ECONOMIC IMPACT COMMITTEE

The Economic Impact Committee was assigned two studies:

- Section 18 of Senate Bill No. 2012 (2013) directed a study of the long-term costs of transportation infrastructure maintenance and improvement projects and methods for funding these projects.
- Section 38 of Senate Bill No. 2018 (2013) directed a study of child care services, including consideration of the current and potential needs for child care services and the current and potential workforce needs related to child care, and the current quality of child care services.

The Legislative Management delegated to the committee the responsibility to receive the following reports:

- A report from the Department of Commerce semiannually regarding the status of the program to establish and administer an unmanned aircraft systems test site in cooperation with the University of North Dakota, the Aeronautics Commission, the Adjutant General, and private parties appointed by the Governor (North Dakota Century Code Section 54-60-28).
- A report from the Emergency Services Communications Coordinating Committee by November first of each even-numbered year regarding the use of the assessed communications services fee revenue and any recommendations regarding changes to the operating standards for emergency services communications, including training or certification standards for dispatchers (Section 57-40.6-12).
- A report from the Secretary of State certifying that the information technology components of the electronic filing system are ready for implementation before August 1, 2015 (2013 House Bill No. 1136, Section 50 and 2013 House Bill No. 1015, Section 42).
- A report from the North Dakota Economic Development Foundation before September 1, 2014, regarding progress made toward recommendations provided as part of the 2020 and Beyond Initiative and any recommendations for future legislation (2013 Senate Bill No. 2018, Section 36).
- An inventory from the Housing Finance Agency regarding government programs providing residential and commercial development assistance which identifies program overlap and gaps (2013 Senate Bill No. 2339, Section 2).

Committee members were Senators Dave Oehlke (Chairman), Tom Campbell, Ron Carlisle, Mac Schneider, George B. Sinner, and Terry M. Wanzek, and Representatives Thomas Beadle, Rick Becker, Joshua A. Boschee, Mike D. Brandenburg, Ed Gruchalla, Bob Hunskor, Nancy Johnson, Matthew M. Klein, Vernon R. Laning, and Gary R. Sukut.

TRANSPORTATION INFRASTRUCTURE STUDY

Background

According to the North Dakota Department of Transportation, North Dakota has 166 miles of road for every 1,000 people in the state, which ranks the state first in the nation in road miles per capita. The United States Department of Transportation publication *State Transportation Statistics 2010* reports the state as having approximately 87,000 miles in public road length in 2010. Of the total amount, almost 7,400 miles are part of the state highway system. Included in the state highway system are 571 miles of interstate roads. About 68,000 of the miles are under the jurisdiction of county, city, and township governments. The United States Department of Transportation National Bridge Inventory lists the state as having 4,435 bridges in August 2009, 933 of which were classified as either structurally deficient or functionally obsolete. The state ranks fifth per capita in the number of bridges, with approximately 7 bridges per 1,000 people. In addition to the ground transportation, the state has 89 public-use airports.

Highway Funding

In addition to the substantial amounts of federal funding for the construction and maintenance of highways, the major state sources of highway funding historically have been derived from the collection of motor fuels taxes and motor vehicle registrations.

Article X, Section 11, of the Constitution of North Dakota, provides:

> Revenue from gasoline and other motor fuel excise and license taxation, motor vehicle registration and license taxes, except revenue from aviation gasoline and unclaimed aviation motor fuel refunds and other aviation motor fuel excise and license taxation used by aircraft, after deduction of cost of administration and collection authorized by legislative appropriation only, and statutory refunds, shall be appropriated and used solely for

construction, reconstruction, repair and maintenance of public highways, and the payment of obligations incurred in the construction, reconstruction, repair and maintenance of public highways.

The majority of funds received from motor fuels taxes and motor vehicle registration fees are deposited in the highway tax distribution fund. Section 54-27-19 provides the highway tax distribution fund consists of the "moneys available by law from collections of motor vehicle registration and related fees, fuels taxes, special fuels taxes, use taxes, and special fuels excise taxes." This section provides after the first $5.5 million per biennium is transferred to the state highway fund for the purpose of providing administrative assistance to other transferees, the money in the fund must be distributed by the State Treasurer as follows:

1. Sixty-one and three-tenths percent must be transferred monthly to the state department of transportation and placed in a state highway fund.
2. Two and seven-tenths percent must be transferred monthly to the township highway fund.
3. One and five-tenths percent must be transferred monthly to the public transportation fund.
4. Thirty-four and five-tenths percent must be allocated to the counties of this state in proportion to the number of vehicle registrations credited to each county. Each county must be credited with the certificates of title of vehicles registered by residents of the county. The state treasurer shall compute and distribute the counties' share monthly after deducting the incorporated cities' share. All the moneys received by the counties from the highway tax distribution fund must be set aside in a separate fund called the "highway tax distribution fund" and must be appropriated and applied solely for highway purposes in accordance with section 11 of article X of the Constitution of North Dakota. The state treasurer shall compute and distribute monthly the sums allocated to the incorporated cities within each county according to the formula in this subsection on the basis of the per capita population of all of the incorporated cities situated within each county as determined by the last official regular or special federal census or the census taken in accordance with the provisions of chapter 40-02 in case of a city incorporated subsequent to the census.
    a. For counties having no cities with a population of ten thousand or more, a statewide per capita average must be used, as determined by calculating twenty-seven percent of the amount allocated to all of the counties under this subsection divided by the total population of all of the incorporated cities in the state. Each city must be paid an amount equal to the product of the statewide per capita and that city's population.
    b. For each county having a city with a population of ten thousand or more, the amount transferred each month into the county highway tax distribution fund must be the difference between the amount allocated to that county pursuant to this subsection and the total amount allocated and distributed to the incorporated cities in that county as computed according to the following formula:
        (1) A statewide per capita average as determined by calculating twenty-seven percent of the amount allocated to all of the counties under this subsection divided by the total population of all of the incorporated cities in the state.
        (2) The share distributed to each city in the county having a population of less than one thousand must be determined by multiplying the population of that city by the product of 1.50 times the statewide per capita average computed under paragraph 1.
        (3) The share distributed to each city in the county having a population of one thousand to four thousand nine hundred ninety-nine, inclusive, must be determined by multiplying the population of that city by the product of 1.25 times the statewide per capita average computed under paragraph 1.
        (4) The share distributed to each city in the county having a population of five thousand or more must be determined by multiplying the population of that city by the statewide per capita average for all such cities, which per capita average must be computed as follows: the total of the shares computed under paragraphs 2 and 3 for all cities in the state having a population of less than five thousand must be subtracted from the total incorporated cities' share in the state as computed under subdivision a and the balance remaining must then be divided by the total population of all cities of five thousand or more in the state.
5. The moneys allocated to the incorporated cities must be distributed to them monthly by the state treasurer and must be deposited by the cities in a separate fund and may only be used in accordance with section 11 of article X of the Constitution of North Dakota and an incorporated city may use the fund for the construction, reconstruction, repair, and maintenance of public highways within or outside the city pursuant to an agreement entered into between the city and any other political subdivision as authorized by section 54-40-08.

