investigation, the North Dakota Sheriffs and Deputies Association, the North Dakota Chiefs of Police Association, the North Dakota Medical Association, and the North Dakota State's Attorneys Association. Based on the testimony received, the following options with corresponding advantages and disadvantages were identified for:

1. Locating the state morgue and State Medical Examiner under the State Department of Health in Bismarck:
  - a. Advantages:
    1. A central location is important to meet the needs of the entire state.
    2. The State Medical Examiner's office works closely with the crime laboratory and toxicology laboratory, which are located in Bismarck.
    3. The State Medical Examiner's office frequently uses other State Department of Health laboratories and works with other state agencies located in Bismarck, including the Bureau of Criminal Investigation.
    4. Law enforcement has developed a partnership with the State Department of Health.
  - b. Disadvantages:
    1. None were identified.
2. Locating the state morgue and State Medical Examiner at the University of North Dakota School of Medicine and Health Sciences in Grand Forks:
  - a. Advantages:
    1. Space is available in the current facility that could be remodeled at an estimated cost of \$750,000.
    2. Additional support services such as slide processing, photography, and library facilities would be accessible to the State Medical Examiner.
    3. First- and second-year medical students and allied health students and faculty could observe autopsies.
    4. Heating, cooling, and utility costs would be provided to the state morgue at no cost since it would be located in the medical school.
    5. It may be easier to recruit specialized physicians to North Dakota to serve in the State Medical Examiner's office if it is located at the state's medical school.
    6. Access to human tissues for researchers may be possible.
  - b. Disadvantages:
    1. The State Medical Examiner and other personnel would need to relocate to Grand Forks.
    2. Toxicology specimens would need to be sent by Federal Express to Bismarck, at an additional cost.
    3. The State Medical Examiner and morgue would not be centrally located.
    4. Access by the State Medical Examiner to the crime and toxicology laboratory and other state agencies located in Bismarck would be more difficult.
    5. Autopsies may be delayed if the State Medical Examiner also has teaching responsibilities.

6. Families of the deceased are sometimes unhappy with the fact that an autopsy must be performed. These families may be more upset if they feel their loved ones are being used for training purposes.

The committee reviewed the number of autopsies conducted by the State Medical Examiner:

Fiscal Year	Number of Autopsies
1998	167
1999	202
2000	185

The committee reviewed the number of autopsy requests received by county for the period August 1996 through December 10, 1999, and learned the following counties had the most referrals to the State Medical Examiner:

County	Number of Autopsy Referrals
Burleigh	135
Cass	101
Stutsman	31
Grand Forks	30
Rolette	28
Barnes	24
Morton	20

#### **State Department of Health Facilities Plan Options Master Plan Option**

The State Department of Health contracted with the architectural firm of Triebwasser, Helenske, and Associates of Fargo for the development of the department's facility master plan. The Fargo firm also utilized the services of Earl Walls Associates from San Diego, California, a firm specializing in laboratory planning and design. The department received a \$35,000 grant from the federal Environmental Protection Agency to supplement the \$45,000 of general fund moneys appropriated to the department for developing its master plan. The committee learned a number of options were considered involving the renovation of selected facilities and for construction of replacement facilities.

The department is currently housed in six facilities located on separate sites in the city of Bismarck. The facilities consist of approximately 92,000 square feet of building area excluding storage space. The master plan option provides for a total of approximately 141,000 square feet, 49,000 square feet more than the department's current square footage. Functions relating to the laboratory and state morgue represent approximately 46 percent of the total space needs, and 54 percent relates to the department's administrative and support functions. The master plan option utilizes department-owned facilities by constructing a series of additions to the existing facilities. All department programs, except for the Division of Vital Records, would be collocated at the East Laboratory facility site in Bismarck. The microbiology and chemistry laboratories would be housed in a new addition linking the current East Laboratory building and the training center. The East Laboratory building would be renovated to house the crime and toxicology division. State morgue facilities would be accommodated by constructing an addition to the East Laboratory facility. The Environmental Health and Judicial Wing offices would be located in an expansion of the new laboratory addition at the East Laboratory site. The Division of Vital Records would remain in the State Capitol complex.

The master plan option assumes that:

1. The State Medical Examiner and morgue will remain in Bismarck and be affiliated with the State Department of Health.
2. The crime and toxicology laboratory will remain affiliated with the department.
3. Department staff will not increase by more than 11 FTEs over the next 10 years.
4. Land located east of the East Laboratory building currently owned by the State Penitentiary will be transferred to the department without cost.

The master plan option achieves the following goals and objectives:

1. Resolves life safety needs of the current laboratory work environment.
2. Makes use of current facilities and property.
3. Achieves collocation of the department's divisions.

The following schedule presents the total space included in the master plan option:

<b>Department Function</b>	<b>Square Feet</b>
Administrative, excluding Division of Vital Records	75,403
Microbiology Laboratory	12,710
Chemistry Laboratory	20,750
Occupational Safety and Health Administration air and water laboratories	3,081
Crime and toxicology laboratory	20,851
State morgue	5,019
Shared department storage	3,000
<b>Total</b>	<b>140,814</b>

The estimated cost of the master plan option totals \$29.9 million, to be spent over three bienniums. The committee reviewed implementation of the master plan option:

<b>2001-03 Biennium - Phase 1</b>	
July 2001	Authorize design and engineering
June 2002	Construction contract bidding of Phase 1
July 2002	Issue construction contracts on Phase 1
June 2003	Complete 75 percent of Phase 1 construction
Total biennium funding - \$9,450,000	
<b>2003-05 Biennium - Phase 2</b>	
July 2003	Carry over 25 percent of Phase 1 construction contract and begin Phase 2
August 2003	Construction contract bidding of Phase 2
September 2003	Issue construction contracts on Phase 2
December 2003	Complete construction on Phase 1
December 2004	Complete construction on Phase 2
January 2004	Occupy Phases 1 and 2
Total biennium funding - \$9,450,000	
<b>2005-07 Biennium - Phase 3</b>	
July 2005	Authorize Phase 3
August 2005	Construction contract bidding of Phase 3
September 2005	Issue construction contracts on Phase 3
December 2006	Complete construction on Phase 3
January 2007	Occupy Phase 3
Total biennium funding - \$11,000,000	

The committee reviewed the cost estimates and the biennial payment schedules associated with the plan. The committee learned the department's proposed 2001-03 budget includes \$965,000 of costs associated with facility leases. Of this amount, \$318,500 is to be provided from the general fund and \$646,500 from federal funds. The committee learned the annual debt service cost on bonds issued for the proposed project begin at approximately \$1.8 million per year, and increase to \$2.9 million per year at the conclusion of Phase 3. Over the 20-year life of the bonds, the committee learned the state would pay a total of \$54.8 million for the new State Department of Health facilities.

