Prepared by the North Dakota Legislative Council staff for the Budget Committee on Government Services
July 1999

OTHER RESPONSIBILITIES OF THE BUDGET COMMITTEE ON GOVERNMENT SERVICES

APPROVE AGREEMENTS BETWEEN NORTH DAKOTA AND SOUTH DAKOTA

North Dakota Century Code Section 54-40-01, a copy of which is included in Appendix A, 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 that 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 has been assigned this responsibility for the 1999-2000 interim.

The 1997-98 interim Budget Committee on Government Services was also assigned this responsibility; however, no proposed agreements were submitted to the committee for approval to form a bistate authority with the state of South Dakota.

Action Plan

The committee may wish to carry out this responsibility as follows:

1. Receive any proposed agreement from a state agency to form a bistate authority with an agency of South Dakota.
2. Receive testimony from interested persons on the proposed agreement.
3. Review the proposed agreement regarding costs, effect on services, economic impacts, quality, etc.
4. Approve or disapprove the proposed agreement.

DEPARTMENT OF HUMAN SERVICES FTE REPORT

Section 6 of Senate Bill No. 2012 approved by the 1999 Legislative Assembly, a copy of which is included in Appendix A, provides that the human service centers, State Hospital, and Developmental Center report to the Budget Section and the Legislative Council, or its designee, on the hiring of any additional full-time equivalent (FTE) positions in addition to those authorized by the Legislative Assembly for the 1999-2001 biennium.

Because funding for the human service centers, State Hospital, and Developmental Center is provided by the Legislative Assembly in the form of block grants, these entities may hire additional FTE positions to meet service needs. The section requires that these entities report to the Budget Section and a committee of the Legislative Council (Budget Committee on Government Services) on any additional FTE positions hired.

The 1997-98 interim Budget Committee on Government Services also received this report and learned that the department hired 26.25 FTE positions in addition to those authorized by the Legislative Assembly at an estimated biennial cost of $1.9 million. Funding for these positions during the 1997-99 biennium was made available from a variety of sources, including additional federal or other funds, budget reallocations, or transfers of appropriation authority from the State Hospital to the human service centers.

The following schedule presents the authorized FTE positions for the human service centers, the State Hospital, and the Developmental Center for the 1999-2001 biennium:

Entity	1999-2001 Authorized FTE Positions
State Hospital	537.01
Developmental Center	481.30
Northwest Human Service Center	67.00
North Central Human Service Center	110.75
Lake Region Human Service Center	66.00
Northeast Human Service Center	157.65
Southeast Human Service Center	181.75
South Central Human Service Center	79.00
West Central Human Service Center	131.15
Badlands Human Service Center	90.50

Action Plan

The committee may wish to carry out this responsibility as follows:

1. Receive periodic reports from representatives of the Department of Human Services on any additional FTEs hired in addition to those authorized by the 1999 Legislative Assembly.
2. Determine the fiscal effect of hiring these additional FTE positions of the 1999-2001 budget and the projected cost if the positions are continued in the 2001-03 biennium.
3. Include the committee's findings in its report to the Legislative Council.

HOUSING DEVELOPMENT FUND REPORT

Section 5 of House Bill No. 1383, a copy of which is attached as Appendix B, provides that the governing board overseeing the housing development fund provide 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 in housing development projects in the state. The loans may be made 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 in the amount the institution would have earned by applying an interest rate of 300 basis points more than a comparable treasury security rate. The bill is effective for the four taxable years beginning after December 31, 1998. The fiscal note on this bill presented during the 1999 legislative session reflects a reduction in county revenues of $1,072,000 for the 1999-2001 biennium and a reduction of general fund revenues of $428,000 for the 1999-2001 biennium.

The housing development fund program allows a higher percentage of the cost of a housing construction project in rural North Dakota to be financed then 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 its appraised value, it is difficult to obtain an adequate amount of financing for new construction in these areas. This program will provide the financing for the cost of construction that exceeds the appraised value which will make housing construction projects more feasible in rural areas of the state.

While the Housing Finance Agency provides lower cost financing for eligible homebuyers and homeowners and administers multifamily housing programs that provide lower cost financing alternatives through the issuance of tax-exempt revenue bonds, its programs operate similarly to traditional financing methods which do not provide financing of costs that exceed appraised value.