Section 54-27-19(1) provides the majority of the funds from the highway tax distribution fund (61.3 percent) must be transferred to the Department of Transportation for deposit in the state highway fund. Section 24-02-37 provides, except for investment income, the money of the state highway fund must be applied in the following priority:

a. The cost of maintaining the state highway system.

b. The cost of construction and reconstruction of highways in the amount necessary to match, in whatever proportion may be required, federal aid granted to this state by the United States government for road purposes in North Dakota.

c. Any portion of the highway fund not allocated as provided in subdivisions a and b may be expended for the construction of state highways without federal aid or may be expended in the construction, improvement, or maintenance of such state highways.

Section 54-27-19(2) requires 2.7 percent of the funds from the highway tax distribution fund to be deposited in the township highway fund. Section 54-27-19.1 directs the State Treasurer to distribute the money to the counties of the state based on the length of township roads in each county compared to the length of all township roads in the state. To receive any funds, organized townships must provide 50 percent matching funds. Each county treasurer is required to allocate the funds received to the organized townships in the county which provide 50 percent matching funds based on the length of township roads in each of those organized townships compared to the length of all township roads in the county. The funds received must be deposited in the township road and bridge fund and used for highway and bridge purposes. If a county does not have organized townships, or has some organized and some unorganized townships, the county is required to retain a pro rata portion of the funds received based on the length of roads in unorganized townships compared to the length of township roads in organized townships in the county.

Section 54-27-19(3) allocates 1.5 percent of the funds from the highway tax distribution fund to the public transportation fund. Section 39-04.2-04 provides money in the public transportation fund must be disbursed under guidelines issued by the Director of the Department of Transportation and must be used by transportation providers to establish and maintain public transportation, especially for the elderly and handicapped. In addition, the money may be used to contract to provide public transportation, as matching funds to procure money from other sources for public transportation and for other expenditures authorized by the Director.

2013 Transportation Funding Legislation

Highways

The 2013 Legislative Assembly provided enhanced funding from a number of sources for highway construction and maintenance in the state. The enhanced funding for highway infrastructure was largely provided through three bills--Senate Bill No. 2012, Senate Bill No. 2176, and House Bill No. 1358.

Senate Bill No. 2012, the Department of Transportation general appropriation bill, included:

- A $541.6 million transfer from the general fund to the highway fund.
- A $1.1 million contingent transfer from the general fund to the public transportation fund. The transfer is contingent upon deposits from the highway tax distribution fund into the public transportation fund being $5 million or less during the preceding state fiscal year.
- An appropriation of $640,000 from the highway rail grade crossing safety projects fund for the estimated costs-to-continue previously approved highway rail grade crossing safety projects into the 2013-15 biennium.
- An appropriation of $500,000 from the highway rail grade crossing safety projects fund for a highway rail grade crossing safety pilot program.
- A statement authorizing the Department of Transportation to transfer funds between the salaries and wages, operating expenses, capital assets, and grants line items when it is cost-effective for the construction and maintenance of highways.
- An appropriation of $720,000 from the general fund to the State Treasurer to distribute funding to any political subdivision eligible to receive a distribution under subsection 3 of Section 27 of Chapter 579 of the 2011 Session Laws which has not already received a distribution under that subsection.
- An appropriation of $385,000 to the State Treasurer as an emergency to correct an error in distributions made to townships under Senate Bill No. 2176.

Senate Bill No. 2176 provided emergency appropriations to the Department of Transportation for the construction and maintenance of state highways and to the State Treasurer for providing transportation funding distributions. The bill, which became effective on March 18, 2013, provided:

- An appropriation of one-time funding of $620 million from the general fund to the Department of Transportation for the construction and maintenance of state highways.
- An appropriation of one-time funding of $100 million from the general fund to the State Treasurer for distribution as follows:

  $64 million to non-oil-producing counties and cities pursuant to Section 54-27-19(4).

  $16 million to counties and townships in non-oil-producing counties pursuant to Section 54-27-19.1. Organized townships are not required to provide matching funds to receive these distributions.

  $20 million to counties and townships in non-oil-producing counties through a distribution of $15,000 to each organized township and a distribution of $15,000 for each unorganized township to the county in which the unorganized township is located. If any funds remain after these distributions, the State Treasurer is required to distribute 80 percent of the remaining funds to counties and cities in the same manner as the $64 million distribution and to distribute 20 percent of the remaining funds to counties and townships in the same manner as the $16 million distribution.

House Bill No. 1358 restructured the allocation of oil and gas gross production tax collections and provided money for transportation funding to be used by the Department of Transportation and to be distributed by the State Treasurer. The bill provided:

- An appropriation of $120 million from the general fund to the Department of Transportation for county road and bridge projects in counties that received less than $5 million of oil and gas tax allocations under Section 57-51-15(2) during state fiscal year 2013. The funding must be distributed based on the number of miles of roadway located in each county defined by the Department of Transportation as a county major collector roadway.
- An appropriation of $160 million from the general fund to the Department of Transportation for county road and bridge projects in counties that received $5 million or more of oil and gas tax allocations under Section 57-51-15(2) during state fiscal year 2013. The funding must be distributed based on data supplied by the Upper Great Plains Transportation Institute.
- An appropriation of $8,760,000 from the general fund to the State Treasurer for grants to townships located in counties that received between $500,000 and $5,000,000 of oil and gas tax allocations under Section 57-51-15(2) during state fiscal year 2013. Each eligible township is to receive a grant of $15,000 during each year of the biennium.