### **Alternative Facilities Plan**

The committee learned at its final meeting of an alternative to the master plan option of the State Department of Health that involves the department purchasing the former Heartview Foundation facility in west Mandan from Southwest Key, Inc. The facility consists of a main building and two adjoining wings, a guest house, and a maintenance building. The main building was constructed in 1978, the southwest wing in 1984, and the southeast wing in 1989. The main building and wings contain approximately 81,000 gross square feet of space.

The committee learned the listed price for the facility is \$1,750,000. The department estimates it could purchase the facility and convert the space to office space and a training facility for \$3 million, build a microbiology and chemistry laboratory facility at the Heartview Foundation location for \$10 million, convert the department's existing training facility for use as the state morgue (estimated cost not available), and remodel the East Laboratory facility to house the crime laboratory, including forensics and toxicology (estimated cost not available). Under this option, the department would vacate its space in the Judicial Wing of the State Capitol except for the Vital Records Division. A total cost estimate for this alternative plan was not available when the committee concluded its study. The department plans to continue to review the related costs and other issues associated with this alternative and have the information available during the 2001 Legislative Assembly.

### **Privatizing or Sharing Laboratory Services**

The committee received information from the State Department of Health on the possibilities for privatizing laboratory services, sharing laboratory services with South Dakota, and possibilities for telecommuting by employees of the department. Regarding privatizing laboratory services, the committee learned it may not be appropriate to privatize laboratory services of the department because:

1. North Dakota has no private sector crime laboratory performing forensic or toxicological evidence analysis.
2. It is not appropriate to privatize the crime laboratory due to custody of evidence requirements.
3. None of the six privately operated chemistry laboratories in the state can provide all the analytical services for the variety of samples obtained by the department.
4. It is important for staff members who gather samples for analysis to interact with laboratory staff.
5. It is important for the department to have the flexibility to react quickly to nonroutine critical health and environmental problems.

The committee reviewed the possibilities of contracting or sharing laboratory services with South Dakota. The committee learned South Dakota did not indicate an interest in sharing services or conducting laboratory tests on a contractual basis with the state of North Dakota because:

1. The primary role of a state laboratory is to provide service to the public that is accessible, independent, and trustworthy.
2. The cost to ship samples from one state to the other would increase the cost of laboratory services.

### **Conclusion**

The committee did not make a specific recommendation regarding the master plan option of the department or the alternative plan to purchase the former Heartview Foundation facility in Mandan but requested the Legislative Council chairman to ask the State Department of Health to further explore the possibility of purchasing the former Heartview Foundation facility in Mandan from Southwest Key, Inc., and to identify other possible uses for any excess space within the facility and that the department's findings and recommendations be presented to the 57th Legislative Assembly. The Legislative Council chairman sent the State Department of Health a letter on October 17, 2000, reporting the committee's request.

## **STATE AGENCY OFFICE SPACE STUDY**

Senate Concurrent Resolution No. 4006 directed the Legislative Council to study state agency office space needs to determine the feasibility and desirability of transferring state agencies or state employees to rural areas.

### **State Agency Space Utilization**

The committee reviewed each state agency's office locations, number of FTE positions at each location, types of jobs performed at each location, and the agency's dependence on technology. The committee learned most state agency FTE positions are located in the following counties:

County	Number of Agencies	Number of FTE Positions
Burleigh	57	4,135
Grand Forks	17	2,573
Cass	28	1,943
Stutsman	13	823
Ward	21	737
Walsh	8	518
Stark	18	430
Richland	10	385
Ramsey	15	370
Williams	16	245
Barnes	9	230
Traill	3	133
Morton	7	111

The attached appendix contains a map showing the number of agencies and FTEs located in each county of North Dakota.

The committee reviewed state agency leases by county. The committee learned during the 1999-2001 biennium, state agencies were leasing 552,446 square feet of space at an annual cost of \$4,843,653. The statewide average annual cost per square foot of state agency leases was \$8.77.

### Vacant Buildings Available for Use

The committee heard testimony from representatives of the Department of Economic Development and Finance and the Department of Public Instruction regarding the availability of vacant buildings in rural areas of the state. The Department of Economic Development and Finance has a data base of buildings across the state available for potential business space. The information is provided to the department by local development corporations and is available for both in-state and out-of-state companies and organizations to use when seeking additional space.

The committee learned, based on a survey of all school districts by the Department of Public Instruction, the following communities indicated a vacant school building is available for other use--Tolley, Tioga, Jamestown, Grafton, Galesburg, Portland, Rutland, Overly, New Rockford, Leonard, Strasburg, Park River, Karlsruhe, Jud, Napoleon, Keene, and Carpio.

### Job Location Cost Comparison

The committee reviewed the estimated costs of locating an employee in an urban part of North Dakota compared to a rural part of the state. The committee learned North Dakota State University conducted a study comparing costs of a five-employee office and a 10-employee office at various locations in North Dakota. The cost comparison includes the Bismarck metropolitan service area (MSA), which includes Burleigh and Morton Counties, and locations in the far west, west central, east central, and far east sections of North Dakota. The far east section excludes Cass and Grand Forks Counties. The schedule below presents the projected total annual expenses and annual savings relative to the Bismarck MSA for a five-employee office.

Location	Total Expenses	Savings Relative to Bismarck MSA
Bismarck MSA	\$140,658	\$0
Far west	\$134,454	\$6,204

West central	\$115,788	\$24,870
East central	\$114,696	\$25,962
Far east	\$117,407	\$23,251

The schedule below presents the projected total annual expenses and annual savings relative to the Bismarck MSA for a 10-employee office.

Location	Total Expenses	Savings Relative to Bismarck MSA
Bismarck MSA	\$266,191	\$0
Far west	\$259,163	\$7,028
West central	\$220,733	\$45,458
East central	\$217,080	\$49,111
Far east	\$220,958	\$45,233

### Information Technology Considerations

The committee reviewed the options that technology provides for locating employees away from a central office setting. The committee learned all counties, to some extent, are connected to the state's wide area network. Telephone services through the Information Technology Department are available anywhere in the state. Senate Bill No. 2043, approved by the 1999 Legislative Assembly, provides for the expansion and enhancement of the Information Technology Department's wide area network. The committee learned once the enhanced statewide network is implemented, the broad band network will allow for data, video, and possibly voice to be transmitted over the same network, which will allow for video conferencing by state agencies. The committee learned the technology is available to support virtually any function of an agency to be performed offsite.

### Job Supply and Demand

The committee received information from representatives of Job Service North Dakota on the classification of job types across the state that are in demand. The committee learned North Dakota, in December 1999, had approximately 3,000 job openings. The major areas of lower paid jobs that were in demand included food service workers, health care workers, cashier/teller positions, and commission sales positions. Higher paid positions that were in most demand included carpenters, plumbers, truck drivers, computer systems technical support positions, computer analysts, computer programmers, and computer system developers.

### Examples of Telecommuting

The committee reviewed examples of state employees telecommuting or state agencies contracting for services in rural areas. The committee learned the Department of Human Services electronic benefits transfer coordinator works from an office in the Bottineau County Courthouse (the employee had previously been located in the State Capitol). The department began this arrangement in order to retain a valued employee. The department obtained office space in the Bottineau County Courthouse, and with e-mail, faxes, and telephones, communication has not been a problem. The committee learned the employee travels to Bismarck two or three days per month, and the arrangement is working well.

The committee learned the Information Technology Department contracts with a private firm for computer programming services involving five programmers in Watford City. The committee received additional information on the technology developments in Watford City and McKenzie County. The committee learned this development has resulted from a partnership between the school district, county, and city. The entities shared the cost of installing a wireless system that provides high-speed technology services to the area. The committee learned the community has been successful in attracting a number of private companies relying on technology, including Cross Consulting, the company under contract with the Information Technology Department.

The committee toured the technology development areas in Watford City including the high school, Cross Consulting, and the county courthouse. The committee learned the community is in the process of changing its wireless system to a fiber optics system.

### Budget Request Forms - Agency Telecommuting Analysis

The committee learned that at the request of the chairman of this committee, the Budget Section, at its December 1999 meeting, approved a motion asking the Office of Management and Budget to provide information in the executive budget on each agency's analysis of the feasibility of locating new FTE positions, new programs, or new capital construction away from the agency's central office setting.

The committee reviewed the telecommuting analysis form developed by the Office of Management and Budget that state agencies completed as part of their 2001-03 biennium budget request. The committee learned the form is completed by state agencies requesting new positions, vacant positions that are pending reclassification, positions that will be relocated due to construction, purchase, or lease of new office space; and positions that will be assigned to new programs. The form requests information on the title and grade level of the new position, salary range, a description of the position's job tasks, and comparisons of costs and benefits of locating the position within a central office setting compared to away from a central office setting of the agency. The committee reviewed examples of completed forms for select state agencies submitted as part of the agencies' 2001-03 biennium budget requests.

### **County Government Space**

The committee received information on efficiencies that may result from providing state government services at county courthouses utilizing county staff. The committee learned counties have an availability of office space and a willingness to cooperate in providing state services. The office space is generally well-equipped and handicapped-accessible. The committee was informed all county courthouses have computer access to the North Dakota Information Network, generally good telephone systems, and ample parking. Most counties already provide office space to state, federal, and private entities, and many counties would be willing to either reduce rent or charge no rent.

### **County Treasurers Administering Motor Vehicle Registrations**

The committee heard presentations from representatives of the North Dakota County Treasurers Association of a proposal involving county treasurers administering motor vehicle registration or driver's license services. The committee learned after discussions with the Department of Transportation, the County Treasurers Association chose to focus its efforts on a pilot project involving county treasurers administering motor vehicle registration programs because the driver's license function is more complicated and because the driver's license program requires certified examiners.

The committee learned approximately 70 percent of motor vehicle registrations are processed by mail, 25 percent at one of the department's 13 branch offices, and five percent at the central office in Bismarck. The department's branch offices are located in Beulah, Devils Lake, Dickinson, Ellendale, Fargo, Grafton, Grand Forks, Jamestown, Minot, Rugby, Valley City, Wahpeton, and Williston. These branch offices receive no financial support from state government but generate their revenue by charging a service fee ranging from \$2 to \$6 for each customer transaction.

The committee reviewed motor vehicle registration services in other states. The committee learned in Minnesota, motor vehicle services are provided through 172 deputy registrar offices located in 35 city government offices, 63 county government offices, 61 corporate offices, and 13 offices run by individuals. These offices charge a service fee of \$3.50 per transaction. In Montana motor vehicle registration services are provided in 56 county government offices, and in South Dakota motor vehicle registration services are provided in 64 county government offices.

The committee heard testimony regarding the benefits and concerns of county treasurers administering motor vehicle registration programs from representatives of the counties, the Department of Transportation, and other organizations. Benefits identified include:

1. Residents in rural areas of the state will have improved access to motor vehicle registration services.
2. The pilot project will serve as a model for how state government services can be successfully administered by county employees.

Concerns identified include:

1. The Department of Transportation has not received requests to expand the number of branch motor vehicle locations, except from cities concerned about enhancing local economic development or keeping jobs in the local courthouse.
2. The department does not anticipate adding to its branch system but rather would like to expand the use of technology for motor vehicle registration by using the Internet or telephone renewals.

The committee reviewed the estimated cost of establishing each of the pilot projects. The committee learned, based on the estimates made by the counties and the Department of Transportation, startup costs of each pilot site would range from between \$5,500 to \$30,000. The committee learned the counties of McKenzie, Bowman, and Emmons were interested in becoming pilot sites and that the counties involved in the pilot projects would pay the startup costs.

## Other Committee Considerations

The committee received information on other states that have implemented a telecommuting program including Minnesota, Arizona, Colorado, California, and the province of Saskatchewan. The committee learned these states' and province's programs are designed to encourage employees to telecommute. Benefits of the telecommuting programs include reduced traffic congestion, reduced need for central office space, an expanded employee recruiting base, and improved employee productivity and morale. As part of its study, the committee conducted tours of the Job Service North Dakota state office building and the Workers Compensation Bureau building.

The committee reviewed statistics on the state employee suggestion incentive program (North Dakota Century Code (NDCC) Section 54-06-24). The program provides a one-time incentive payment to a state employee who submits a recommendation or proposal to reduce expenditures that is approved and implemented. An employee is entitled to receive a one-time payment of 20 percent of any annual savings realized up to a maximum of \$2,000 for the first 12 months of implementation. Since the inception of the program in 1995, a total of \$7,808 has been paid as incentives to state employees. The estimated annual savings as a result of implementing the cost-reduction measures is \$142,000.

## Recommendations

The committee recommends [House Bill No. 1035](#) to establish a state employee telecommuting incentive program. The bill allows a state agency head to submit a proposal to the Suggestion Incentive Committee, established under NDCC Section 54-06-24 to locate a current state employee or a new employee away from a central office setting. If approved by the Suggestion Incentive Committee and implemented by the state agency, the state agency head will prepare a report after a 12-month period, comparing the actual costs relating to the telecommuting program for the period to the estimated cost if the program would not have been implemented. Based on the cost-savings report approved by the Suggestion Incentive Committee, the state agency head will be entitled to receive 10 percent of any savings identified in the report up to a maximum of \$2,000, the state employee located away from a central office setting will be entitled to receive 20 percent of any savings up to a maximum of \$2,000, and the state agency may utilize 20 percent of the savings for one-time technology or equipment purchases or capital improvements.