In addition to the bills appropriating funds for transportation infrastructure, one other bill of note relating to highway funding was Senate Bill No. 2025. The bill provided extraordinary road use fees for a violation that did not occur on an interstate or a state highway must be deposited in the general fund of the jurisdiction having authority over the road on which the violation occurred and must be used for the support of the road system of that jurisdiction. Previously, all extraordinary road use fees were deposited in the state highway fund.

Aeronautics

The 2013 Legislative Assembly provided enhanced airport grant funding through House Bill No. 1358, which was in addition to the funding provided through the North Dakota Aeronautics Commission's general appropriation in Senate Bill No. 2006. Senate Bill No. 2006 provided appropriations for grants in a sum of $15.5 million, including:

- An appropriation of one-time funding of $6 million from the general fund for grants to airports.
- An appropriation of $3,450,000 from special funds and $550,000 from the general fund for the air service airport grant program.
- An appropriation of $4 million from special funds for the general aviation grant program.
- An appropriation of $400,000 from special funds for educational grants.
- An appropriation of $1.1 million from special funds for airport planning grants.

House Bill No. 1358 appropriated $60 million from the oil and gas impact grant fund to the Commissioner of the Board of University and School Lands for grants to airports impacted by oil and gas development. The grants include cost-share requirements and give priority to airports that are eligible to receive federal funding.

Upper Great Plains Transportation Institute

During the 2011-12 interim, the Upper Great Plains Transportation Institute conducted studies of county and township road infrastructure needs. The report of the studies identified $521 million of road infrastructure needs in oil-and gas-producing counties and an overall total of $834 million of road infrastructure needs in all counties of the state for the 2013-15 biennium.

The 2013 Legislative Assembly included within the budget for the Upper Great Plains Transportation Institute an additional $1.25 million in one-time funding to match federal grants to assist in transportation studies.

Testimony and Committee Considerations

The committee received several reports from representatives of the Department of Transportation regarding the status of state road and bridge projects, the status of federal highway funding, and challenges facing the department. In addition, the committee received reports regarding airport, railroad, and pipeline infrastructure in the state; local and tribal government transportation needs; and transportation studies conducted by the Upper Great Plains Transportation Institute.

State Road and Bridge Projects

The state highway construction program has increased from approximately $249 million in 2007 to over $800 million in 2014. Traffic volume in the state increased by 22 percent from 2010 to 2012 and over that same time increased by 53 percent on state highways in the western portion of the state. Significant increases in heavy truck traffic have accelerated and increased the deterioration of roads throughout the state, but most dramatically in the oil-impacted areas. As a result of the dramatic increase in traffic in the western portion of the state, the Department of Transportation began the process of establishing an integrated road system concept to address the movement of commerce in the four largest oil-producing counties, which is expected to be completed by the end of 2014.

The Director of the Department of Transportation provided the committee with regular updates regarding the status of road and bridge projects. Among the major projects for which the committee received updates were the state-funded Highway 85 four-lane project between Williston and Watford City and the construction of truck bypass routes for Williston, Watford City, Dickinson, Killdeer, New Town, and Alexander which also are being funded by the state.

By September 2014, all four lanes were open to traffic on Highway 85 from Watford City to Alexander and the portion from Alexander to County Road 16 was under construction and expected to be open to traffic by the end of the construction season. It is expected that construction on the remaining portion, from County Road 16 to Williston, will begin yet in 2014 with an expected completion in 2015. The replacement of the Lewis and Clark Bridge on the final portion of the project is estimated to be completed in 2016.

The Williston bypass, which is being constructed in phases, is anticipated to be fully completed by the end of the 2015 construction season. The Watford City and Alexander bypasses were scheduled to be opened by the end of the 2014 construction season. The Dickinson bypass is being constructed in phases with the Phase 1 interim bypass being constructed in 2013 and 2014 and Phase 2 scheduled for construction during the 2014 and 2015 construction seasons. The New Town bypass is scheduled for completion by the end of the 2014 construction season and the Killdeer bypass is expected to begin construction in 2015.

Federal Highway Funding

Although North Dakota was allocated over $235 million in federal highway funding for 2014, the United States Congress had not yet passed legislation providing highway funding for 2015. Although a number of states have suspended or canceled highway construction plans for 2015 due to the concern of federal funding not being available, the Director of the department informed the committee representatives of the department are developing plans for the 2015-17 biennium based upon the assumption that Congress will act to restore federal highway funding to levels similar to 2014. However, the committee also was informed that representatives of the department are prepared to revise plans for the 2015-17 budget if necessary due to changes in federal funding. Because of the budget surplus existing in North Dakota, representatives of the department and members of the committee generally agreed the state is uniquely situated to continue highway construction despite the uncertainty with respect to federal funding levels.

Department of Transportation Challenges

In addition to the uncertainty existing with respect to federal highway funding, the committee received information regarding other challenges the Department of Transportation is facing.

The Director of the department testified that the cost of highway projects has been increasing due to a number of factors. Land acquisition has become significantly more expensive in oil-impacted areas of the state. The cost to the department to acquire property varied greatly with the per-acre cost in rural areas generally in the range of $25,000 to $40,000 while the acquisition cost for the bypass in Williston was approximately $165,000 per acre. Although the bustling economy in the state has attracted many out-of-state contractors to bid on highway projects, the cost of labor also has increased. In addition, the cost of materials needed for highway projects has increased. As a result, the construction cost index in the state has risen substantially--construction that cost $1 in 2001 cost $2.61 in 2013. In general, the cost of construction rose much more dramatically in the western portion of the state. The cost of concrete overlay in the west was approximately 61 percent higher than in the east. Similarly, the cost of minor rehabilitation of a road surface was 74 percent higher in the west and the cost of milling and overlaying a two-lane road was approximately 240 percent higher in the west.

The Director of the department also informed the committee the department has been having difficulty in hiring and retaining employees, particularly in the western portion of the state.

Local Government Transportation Issues

The committee held meetings in Williston and Grand Forks and received reports regarding transportation issues from representatives of local governments. Representatives of local governments in the oil-impacted areas in the western portion of the state testified that despite the additional funding going to oil-impacted areas, cities, counties, and townships are unable to meet growing infrastructure needs. Increased traffic has made it nearly impossible for local governments to construct and maintain roads in developing areas. Local officials in the oil-impacted area contended the share of oil gross production taxes returned to impacted local governments is substantially lower than in most other oil-producing states.

Representatives of local governments in the eastern portion of the state contended that growth throughout the state has resulted in unmet transportation infrastructure needs statewide. A representative of the city of Grand Forks testified that the metropolitan planning organization long-range transportation plan identified unmet needs of over $88 million for the next decade. Beyond the need for roads, the committee was informed public transit and pedestrian infrastructure needs are increasing while federal funding has decreased. The committee was informed traffic related to oil development has increased in the eastern portion of the state and agricultural traffic in rural areas has affected road conditions due to the larger size of modern farm equipment. As a result, rural counties and townships have been unable to keep up with road and bridge repair.

Tribal Transportation Issues

The committee received information from tribal authorities relating to tribal transportation concerns, particularly the reduction in federal funding available for tribal roads. A representative of the Turtle Mountain Band of Chippewa Indians reported to the committee regarding the need to reconstruct approximately 14 miles of Jack Rabbit Road which runs between Belcourt and Dunseith. Although the road is classified as a Bureau of Indian Affairs road, the Bureau has not provided funding to repair the road and the tribal government has attempted to secure state funding to assist with the reconstruction of the road.

Although the state has not been able to assist with the reconstruction of Jack Rabbit Road, the Director of the Department of Transportation reported the department has worked to develop relationships with tribal governments to address road projects within tribal boundaries. When a project is approved within tribal boundaries, the department enters a Tribal Employment Rights Ordinance with the affected tribe which details the type of work to be performed, the location of the project, and applicable fees and costs to be paid to the tribe. The department also works closely with tribal governments to assist with highway safety programs.

Railroad Infrastructure and Railroad Safety

Although the Department of Transportation has little jurisdiction over railroads, the department is required to develop a state rail plan. The department receives relatively small amounts of federal funding (about $2.5 million per year) for rail and highway safety projects, has administered $1.6 million in one-time state funds for rail quiet zone projects, and receives $250,000 per year in locomotive fuel excise taxes to upgrade signals at highway rail crossings. The department also administers a railroad loan program to assist with rail upgrades and enhancing rail infrastructure to maintain or improve rail service. Since 1982, the department has provided over $37 million in loans and had outstanding loans of nearly $15 million as of September 2014.

The committee received testimony from representatives of shortline railroads regarding infrastructure needs of the shortline railroads operating in the state. Approximately 40 percent of the track miles in the state are operated by shortline railroads that generally began operation in the 1980s when the large railroad companies were abandoning tracks in rural areas. Representatives of the shortline railroads informed the committee the state railroad loan program is an important tool for the shortline railroads to use to help finance the cost of track rehabilitation that is needed to serve rural agricultural areas of the state. Because much of the rail infrastructure operated by the shortline railroads is quite old and in need of replacement, representatives of the shortline railroads advocated for increased funding by the state to support the railroad loan program.

The committee also received testimony from a representative of the Burlington Northern Santa Fe (BNSF) Railway regarding railroad infrastructure and railway safety issues. The committee was informed BNSF has invested $5 billion in 2014 to improve its rail system. Approximately 20 percent of that total has been invested in the northern corridor and about 10 percent of that portion is being invested in North Dakota. Despite backlogs of railcar orders for agricultural producers, the representative of BNSF testified the company is attempting to improve service in the state while also increasing movement of oil to relieve the pressure on the highway system. Although there have been a number of derailments and rail accidents involving the transportation of oil, the representative of BNSF informed the committee the company is improving the safety of tanker cars and slowing the speed of trains transporting oil.

The committee received a report from a representative of the Department of Emergency Services regarding preparedness of the state and local emergency service providers to address incidents such as the trail derailment near Casselton which resulted in the explosion and fire of railcars carrying oil. The report indicated the response to the Casselton incident was well coordinated, but also a wake-up call for emergency responders.

The committee received a report regarding rail service in the Grand Forks region. As a result of the additional rail traffic serving the oil-impacted areas, rail transportation through the northeastern part of the state also has increased. The report indicated there is a need to examine further development of secondary rail lines in the region.

Air Transportation Infrastructure

The committee received a report from a representative of the State Aeronautics Commission regarding air transportation in the state. The report indicated airline boardings increased an average of 14 percent per year from 2009 through 2012. However, enplanements at the airports in Minot, Williston, and Dickinson increased at a much more dramatic rate--from about 100,000 enplanements in 2009 to nearly 300,000 in 2012. As a result of the growth in air traffic, airport facilities are in need of improvement, including runway upgrades and terminal and parking lot expansions. The representative of the Commission informed the committee the Commission would be developing a state aviation system plan update to replace the last plan which was completed in 2008.

The committee received a report regarding the condition of the airport in Williston. Because of the increase in air traffic in Williston, the city was exploring the feasibility of building a new airport at an estimated cost of over $200 million. It was estimated the cost of expanding the current airport would be approximately $350 million. The representative of the airport indicated the city would be seeking additional state funding as well as federal funding to address the construction of the airport.

The committee also received a report regarding air traffic in the eastern portion of the state. The report indicated that in addition to the significant increase in commercial passenger traffic, air cargo and corporate air traffic has increased as a result of oil development in the western portion of the state. It was estimated the infrastructure needs for the Grand Forks airport over the next decade will be in excess of $100 million.

Pipeline Infrastructure

The committee received a report from a member of the Public Service Commission regarding pipeline infrastructure and regulation. Crude pipeline capacity in the state is projected to double between 2014 and 2016. The increases in pipeline capacity are expected to relieve some of the truck and rail transport issues as oil and gas production is projected to continue to grow.