The committee recommends [Senate Bill No. 2026](#) to require information technology plans prepared by state agencies to address the feasibility of telecommuting by selected employees, including positions that are suitable for telecommuting, travel and space needs, and information technology needs for supporting telecommuting.

The committee recommends [Senate Bill No. 2027](#) to provide for a motor vehicle branch office pilot project. The bill provides that the Department of Transportation establish a pilot project office at three sites within three counties to administer motor vehicle registration programs similar to other branch offices of the department by July 1, 2001. The pilot project branch offices are in addition to other branch offices and will be operated by the treasurer in the county where the pilot project office is located. The pilot project is effective through June 30, 2005. The bill provides for the Legislative Council to consider monitoring and evaluating the efficiency and effectiveness of the project during the 2001-02 interim.

## PRIVATIZATION STUDY

Section 2 of Senate Bill No. 2411 directed the Legislative Council to study privatizing and contracting for services provided by state agencies.

### Privatization - Definition and Methods

Although there are many definitions of privatization, generally privatization is the involvement of the private sector in providing services or facilities usually provided by the public sector. The committee reviewed a report on privatization in the states. The committee learned the major privatization methods include:

1. Contracting with the private sector to provide services.
2. Operating public facilities by the private sector.
3. Selling certain government assets to the private sector.

Other methods of privatization include grants and subsidies, leases, public and private partnerships, and vouchers.

The committee learned agencies most involved in privatization are transportation, administration and general services, corrections, higher education, and social services-related agencies. Agencies less involved in privatization are education, labor, public safety, and treasury-related agencies.

### Privatization Activities

The committee reviewed privatization activities of state agencies for the 1999-2001 biennium. The committee learned for the 1999-2001 biennium, state agencies estimate contracting for \$1.4 billion of privatized services, \$218 million of which is from the general fund. The \$1.4 billion is 29 percent of the total statewide appropriations for the 1999-2001 biennium of \$4.8 billion. Major privatization contracts include:

Agency/Service	General Fund	Total Funds
Retirement and Investment Office		
Investment management services		\$23,200,000
Public Employees Retirement System		
Health insurance plan		\$160,800,000
State Department of Health		
Women, infants, and children food costs		\$18,226,930
Department of Human Services		
Aging community-based services	\$9,479,212	\$21,495,103
Child care services	\$3,675,262	\$16,579,896
Child welfare services	\$16,898,424	\$72,180,303
Foster care eligibility determination	\$542,921	\$10,740,449
Medicaid services (excluding nursing homes services)	\$70,474,142	\$261,920,967
Nursing home services	\$75,067,679	\$252,358,444
Vocational rehabilitation services	\$2,705,326	\$10,280,731
Department of Transportation		
Construction activities		\$365,000,000
Roadway surface repair		\$15,250,000

### Potential Services to Privatize

The committee reviewed information provided by state agencies regarding potential services agencies could privatize. The committee learned many program services provided by state agencies could be privatized; however, the costs of the services, if privatized, are estimated by the agencies to be more than if the services are provided by state employees.

The committee reviewed proposed statutory changes identified by agencies which would enable them to privatize or more easily privatize services. The Tax Department identified NDCC Sections 57-01-13, 57-38-34, and 57-01-03 which, if changed, would allow the department to contract for tax collections from North Dakota residents, allow tax forms to be mailed to an address other than the Tax Commissioner in Bismarck, and allow general authority to contract for performing its statutory duties. The Office of Administrative Hearings identified Sections 54-57-01 and 54-57-02 which, if changed, would allow the director to hire contract administrative law judges on more than an as-needed basis. The North Dakota University System identified Section 15-10-17(15), which could be expanded to identify specific services for the University System to privatize.

### Privatization Policies

The committee reviewed state policies regarding privatization and the state's liability for acts of its agents. Regarding privatization policies, the committee learned that NDCC Chapter 54-44.4 provides for state purchasing practices. The chapter provides policies that executive branch agencies must follow when purchasing materials, furniture, fixtures, printing, insurance, and other commodities. The chapter, however, specifically excludes professional services and services for the maintenance and servicing of equipment. While the Legislative Assembly has not provided general policies or guidelines for agencies to comply with when contracting for services, the following statutory provisions have been enacted by the Legislative Assembly which provide specific guidance relating to the purchase of certain services:

1. North Dakota Century Code Section 54-59-05(4) requires each executive branch agency to submit to the Information Technology Department a written request for the lease, purchase, or other contractual acquisition of information technology.
2. North Dakota Century Code Section 44-08-01 requires a state entity authorized to accept bids to give preference to resident North Dakota bidders when accepting bids for the provision of professional services, including research and

consulting services.

3. North Dakota Century Code Section 46-02-09 provides that, except for certain printing projects of the legislative branch, reports prepared and submitted to the Governor and the Secretary of State, and agency biennial reports, all other printing projects exceeding \$750, not done by Central Services, must be let by competitive bidding or by solicitation of at least two quotes.
4. North Dakota Century Code Section 54-44.4-07 encourages agencies to specify the use of soybean-based ink when purchasing newsprint printing services.
5. North Dakota Century Code Section 54-46.1-01 allows the state records administrator and the Office of Management and Budget to contract for microfilming services if it is determined that the services can be provided more efficiently and economically through a contract with a private company.

The committee learned some larger agencies, including the Department of Transportation and the Department of Human Services, have instituted internal policies that these agencies use when contracting for services.

Regarding the state's liability for actions of contractors, the committee learned the liability of the state depends on whether the private company hired by the state to perform a service is an agent, servant, employee, or independent contractor. The state would generally not be liable if the company is considered by the court to be an independent contractor. Although there are various tests that would be used by a court to determine the state's employment relationship with the private company in a particular situation, the common thread running through the tests appears to be whether an employer has the right to control the means and manner of an employee's work performance.