Upper Great Plains Transportation Institute

The committee received several reports from representatives of the Upper Great Plains Transportation Institute regarding the transportation infrastructure needs in the state. The institute's study of county, township, and tribal roads and bridges infrastructure needs indicated there has been an 18 percent increase in the estimated cost of improvements for work on paved roads since the last study conducted by the institute during the previous biennium. The study projects paved road investment and maintenance costs during the next 20 years to be $2.59 billion, with about 43 percent of the investment needed in the 17 oil- and gas- producing counties. With respect to unpaved roads, the report concluded statewide infrastructure needs over the next 20 years will be $5.45 billion, about 54 percent of which will be needed in the oil- and gas- producing counties. The total projected investment needed for paved and unpaved roads over the next 20 years is $8.14 billion. The institute also estimated approximately $327 million in bridge investment expenditures will be necessary over the next 20 years, with 77 percent of that cost for bridge replacements. According to the study, the road investment and maintenance needs may be summarized as follows:

Summary of All Road Investment and Maintenance Needs for Counties and Townships in North Dakota (Amounts Shown in Millions)

Period	Statewide	Oil Patch	Rest of State
2015-16	$983	$544	$440
2017-18	871	419	452
2019-20	833	457	376
2021-22	782	430	352
2023-24	680	345	335
2025-34	3,994	1,936	2,057
Total	$8,142	$4,130	$4,011

Conclusion

The committee agreed with the findings and recommendations in the report of the Upper Great Plains Transportation Institute and requests the Governor to consider the report's recommendations for funding in the budget for the Department of Transportation for the 2015-17 biennium.

CHILD CARE SERVICES STUDY

Background

According to the United States Census Bureau, in approximately 78 percent of the families in North Dakota with children under the age of 18 years, both the husband and wife are in the labor force. The *2013 Kids Count Factbook* produced by the Annie E. Casey Foundation reports in 2010 over 82 percent of mothers with children under the age of 17 years in this state are engaged in the labor force. The factbook also reports in 2011 there were an estimated 16,000 families in the state in which the family income was less than twice the federal poverty level, at least one parent worked 50 or more weeks during the previous year, and there was at least one child under the age of 18 years in the family.

North Dakota Law

Chapter 50-11.1 addresses early childhood services. Section 50-11.1-01 defines early childhood services as "the care, supervision, education, or guidance of a child or children, which is provided in exchange for money, goods, or other services." However, the following are excluded from the definition of early childhood services:

- Substitute parental child care provided pursuant to Chapter 50-11.
- Child care provided in any educational facility, whether public or private, in grade 1 or above.
- Child care provided in a kindergarten or a nonpublic elementary school.
- Child care, preschool, and prekindergarten services provided to children under six years of age in any educational facility through a program approved by the Superintendent of Public Instruction.
- Child care provided in facilities operated in connection with a church, business, or organization where children are cared for during periods of time not exceeding four continuous hours while the child's parent is attending church services or is engaged in other activities, on the premises.
- Schools or classes for religious instruction conducted by religious orders during the summer months for not more than two weeks, Sunday schools, weekly catechism, or other classes for religious instruction.
- Summer resident or day camps for children which serve no children under six years of age for more than two weeks.
- Sporting events, practices for sporting events, or sporting or physical activities conducted under the supervision of an adult.
- Head Start and early Head Start programs that are federally funded and meet federal Head Start performance standards.
- Child care provided in a medical facility by medical personnel to children who are ill.

Section 50-11.1-06 allows an in-home provider to apply for a voluntary annual registration document from the Department of Human Services. An in-home provider is defined under Section 50-11.1-01 as "any person who provides early childhood services to children in the children's home."

Except for onsite child care services for fewer than 10 children per location and which are located in the actual building in which the child's parent is employed, a person may not operate a family child care, group child care, preschool, school-age child care, or child care center unless licensed by the Department of Human Services. A family child care is defined as "a private residence licensed to provide early childhood services for no more than seven children at any one time, except that the term includes a residence licensed to provide early childhood services to two additional school-age children." A group child care is defined as "a child care program licensed to provide early childhood services for thirty or fewer children." A preschool is "a program licensed to offer early childhood services, which follows a preschool curriculum and course of study designed primarily to enhance the educational development of the children enrolled and which serves no child for more than three hours per day." A school-age child care program is "a child care program licensed to provide early childhood services on a regular basis for nineteen or more children aged five years through eleven years." A child care center is "an early childhood program licensed to provide early childhood services to nineteen or more children."

To obtain a license to operate an early childhood program, an applicant must submit an application and a license fee to the Department of Human Services. In addition, Section 50-11.1-04 requires the department or an authorized agent of the department to investigate the applicant's activities and proposed standards of care and the applicant's premises. The applicant for a license and the staff members, and, if the application is for a program that will be located in a private residence, every individual living in that residence must be investigated in accordance with the rules adopted by the department to determine whether any of them has a criminal record or has had a finding of services required for child abuse or neglect filed against them. Section 50-11.1-06.2 requires upon a determination by the department that a criminal history record check is appropriate, a provider holding or an applicant for early childhood services licensure, self-declaration, or in-home provider, as well as new staff members of early childhood services programs and new household members of a residence out of which early childhood services are provided, must obtain two sets of the individual's fingerprints from a law enforcement agency or other local agency authorized to take fingerprints. The individual is required to request the agency to submit the fingerprints and a completed fingerprint card for each set to the Division of Children and Family Services of the Department of Human Services or to the department's authorized agent. If the division has no record of a determination of services required for child abuse or neglect, the division is required to submit the fingerprints to the Bureau of Criminal Investigation to determine if there is any criminal history record information regarding the applicant, household members, or staff members. The results of the investigations must be forwarded to the division or to the department's authorized agent.

In addition to the licensed early childhood programs, Chapter 50-11.1 provides for a voluntary self-declaration for documentation of an individual providing early childhood services in a private residence for up to three children below the age of 24 months or for no more than five children through the age of 11 years. An individual may apply to the Department of Human Services for a self-declaration, and the department is responsible for determining if the individual meets the standards determined by rule by the department for a self-declaration.