### **Contracts for Services - Performance Audit**

The committee received a performance audit by the State Auditor's office relating to contracts for services. The committee learned although the audit identified over 2,200 contracts for services with payments exceeding \$272 million in fiscal years 1997, 1998, and 1999, the state has very few regulations, rules, or guidelines for agencies to follow when contracting for services. The audit contained the following recommendations:

1. The Office of Management and Budget develop policies relating to the procurement of services and ensure proper training for state agency employees.
2. The State Board of Higher Education develop policies relating to the procurement of services and ensure proper training for its employees.
3. The Office of Management and Budget introduce the necessary legislation to the 2001 Legislative Assembly to allow the office to:
  - a. Establish policies on the procurement of services that are required to be followed by all state agencies.
  - b. When beneficial for the state, establish term or master contracts for services to be utilized by all state entities, including colleges and universities.
4. The Office of Management and Budget and the Attorney General's office establish one manual for contract drafting and review, and the Attorney General's office ensure that all assistant attorneys general are provided training to ensure consistent interpretation and practices throughout government.
5. The Office of Management and Budget, with the assistance of the Attorney General's office, establish an on-line contract system accessible by all the state agencies which would allow template contracts to be utilized as well as template or boilerplate language for contracts.
6. The Office of Management and Budget develop policies relating to contract monitoring and management and ensure proper training is provided for state agency employees.
7. The State Board of Higher Education develop policies relating to contract monitoring and management and ensure proper training is provided for its employees.
8. If authorized by the Legislative Assembly, the Office of Management and Budget and the North Dakota University System determine if joint and cooperative purchase of service agreements would be beneficial for the state, and if beneficial, that the Office of Management and Budget and the University System make joint or cooperative purchases of services.

The committee learned the Office of Management and Budget intends to prepare a bill for introduction to the 2001 Legislative Assembly that will expand statutory provisions that authorized it to establish purchasing policies to also include services. The bill will provide the Office of Management and Budget broad authority that will allow the office to develop rules providing flexibility for agencies when contracting for services. These rules will guide the process a state agency will utilize when contracting with a provider for services. The rules will not address an agency's decision of whether or not to contract for a particular service. As a result of the additional responsibilities that will be placed on the Office of Management and Budget, the committee learned additional staff and related funding may be necessary to provide for these additional services.

The committee learned the North Dakota University System intends to address the recommendations included in the audit report

by considering:

1. Establishing dollar levels for bidding purposes when contracting for services.
2. Expanding the authority of the campuses to decide whether or not to contract for a particular service.
3. Allowing campuses to negotiate terms of contracts totaling less than \$100,000 and requiring a request for proposal for contracts for services of \$100,000 or more.
4. Allowing campuses to enter into contracts that extend beyond one year but requiring a review and evaluation of the contracts every three years.
5. Requiring all payments for services are made in conformance with written contracts.
6. Working with the Office of Management and Budget on joint purchase options.

### **Suggestions for Improving Privatization Activities**

The committee heard testimony from representatives of the Department of Corrections and Rehabilitation, the Department of Transportation, and the Department of Human Services regarding suggestions for criteria or guidelines to be used when contracting for services. Suggestions made include:

1. Guidelines utilized for the procurement of goods may also be applicable for contracting for services.
2. A request for proposal for services should be required for services over a certain dollar amount.
3. Contracts should be very specific relating to the services to be provided and to any standards that must be met.
4. Background checks and proof of licensing should be required for entities being considered for contracted services.
5. Agency flexibility is necessary because of the variety of contracts entered into by the state.
6. Agencies should be allowed to continue to contract without rebidding if the private contractor is meeting quality standards.
7. Program monitoring or auditing of major contracts is necessary to assure that the service is being provided according to contract.
8. A state agency should not be required to accept the low bid in all instances.
9. Guidelines should be available for seeking and evaluating bids and for reviewing potential contracts for services prior to the development of the contracts.

The committee heard other testimony from representatives of public employee associations and nonprofit and other organizations regarding the study and suggestions for improving North Dakota's privatization activities. Major items included in the testimony were that the state should:

1. Require oversight of private contractors.
2. Develop consistent standards for evaluating proposals to privatize a service.
3. Require an accurate comparison between the public and private costs of providing a service.
4. Limit contracting to those services that cannot meet cost or quality benchmarks of state employees.
5. Utilize technology that would enable organizations to request funding on-line to reduce payment delays.
6. Develop a method to provide for consistent rules interpretations by state agencies.
7. Eliminate redundant form requirements by allowing organizations to complete forms only once which may be shared by all state agencies.
8. Allow an administrative allowance of at least 10 percent of the total contract to pay for indirect costs associated with providing services of the private organization.

### **Conclusion**

The committee does not make any recommendation regarding its privatization study.

## **INDUSTRIAL COMMISSION STUDY**

Senate Concurrent Resolution No. 4030 directed the Legislative Council to study:

1. The management responsibilities of the Industrial Commission.
2. The mission and location of each entity within and under the direction of the Industrial Commission.
3. The membership of the Industrial Commission.
4. The voting structure of the Industrial Commission.

### **Industrial Commission Entities, Missions, and Locations**

The table below identifies the entities of the Industrial Commission and each entity's mission, related North Dakota Century Code

reference, and location.

<b>Entity</b>	<b>Mission</b>	<b>NDCC Citation</b>	<b>Location</b>
Bank of North Dakota	To encourage and promote agriculture, commerce, and industry in North Dakota	Section 6-09-01	Bismarck
Mill and Elevator	To encourage and promote agriculture, commerce, and industry in North Dakota	Section 54-18-02	Grand Forks
Municipal Bond Bank	To foster and promote the provision of adequate capital markets and facilities for borrowing money by political subdivisions and for financing of their respective public improvements and to encourage political subdivisions to continue their independent undertakings of public improvements in the financing thereof by making funds available at reduced interest costs	Section 6-09.4-02	Bismarck
Housing Finance Agency	To make North Dakota's housing more affordable by providing financing, management, information, and other appropriate assistance	Chapter 54-17	Bismarck and Fargo
Oil and Gas Division	Effectively accomplish the statutory responsibility for the regulation of drilling, geophysical exploration, development, and production of oil and gas in a manner that will be most beneficial to the producer, royalty owner, and the citizens of the state	Section 38-08-04	Bismarck, Minot, Williston, and Dickinson
Geological Survey	To investigate and report the geology of North Dakota emphasizing the state's energy resources based on applied research leading to economic benefits for quality of life improvements for residents of the state; to provide public service, and to collect, create, and disseminate geologic and map-related information; and to administer regulatory programs and act in an advisory capacity to other state and federal agencies	Chapter 54-17.4	Bismarck and Grand Forks
North Dakota Building Authority	To promote the general welfare of the citizens of this state by providing projects for use by the state in providing public services by altering, repairing, maintaining, or constructing buildings primarily for use by the state and making any improvements connected to those buildings or pertaining to those buildings and necessary to the use of those buildings in providing services to the public	Section 54-17.2-04	Bismarck
Lignite research, development, and marketing program	To provide for financing of research, development, and marketing of the state's lignite resources as well as to assist in the financing of studies that will allow for the preservation of the lignite industry	Section 57-61-01.5	Bismarck
Student loan trust	To acquire and hold in one or more trusts all unpaid United States government guaranteed or reinsured student loans and North Dakota guaranteed student loans, belonging to the state of North Dakota or to any of its agencies	Section 54-17-24	Bismarck

### **Management Responsibilities**

North Dakota Century Code Chapter 54-17 provides the statutory references relating to the Industrial Commission. Major provisions relating to the commission's management responsibilities authorize the Industrial Commission to determine the location of all utilities, industries, enterprises, and business projects established, owned, undertaken, administered, or operated by the state and to make the rules, regulations, orders, and bylaws for the management and operation, and for the transaction of business of those utilities, industries, enterprises, and business projects. In the management and operation of its industries, the Industrial Commission is required to:

1. Acquire by purchase, lease, or by the exercise of the right of eminent domain, all necessary property or property rights, and hold and possess or sell those rights.
2. Construct and reconstruct necessary buildings on the properties.
3. Equip, maintain, repair, and alter any and all properties acquired and the improvements.
4. Use the properties acquired and the improvements made to promote the enterprise.

The committee learned the Industrial Commission has chosen to appoint agency directors and staff to oversee the day-to-day management and operations of the entities under the commission's control. The commission's primary role is to set overall policy; approve bond issues, appoint qualified personnel, approve grants, loans, and orders; and adopt rules for the operations of these entities. To assist the Industrial Commission in its management of these entities, the Legislative Assembly or the commission has established the following advisory boards:

1. Bank of North Dakota - A seven-person bank advisory board appointed by the Governor consisting of a minimum of three bank officers representing banks from across the state.
2. Housing Finance Agency - A six-member advisory board appointed by the Industrial Commission consisting of representatives of banks, manufactured housing, realtors, builders, and homeowners.
3. Municipal Bond Bank - A three-member advisory board appointed by the Industrial Commission, one representing rural communities, one representing cities, and one representing the financial industry.
4. Mill and Elevator - Advisory committees appointed at various times by the Industrial Commission or the general manager of the mill to assist in the review or development of a project.
5. Lignite research, development, and marketing program - By executive order, the Lignite Research Council, made up of individuals appointed by the Governor, consists of representatives from the private and public sectors.

### **Membership and Voting Structure**

Members of the Industrial Commission include the Governor, Attorney General, and the Agriculture Commissioner. Statutory references in NDCC Chapter 54-17 relating to the membership and voting structure of the commission include:

1. The Governor is the chairman of the commission and its attorney is the Attorney General.
2. All orders, rules, regulations, bylaws, and written contracts adopted or authorized by the commission, before becoming effective, must be approved by a majority of the commission.

The committee reviewed the history of the Industrial Commission relating to its voting structure. The committee learned the commission was created in 1919. From 1919 to 1933, decisions of the commission required a majority of the commission voting in favor of the action. Meetings could occur without the Governor; however, any action at any meeting had to be ratified by the Governor. From 1933 to 1973, the Governor had veto power over any action of the Industrial Commission. The Governor and one other member were necessary for a quorum.

From 1973 to the present, decisions of the commission require a majority of the commission voting in favor of the action. The Governor and one other member are necessary for a quorum.

### **Entity Summaries**

The committee received the following information on each of the entities of the Industrial Commission by representatives of the entity and, where appropriate, a representative of the entity's advisory board:

#### **Bank of North Dakota**

The committee learned the Bank of North Dakota was founded in 1919 when the perception of the North Dakota Legislative Assembly was that both the access to financing and the grain trade were controlled in Minneapolis. The Legislative Assembly created both the Bank and the Mill and Elevator to assist North Dakotans to take control of their economic destiny. The major objectives of the Bank include:

1. To finance the expansion and diversification of the state's economy and its job base. The Bank complements and supports the work of private financial institutions through the Bank's lending programs. The Bank has over \$1 billion in loans outstanding and makes loans in four primary areas--business and industrial, farm, home, and student.
2. To maintain capital strength and financial integrity. As the Bank provides capital to help build and diversify North Dakota's economic base, the Bank needs to maintain its financial strength and integrity. The Bank's target capital asset ratio is 10 percent, which is above the state regulatory target of at least seven percent. In October 1999 the Bank's capital asset ratio was 8.75 percent, the Bank's capital totaled \$140 million, and it had total assets of \$1.6 billion.
3. To generate a consistent financial return to the state. Since 1993 the Bank's earnings have increased from approximately \$17 million per year to almost \$30 million per year.

4. To deliver first-class customer service. The Bank's four major operating divisions are:
  - a. Lending - Provides a variety of loan programs such as farm loans, business and industrial loans, home loans, and special programs such as partnership in assisting community expansion fund (PACE) and Ag PACE to stimulate economic development activity throughout the state.
  - b. Retail and operations - Provides services to banks such as check-clearing services.
  - c. Investment and trust division - Provides investment services to banks throughout the state as well as to the state of North Dakota.
  - d. Student loans - Provides student loans directly and serves as the guarantee agency for North Dakota banks that provide student loans.

### **Mill and Elevator**

After being established in 1919, the mill began operations in 1922 as a value-added market for wheat produced in North Dakota. Mill facilities include five milling units, a terminal elevator, and a packing warehouse to prepare bagged products for shipment. The committee learned the mill is involved in a major improvement and modernization project during the 1999-2001 biennium. Once complete, the mill will be able to produce and ship 26,000 CWT. of mill products daily, an increase of 4,000 CWT. over the current 22,000 CWT. level. The mill will be capable of cleaning, processing, and milling 59,000 bushels of durum wheat each day compared to the current level of 50,000 bushels. Annually, the mill will be able to add value to 18 million bushels of spring and durum wheat compared to the current level of 15 million bushels.

### **Municipal Bond Bank**

The Municipal Bond Bank provides low-cost loans to North Dakota political subdivisions at favorable interest rates. The loans are made with proceeds of bonds issued by the Municipal Bond Bank under the following programs:

1. Capital financing programs - Provides loans to political subdivisions for any purpose for which the political subdivision is authorized to issue municipal securities, except Municipal Industrial Development Act (MIDA) bonds.
2. State revolving fund program - Provides loans to political subdivisions for projects approved by the State Department of Health under appropriate state law and the federal Clean Water Act and Safe Drinking Water Act.

Each loan application is subject to initial credit review by the Municipal Bond Bank and to a separate credit review by the Bank of North Dakota. The Municipal Bond Bank's financial advisor performs a market analysis for each loan which determines whether the Municipal Bond Bank is the appropriate financing source for the loan.

### **Housing Finance Agency**

The agency was formed as a result of an initiated measure approved in the 1980 general election. Previously, the Bank of North Dakota was the primary purchaser of federal housing administration-insured and veterans administration-guaranteed residential home loans. In the late 1970s, the Bank of North Dakota discontinued purchasing long-term real estate loans, which created a void in the state residential real estate finance market. The initiated measure directed the Industrial Commission to act as a state housing finance agency, to appoint an advisory board, and to issue housing revenue bonds to fund its loan programs. The 1981 Legislative Assembly expanded the agency's authority to include manufactured housing and multifamily loan programs, to receive federal grant funds, and to administer the housing assistance program.