Section 50-11.1-07 authorizes the Department of Human Services to investigate and inspect an early childhood program, or a holder of a self-declaration or registration document and the conditions of their premises, the qualifications of a provider of early childhood services, of current and prospective staff members, of any in-home provider or applicant seeking or holding a license, self-declaration, or registration document. In addition, Chapter 50-11.1 provides procedures under which the department may issue correction orders, fiscal sanctions, or suspension or revocation of a license, self-declaration, or registration document.

Section 50-11.1-08 authorizes the Department of Human Services to adopt reasonable minimum standards for early childhood programs and adopt rules for the regulation of early childhood services.

Section 50-11.1-14 authorizes the Department of Human Services to establish a statewide system to build systematic early childhood workforce voluntary training which may include distance learning formats, a professional registry, certificates, and specializations. Section 50-11.1-14.1 also addresses early childhood care and education workforce issues. Under that section, the department is required to provide voluntary, progressive training opportunities leading to credentials, provide supports for the early childhood care and education workforce, and implement a registry to track workforce participation. In addition, that section requires the department to implement a voluntary quality improvement process for licensed early childhood facilities. The department is authorized to provide a quality incentive payment and a higher reimbursement rate for child care assistance program payments to a participating early childhood facility, provide technical assistance and support to an early childhood facility that applies for quality improvement, and provide financial incentives to an early childhood facility that sustains and increases program quality. The department may contract with a private, nonprofit agency to provide the technical assistance.

In 2011 the Legislative Assembly adopted Senate Bill No. 2298 (codified as Section 50-11.1-18) which authorized the Department of Human Services to establish, in collaboration with the Department of Commerce, an early childhood services inclusion grant program for licensed early childhood services providers that provide care for children with disabilities or developmental delays. The bill also authorized the department to fund early childhood services specialists to make available technical assistance to early childhood services providers that care for children with special needs or developmental delays. The bill appropriated $50,000 to the Department of Human Services for the purpose of funding the early childhood services inclusion support services. The Legislative Assembly also appropriated $3.1 million in Senate Bill No. 2057 (2011) to the Department of Human Services for the purpose of providing grants to child care service providers for workforce development, quality improvement, technical assistance, and capacity building. Senate Bill No. 2298 (2011) provided the total amount of grants awarded under that bill which were funded by the Department of Commerce grant line item may not exceed 50 percent of the funds available under the Department of Commerce's grants for the early childhood facilities program.

Chapter 50-33 provides for a child care assistance program. Under that chapter, the Department of Human Services is responsible for paying child care costs required as a result of participation in allowable activities by the eligible caretaker in a temporary assistance for needy families household or diversion assistance household. Subject to the availability of funding, the department is authorized to expand child care assistance to include an eligible caretaker who is attending a postsecondary education program in pursuit of a one-year, two-year, or four-year degree or certificate. The chapter provides application requirements and requires the department to adopt rules for administration of the program.

2013 Legislation

In 2013 the Legislative Assembly considered several bills relating to early childhood services.

House Bill No. 1422 made changes to the licensed child care requirements, including increasing the maximum number of children in a group child care from 18 to 30, providing that if a child care facility has sufficient indoor recreation space then outdoor play space is not required, and codifying staffing requirements for a child care center. The bill provided the maximum group size of children in a child care center:

1. For children less than eighteen months of age, the maximum group size is ten children;
2. For children eighteen months of age to thirty-six months of age, the maximum group size is fifteen children;
3. For children three years of age to four years of age, the maximum group size is twenty children;
4. For children four years of age to five years of age, the maximum group size is twenty five children;
5. For children five years of age to six years of age, the maximum group size is thirty children; and
6. For children six years of age to twelve years of age, the maximum group size is forty children.

The provision of House Bill No. 1422, which established maximum group size for child care centers, excluded any child care center operator who has maintained a license since before January 1, 1999. The bill also provided the maximum group size requirements are effective until the date administrative rules containing those requirements take effect.

House Bill No. 1110 increased from 15 to 30 the number of days within which the Department of Human Services must make a decision on whether an applicant is eligible for child care assistance.

Senate Bill No. 2085 revised the definition of "family child care" to remove the limits on when family child care providers can care for school-age children, added a definition of "school-age children," updated the regulations on smoking on premises where early childhood services are provided, and removed the expiration date for the Early Childhood Services Advisory Board.

Senate Bill No. 2244 which, as introduced, would have appropriated funds for early childhood services specialists and grants to early childhood services providers, provided for a Legislative Management study of child care services. The bill was not prioritized for study.

Senate Concurrent Resolution No. 4019 directed a study of early childhood services. The resolution was not prioritized for study.

House Bill No. 1317, which failed to pass, would have established a student loan paydown program for early childhood education and care providers.

In addition to those bills, several bills included funding for programs related to child care services. The funding included:

- $24,507,404 to the Department of Human Services for child care assistance programs, including $20,898,665 for grant assistance payments; $2,500,000 from the general fund contingent upon the amount of funding needed for the expansion of the child care assistance program, of which up to $1,000,000 may be used for grants for workforce development pursuant to Section 50-11.1-14.1; $897,336 for payments to temporary assistance for needy families; and $211,403 for state liaison to collaborate with Head Start programs.
- $8,140,480 for workforce development and training, including $4,100,000 to the Department of Human Services for grants to child care providers for workforce development pursuant to Section 50-11.1-14.1; $2,717,399 to the Department of Human Services for quality assurance technical assistance; $773,081 to the Department of Human Services for licensing; $400,000 to the Department of Human Services for grants to child care providers serving those with disabilities pursuant to Section 50-11.1-18; and $150,000 to the Department of Public Instruction for continuing education grants for preschool teachers.
- $3,225,000 for child care facilities, including $2,600,000 to the Department of Commerce for child care facility grants; $500,000 from the Development Fund for early childhood facility financing; $125,000 from the general

fund to the Department of Public Instruction for grants to schools for safety compliant space; expansion of the beginning entrepreneur loan guarantee program to include child care facilities--the amount of loan guarantees is unknown; and financing assistance for child care facilities through the partnership in assisting community expansion--the amount of assistance is unknown.

- $200,000 for an early childhood care and education study to the Department of Public Instruction.