The agency's most popular program, commonly referred to as the first-time home buyer program, has provided more than 20,000 home loans representing more than \$1 billion of loan principal with loans, in every county of the state. Another major activity of the agency involves the management and administration of the federal housing and urban development (HUD) rental assistance funds to privately owned affordable housing properties throughout the state. Approximately \$8 million in rental assistance is provided to 2,100 apartment units in 140 apartment projects throughout the state.

### **Oil and Gas Division**

The oil and gas regulatory authority was placed under the Industrial Commission in 1941 utilizing the staff of the State Geologist. In 1981 the Legislative Assembly authorized a separate division of the Industrial Commission for oil and gas regulatory responsibility. Services provided by the Oil and Gas Division include:

1. Providing the geological and engineering expertise needed to create and enforce statutes, rules, regulations, and orders of the Industrial Commission pertaining to the drilling, development, and production of oil and gas, and the disposal of oil field brines and other fluid wastes.
2. Acquiring, compiling, and analyzing geological, engineering, production, and reservoir data.
3. Providing field inspection and technical oversight for horizontal drilling, geophysical exploration, and measurement.

4. Computerizing geophysical exploration, production, and well information data for electronic storage and dissemination to industry, royalty owners, governmental agencies, and the public.

### **Geological Survey**

The 1989 Legislative Assembly transferred the North Dakota Geological Survey from the State Board of Higher Education to the Industrial Commission. The Geological Survey has a core and sample library located in Grand Forks on the University of North Dakota campus. Core and samples from wells drilled for oil and gas are housed in the core library. Other offices of the survey are located in Bismarck. Geological Survey responsibilities include:

1. Regulating oil, well core, and samples stored at the core and sample library.
2. Regulating coal exploration but not production or reclamation.
3. Issuing permits for commercial geothermal installations such as those installed at schools and other public buildings.
4. Overseeing the collection of fossil resources on public lands and subsurface mineral production.
5. Evaluating the minerals on state land for the Land Department.
6. Studying the geology of rocks that produce oil and gas.
7. Identifying and evaluating other mineral resources such as clays, cement rock, gravel, salts, and ores.
8. Investigating the geological hazards relating to landfills, lagoons, etc.
9. Conducting other geological investigations.
10. Administering geographic information systems.
11. Digitizing county soil maps.
12. Providing information about North Dakota geology.

### **Building Authority**

The 1985 Legislative Assembly authorized the Industrial Commission to act as the North Dakota Building Authority. The executive director and secretary of the Industrial Commission and the director of the Office of Management and Budget serve as the authorized officers for the Building Authority. The Building Authority is responsible for providing financing for building projects at the lowest cost available, primarily through the sale of tax-exempt bonds. The agency authorized for the project is responsible for direct oversight of the building project and the Building Authority is responsible to meet the ongoing bond requirements for the life of the bonds.

### **Lignite Research, Development, and Marketing Program**

The 1987 Legislative Assembly approved a two-cent per ton tax on coal for research and development, the revenue from which is deposited in the lignite research fund. Subsequently, the Governor appointed a 24-member Lignite Research Council by executive order. The 1991 Legislative Assembly established the lignite research, development, and marketing program. The Lignite Research Council recommends funding and policies to the Industrial Commission for approval of lignite research, development, and marketing projects. A project receiving funds from the lignite research fund must be matched by industry. Since 1987, 125 projects totaling \$265 million have been approved.

### **Student Loan Trust**

The 1971 Legislative Assembly authorized the Industrial Commission to acquire and hold all unpaid government-guaranteed or reinsured student loans and North Dakota student loans belonging to the state or any of its agencies. The creation of the student loan trust enabled the state to obtain low-cost funds, through the sale of tax-exempt bonds, and to use the proceeds for purchasing student loans made or acquired by the Bank of North Dakota. The executive director and secretary of the Industrial Commission and the president of the Bank of North Dakota serve as the authorized officers for the student loan trust. In June 2000 the trust had \$156 million in bonds payable. The bonds are not guaranteed by the state but are secured by student loans held in the trust portfolio or by the trust investments of its funds and accounts.

### **Other Information**

The committee reviewed the audit findings and recommendations included in the most recent audit of each entity of the Industrial Commission. The following findings were included in the audit reports:

1. Industrial Commission - The agency has not submitted a biennial report to the Governor and the Secretary of State as required by NDCC Section 54-17-06.
2. Mill and Elevator - The agency does not have proper password security for its local area network to prevent unauthorized access.
3. Municipal Bond Bank - Because of the small number of employees, accounting personnel are responsible for cash receipts, cash disbursements, and maintaining the financial reporting system of the Municipal Bond Bank.

## **Conclusion**

The committee does not make any recommendation relating to its study of the Industrial Commission.

## **BUDGET MONITORING**

### **Status of the State General Fund**

The committee heard reports from the Office of Management and Budget regarding the status of the state general fund. The committee learned as of August 31, 2000, the projected June 30, 2001, general fund balance is estimated to be \$61.3 million, \$50 million more than the ending balance estimated at the close of the 1999 Legislative Assembly of \$11.3 million.

Through August 2000 general fund revenues exceeded the original legislative forecast by \$31.9 million. Major revenue variances include oil tax collections that exceeded the forecast by \$20 million and individual income tax collections which exceeded the forecast by \$9.6 million.

### **Oil Tax Revenues, Oil Production, and Oil Market Prices**

The committee received status reports from the Legislative Council staff on oil tax revenues, oil production, and oil market prices for the 1999-2001 biennium. The committee learned for the period January through August 2000, 48 oil wells were drilled in North Dakota, 35 of which were producing wells. The market price per barrel of oil in August 2000 was \$26.42, \$14.75 more than the projected price per barrel of \$11.67. The committee learned the revised revenue forecast for the 1999-2001 biennium released by the Office of Management and Budget in August 2000 projects oil tax revenues will total \$68.8 million for the 1999-2001 biennium. As a result, pursuant to NDCC Section 57-51.1-07.2, \$6.8 million of these collections will be deposited in the permanent oil tax trust fund rather than the general fund.

### **Agency Compliance With Legislative Intent**

The committee received a report from the Legislative Council staff on state agency compliance with legislative intent for the 1999-2001 biennium. The report is based on information gathered by the Legislative Council staff during visitations with agency administrators and fiscal personnel in early 2000. The report contains information on agency compliance with legislative intent, agency changes, budget concerns, staff changes, and other areas regarding agency operations and appropriations. In addition, the report includes a number of analyses of special funds, including the projected June 30, 2001, balance as compared to the projection made at the close of the 1999 legislative session.

### **Status of Appropriations of Major Agencies**

Since the 1975-76 interim, a Legislative Council interim committee has been assigned the responsibility of monitoring the status of major state agency and institution appropriations. The Budget Committee on Government Services was assigned this responsibility for the 1999-2000 interim. The committee's review emphasized the expenditures of major state agencies, including the institutions of higher education and the charitable and penal institutions, the foundation aid program, and major program appropriations of the Department of Human Services.

In summary, the Legislative Council staff reports given to the committee regarding budget monitoring indicated the following:

1. Actual expenditures for the Department of Human Services through July 2000 for the temporary assistance for needy families (TANF) program were \$12.2 million, \$200,000 or 1.9 percent, less than estimated expenditures of \$12.4 million.
2. Actual Medicaid expenditures through July 2000, excluding the expenditures relating to the intergovernmental transfer program, totaled \$318.7 million, \$8.9 million less than the original appropriation estimate of \$327.6 million. Of the \$8.9 million savings, \$2.5 million is from the general fund.
3. Total expenditures at the institutions of higher education for the first year of the 1999-2001 biennium were \$236,802,424, \$12,263,921 or five percent, less than estimated. Income for the year totaled \$83,536,071, \$2,224,537 or 2.6 percent, less than estimated.
4. Total expenditures at the charitable and penal institutions for the first year of the 1999-2001 biennium were \$73,733,692, \$4,974,214 or 6.3 percent, less than estimated. Total revenues for the period were \$27,780,984, \$214,534 or .8 percent, less than estimated.
5. The Department of Public Instruction's current estimate for unspent foundation aid funds at the close of the 1999-2001 biennium is \$1,165,423. This estimate is based on the actual number of weighted student units during the first year of the biennium which was 118,831, or 599 fewer than the original estimate of 119,430, and the original estimate of 117,718 for the second year of the biennium. Any funds remaining unspent at the end of the biennium will be distributed as follows:

- a. The first \$1 million as supplement payments on the basis of average daily membership.
- b. The second \$1 million to assist school districts that experienced declining enrollment.
- c. The next \$2 million to school districts eligible to receive reorganization bonuses.
- d. Any remaining amounts as supplemental payments on the basis of average daily membership.

## **DEPARTMENT OF HUMAN SERVICES FTE REPORT**

Section 6 of Senate Bill No. 2012 provided that the human service centers, State Hospital, and Developmental Center report to the Budget Section and a committee of the Legislative Council on the hiring of any additional FTE positions in addition to those authorized by the Legislative Assembly for the 1999-2001 biennium. The committee was assigned this responsibility and received reports from the Department of Human Services indicating that the department hired 18.75 FTE positions at the human service centers in addition to those authorized by the Legislative Assembly. The estimated biennial cost of these positions totals \$1.2 million, \$237,000 of which is from the general fund. The positions added include:

- Nine FTE for providing services to children with serious emotional disorders under the partnership project - One in the Badlands region, two in the Devils Lake region, one in the northwest region, two in the south central region, and three in the southeast region.
- One FTE activity therapist at the Southeast Human Service Center to provide services to clients in the infant development program.
- One FTE adult protective services/ombudsman administrator for the northwest and north central human service regions.
- One FTE aid in the North Central Human Service Center to assist in reducing the number of admissions to the State Hospital.
- A .75 FTE administrative position at the North Central Human Service Center to assist with medical records.
- One FTE administrator and .5 FTE secretary at the Northeast Human Service Center for the retired and senior volunteer program.
- One FTE at the Northeast Human Service Center for the healthy families America pilot project which provides prevention and early intervention services for at-risk children.
- One FTE counselor position at the Southeast Human Service Center to assist in reducing the number of admissions to the State Hospital.
- One FTE activity therapist at the Southeast Human Service Center for the infant development program.
- One FTE counselor position at the West Central Human Service Center to expand services of the Manchester House relating to case management and therapeutic interventions.
- A .5 FTE position at the North Central Human Service Center to administer the retired and senior volunteer program as a pilot project in the north central region.

## **AGREEMENTS BETWEEN NORTH DAKOTA AND SOUTH DAKOTA**

North Dakota Century Code Section 54-40-01 provides that an agency, department, or institution may enter into an agreement with the state of South Dakota to form a bistate authority to jointly exercise any function the entity is authorized to perform by law. Any proposed agreement must be submitted to the Legislative Assembly or, if the Legislative Assembly is not in session, to the Legislative Council or a committee designated by the Council for approval or rejection. The agreement may not become effective until approved by the Legislative Assembly or the Legislative Council. The Budget Committee on Government Services was assigned this responsibility for the 1999-2000 interim.

During the interim, no proposed agreements were submitted to the committee for approval to form a bistate authority with the state of South Dakota.

## **HOUSING DEVELOPMENT FUND REPORT**

Section 5 of 1999 House Bill No. 1383 provides that the governing board overseeing a housing development fund provide to the Governor and the Legislative Council annual financial statements and a report for the first four taxable years beginning after December 31, 1998, on the housing development fund. The report is to analyze the impact of the fund on the state's economy, business and employment activity generated by loans from the fund, and the effects of that activity on state and local tax revenues. The bill allows a financial institution or group of financial institutions to establish a corporation or limited liability company to operate a housing development fund. The fund may be used for making loans for any housing project in the state, but the primary focus for loans from the fund must be to provide funding for multifamily housing projects in rural areas that are experiencing or expecting a shortage of housing as a result of economic development. The bill allows a credit against a financial institution's taxes equal to the difference between the participating financial institution's share of interest earned on the loan from the fund and the amount the institution would have earned by applying an interest rate of 300 basis points more than the comparable treasury security rate. The bill is effective for four taxable years beginning after December 31, 1998. The housing development fund program allows a higher percentage of the cost of a housing construction project in rural North Dakota to be

financed than would be available through traditional financing programs. Traditional financing programs will generally provide financing based on the appraised value of the housing unit. Because in rural North Dakota the cost of new housing construction generally exceeds the housing's appraised value, it is difficult to obtain an adequate amount of financing for new construction in these areas. This program provides the financing for the cost of construction which exceeds the appraised value and is intended to make housing construction projects more feasible in rural areas of the state. During the interim, no housing development funds were established, and therefore, no reports were provided to the committee.

## **BUDGET TOURS**

During the interim, the Budget Committee on Government Services functioned as a budget tour group of the Budget Section and visited the State Penitentiary, Missouri River Correctional Center, Youth Correctional Center, Roughrider Industries, Williston State College, Northwest Human Service Center, Williston Research Extension Center, Dickinson Research Extension Center, Dickinson State University, and the Badlands Human Service Center. The committee heard about facility programs, institutional needs for major improvements, and problems institutions or other facilities may be encountering during the interim. The tour group minutes are available in the Legislative Council office and will be submitted in report form to the Appropriations Committees during the 2001 legislative session.