Testimony and Committee Considerations

Child Care Aware of North Dakota

The committee received reports from representatives of Child Care Aware of North Dakota, a service provided by the Lakes & Prairies Community Action Partnership, Inc., in the eastern portion of the state and Lutheran Social Services in the western portion of the state. The purpose of Child Care Aware, which receives funding from the Department of Human Services and provides services to the department, is to help families find child care, assist early childhood providers with developing skills and knowledge, and help assess the child care needs of the state and communities in the state.

According to the 2013 child care trend data report compiled by Child Care Aware, child care supply in the state declined from 41 percent of demand in 2011 to 34 percent in 2013. By 2014, the child care supply increased to 37 percent of demand. In 2013, 10 counties had child care supply that met less than 10 percent of the demand. Between 2009 and 2013, the number of licensed family child cares in the state decreased from 357 to 309, but increased in 2014 to 361; between 2009 and 2013, the number of licensed group child cares decreased from 863 to 816, but increased to 830 in 2014; between 2009 and 2013, the number of licensed school age programs was steady at 49, and increased to 53 in 2014; and between 2009 and 2013, the number of licensed child care centers increased from 132 to 162, but decreased in 2014 to 157. From 2009 to 2013, the total capacity of licensed child care statewide decreased from 32,393 to 30,888, while the number of children potentially needing child care increased from 80,460 to 89,900. In 2014, the total licensed capacity was 32,763 and the number of children potentially needing child care was 87,854. Child Care Aware estimates the number of children potentially needing child care to grow by 19 percent from 2013 to 2025.

According to Child Care Aware reports, child care average wages are among the lowest in comparison to other job sectors in North Dakota, with 96 percent of all workers in the state having an hourly wage higher than child care workers. Between 2006 and 2013, the average wage for child care workers increased less than 4 percent. In 2013, 4,821 individuals were employed in the child care industry. It is expected another 2,702 more employees will be needed in the child care industry by 2015 and an additional 1,302 employees will be needed by 2025.

Child Care Aware reported the average annual cost of child care for a child up to 17 months of age increased from $6,676 to $6,822 in family and group child care and decreased from $8,318 to $8,211 in a child care center between 2013 and 2014; the average annual cost of child care for a child 18 to 35 months increased from $6,515 to $6,653 in a family and group child care and decreased from $8,013 to $7,915 in a child care center; and the average annual cost of child care for a child ages 3 to 5 years increased from $6,383 to $6,534 in a family and group child care and increased from $7,373 to $7,507 in a child care center.

A representative of Child Care Aware provided the committee with information indicating every dollar invested in early childhood education produces a 7 to 10 percent return. Because 90 percent of a child's brain development occurs before the child enters kindergarten, representatives of Child Care Aware and the Department of Human Services provided the committee with information regarding the Bright and Early program. The Bright and Early program began in the state as a pilot program in Cass County and was implemented statewide in 2014. Under the program, incentives are provided to child care providers to progress through ratings steps to help providers increase quality of care. In addition to the $1 million the 2013 Legislative Assembly provided to the Department of Human Services for incentives, the department has used other funds to expand the program and allow movement to the first two steps of the four-step program.

Department of Human Services

In addition to reporting on the Bright and Early program implementation and expansion, representatives of the Department of Human Services reported to the committee regarding expansion of the eligibility of the child care assistance program and regulation and licensing of child care providers.

The 2013 Legislative Assembly provided an additional contingent appropriation of $2.5 million during the 2013-15 biennium to supplement federal funds available for the child care assistance program to expand eligibility from families at 50 percent of the median income of the state to families at up to 85 percent of the median income. There was discussion regarding the purpose of the change in the eligibility requirements. Representatives of the department testified the primary purpose was to bring more children into child care with the added benefit of possibly increasing wages for child care workers. A representative of Child Care Aware suggested the increase in eligibility was largely intended to allow providers to raise child care rates, which would provide additional funds to increase worker wages. However, it was suggested the change in eligibility has not resulted in increased salaries.

Representatives of the department reported the entire contingent appropriation would be spent before the end of the biennium. Projections provided by representatives of the department indicated the child care assistance program may be approximately $700,000 short by the end of the biennium.

Representatives of the department provided the committee with information regarding the licensing of child care providers. The department, in collaboration with Child Care Aware and the Department of Commerce, produced a video and other materials intended to promote child care as a business and to help potential child care providers learn how to start a child care business. In addition, the department has worked with Child Care Aware to offer free training, consultation, and financial incentives for home child care providers and child care centers.

In response to concerns expressed by members of the committee, representatives of the department explained that many of the regulatory requirements often cited as impediments to licensing of child care providers are related to federal laws and local ordinances. The committee was informed inconsistency in local ordinances frequently causes frustrations for providers. Local ordinances relating to the number of children allowed in a facility and the amount of space required may be more stringent than state laws and rules. In addition, fire inspections are conducted locally and the local jurisdictions may establish licensing and inspection fees. Concerns also were expressed with respect to potential federal rules that may become effective, including the impact of additional background check and fingerprint requirements for child care workers.

Department of Public Instruction

The committee received a report from a representative of the Department of Public Instruction regarding early childhood education. The committee was informed the department had approved 51 school districts for providing prekindergarten programs. Thirteen school districts have utilized Title I funds to support prekindergarten. The department adopted prekindergarten standards in 2013 and provides professional development assistance to align curriculum and assessment to the prekindergarten standards. The department is part of a 10-state consortium to assess prekindergarten to help guide instruction and provide students and teachers tools to meet or exceed standards across multiple domains of development.

Department of Commerce

The committee received a report from a representative of the Department of Commerce regarding child care grants authorized under Senate Bill No. 2014 (2013). According to the report, representatives of the department worked with Child Care Aware and the Department of Human Services to develop the grant guidelines. Senate Bill No. 2014 appropriated $2.6 million for the program, with the maximum grant award amount limited to $187,000 and a matching funding requirement of one dollar for each three dollars of grant funds. By September 2013, the department had obligated the entire amount available for grants. Priority was given to child care facilities proposing to increase infant and toddler capacity and to applicants in communities in which child care demand was greatest in relation to capacity.

The department received 78 applications, requesting $4,952,346 in funding. Grants were awarded to 22 applicants, with an anticipated increase in child care capacity of 1,100.

Additional Reports

The committee received testimony from economic development officials regarding the need for child care throughout the state as the economy of the state continues to grow. Concerns were expressed regarding the ability of employers to attract employees due to the lack of child care services. Although there appears to be interest in establishing onsite child care at various businesses, the committee was informed very little progress has been made in that respect, in part due to space and potential liability issues. The committee also was informed by economic development officials that attempts have been made to attract large-scale day care facilities in different cities, but those efforts have not been successful.

The committee received testimony from day care providers indicating day care centers have experienced difficulty in attracting and retaining employees. Despite having long waiting lists of children in need of care, day care centers have been limited in the ability to expand due to space needs and the cost of operating the businesses.

Conclusion

The committee makes no recommendation with respect to its study of child care.

REPORTS

Department of Commerce

The committee accepted the report of the Department of Commerce regarding the status of the program to establish and administer an unmanned aircraft systems test site in cooperation with the University of North Dakota, the Aeronautics Commission, the Adjutant General, and private parties appointed by the Governor as required by Section 54-60-28. Representatives of the Department of Commerce reported that on December 30, 2013, the state was chosen as one of the first six unmanned aircraft systems test sites. According to the report, the state has invested over $14 million through the Centers of Excellence and other programs to advance the unmanned aircraft systems industry in the state. Through executive order, the Governor created the Northern Plains Unmanned Systems Authority, which was funded through legislative appropriations. The Lieutenant Governor chairs the authority which also consists of representatives from the University of North Dakota, North Dakota State University, the Aeronautics Commission, the Department of Commerce, the Adjutant General, and the North Dakota Aviation Council. The committee was informed the test site was the first of the six test sites to be activated. The primary purpose of the test site is to gather information the Federal Aviation Administration will use in developing policies, procedures, and standards to govern the use of unmanned aircraft systems.

In addition to the report from the Department of Commerce, the committee received reports from several representatives of entities involved with unmanned aircraft system development in the Grand Forks area. The committee received information regarding the Grand Sky Initiative and the development of an enhanced use lease agreement with the Grand Forks Air Force Base to create a partnership with the Air Force and allow the use of property on the Air Force Base for commercial development related to the unmanned aircraft system industry. The committee also toured the facilities of the Grand Forks Air Force Base and received reports regarding the potential uses of the base property.

Emergency Services Communication Coordinating Committee

The committee accepted a report from representatives of the Emergency Services Communications Coordinating Committee regarding the use of the assessed communications services fee revenue as required by Section 57-40.6-12. The report indicated the number of 911 calls received through the emergency communications systems increased by 32 percent during the last 2 years and since tracking of calls began in 2005, the volume of calls has increased by 140 percent. However, since 2005, the revenue generated to support the system increased by only 30 percent and increased by 5 percent over the last 2 years. According to the report, 13 counties and 1 city increased 911 fees from $1 to the maximum fee allowed, $1.50. In an additional 9 counties, voters will vote whether to increase the 911 fees in the 2014 general election.

The report indicated deployment of Next Generation 911 began in the spring of 2014. Next Generation 911 will support newer forms of communication such as text messaging, video, photographs, and vehicle telematics. The report stated evaluation of public safety answering points concluded the public safety answering points are largely in compliance with the operating standards and guidelines and the fee revenue is being used in compliance with the expenditure guidelines.

The report included recommendations to amend statutory provisions to address the transition to Next Generation 911 and to more clearly identify the scope of the emergency services communications system as a two-part system implemented and maintained for the purposes of public safety. Although committee members generally agreed with the recommendations contained in the report, the committee did not consider a bill draft to implement the recommendations because the report was submitted to the committee at the last meeting of the interim.

Secretary of State

The committee accepted a report from the Secretary of State certifying that the information technology components of the electronic filing system are ready for implementation before August 1, 2015, as required by Section 50 of 2013 House Bill No. 1136 and Section 42 of 2013 House Bill No. 1015.

Economic Development Foundation

The committee accepted a report from representatives of the North Dakota Economic Development Foundation regarding progress made toward recommendations provided as part of the 2020 and Beyond Initiative as required by Section 36 of 2013 Senate Bill No. 2018. The report indicated North Dakota 2020 and Beyond was launched as a joint initiative with the Governor, the Greater North Dakota Chamber, and the North Dakota Economic Development Foundation as directed by the 2011 Legislative Assembly. According to the report, ongoing efforts of the initiative are led by the North Dakota Economic Development Foundation. In 2013, the report stated the Economic Development Foundation identified an area in each of the 2020 and Beyond recommendations that needed more focused efforts, including people, with a focus on education to improve the state to the best in the nation in education of its citizens; places, with a focus on technology to achieve the goal of building technology infrastructure to ensure the state is a model for connectivity; and opportunities, with a focus on workforce development to meet the needs of the expanding economy of the state. The foundation brought stakeholders together to explore opportunities in each of these areas and to define recommendations to help achieve success.

Housing Finance Agency Inventory

The committee received reports from a representative of the Housing Finance Agency regarding government programs providing residential and commercial development assistance as required by Section 2 of 2013 Senate Bill No. 2339. A representative of the Housing Finance Agency reported that representatives of the agency worked with representatives of the Department of Commerce, the Bank of North Dakota, the North Dakota League of Cities, the Economic Development Association of North Dakota, the United States Department of Agriculture Rural Development Agency, the United States Department of Housing and Urban Development, and the Small Business Administration to compile the requested information for the inventory.

The report stated that local assistance programs generally include four basic types--rehabilitation, local match of flex PACE funds, reduced price of land, and property tax reductions. According to the report, the state-funded housing incentive fund, administered by the Housing Finance Agency, and the flex PACE program, administered by the Bank of North Dakota, have been successful in incentivizing affordable housing production. In addition, the Housing Finance Agency administers the construction loan guarantee program, the rural housing development loan program, the rehab accessibility program, Helping Housing Across North Dakota, and the rural rehab loan program.

The report included within the inventory federal programs such as the low-income housing tax credit program, the HOME investment partnerships program, and community development block grants. In addition, federal funds are available through the low-income weatherization assistance program, rural rental housing direct and guaranteed loans, and the housing preservation grant program.