Action Plan

The committee may wish to carry out this responsibility as follows:

1. Receive the housing development fund reports.
2. Review the effectiveness of the fund on the state's economy, business and employment activity, and state and local tax revenue.
3. Consider making a recommendation to continue the program beyond December 31, 2002.

ATTACH:2

54-40-01. Agreement — Exercise of joint powers — Bonds.

1. Two or more governmental units or municipal corporations having in common any portion of their territory or boundary, by agreement entered into through action of their governing bodies, may jointly or cooperatively exercise their respective separate powers, or any power common to the contracting parties or any similar powers, including those which are the same except for the territorial limits within which they may be exercised for the purpose of acquiring, constructing, and maintaining any building for their joint use. The term "governmental unit" as used in this section includes and means every city, county, town, park district, school district, states and United States governments and departments of each thereof, and all other political subdivisions even though not specifically named or referred to herein.
2. Two or more counties or cities, or any combination of counties or cities, whether or not they have in common any portion of their territory or boundary, by agreement entered into through action of their governing bodies, may jointly or cooperatively exercise their respective separate powers, or any power common to the contracting parties or any similar powers, for the purpose of acquiring equipment or constructing roads, bridges, and road and bridge improvements.
3. An agency, department, or institution of this state may enter an agreement with the state of South Dakota to form a bistate authority to jointly exercise any function that the entity is authorized by law to perform. Any agreement entered under this subsection 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 legislative council for approval or rejection and may not become effective until approved by the legislative assembly or the legislative council.
4. Counties or cities, or any combination of counties or cities, may jointly issue bonds in the same manner and for the purposes provided for in chapter 21-03.

SECTION 6. LEGISLATIVE INTENT - FULL-TIME EQUIVALENT EMPLOYEES - REPORTS TO THE BUDGET SECTION AND THE LEGISLATIVE COUNCIL. It is the intent of the legislative assembly that the human service centers, the state hospital, and the developmental center report to the budget section and the legislative council, or its designee, on the hiring of any additional full-time equivalent positions in addition to those authorized by the legislative assembly in subdivision 4 of section 1 of this Act for the biennium beginning July 1, 1999, and ending June 30, 2001.

Fifty-sixth Legislative Assembly, State of North Dakota, begun in the Capitol in the City of Bismarck, on Tuesday, the fifth day of January, one thousand nine hundred and ninety-nine

HOUSE BILL NO. 1383
(Representatives Dorso, Clark)
(Senators Grindberg, G. Nelson)

AN ACT to provide for establishment and operation of the housing development fund and to provide a financial institutions tax credit for participation in the fund; to amend and reenact sectons 57-35.3-09 and 57-35.3-10 of the North Dakota Century Code, relating to allocation of financial institutions' tax revenues; to provide a penalty; to provide an effective date; and to provide an expiration date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. Definitions. As used in this Act:

1. "Financial institution" means a financial institution as defined in section 57-35.3-01.
2. "Fund" means the housing development fund.
3. "Fund administrator" means a certified development corporation with a statewide focus which the small business administration has designated as a certified development corporation.
4. "Governing board" means the board of directors of the corporation or board of governors of the limited liability company established under section 2 of this Act.

SECTION 2. Establishment - Organization. Any financial institution or group of financial institutions may establish a corporation or a limited liability company to own and operate the housing development fund. Except as provided in this Act, all authority regarding the articles of incorporation or articles of organization is the province of the governing board, which must include a representative of the Bank of North Dakota and a representative of the department of economic development and finance. The fund administrator shall maintain the fund as an account at the Bank of North Dakota. The governing board is responsible for adopting policies and procedures governing activities in connection with the fund. The governing board may not distribute more than seventy-five percent of the net profit of the fund in any of the first five years of operation.

SECTION 3. Housing development fund use. The housing development fund established under section 2 of this Act may be used only for making participation loans in housing development projects in this state. The participation of the fund in a loan may not exceed the aggregate of loans from other sources and the investment of the project developer. A loan from the fund may not be made to a financial institution. The governing board shall establish the rate of interest and terms of repayment for a loan from the fund. Loans may be made from the fund 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. For purposes of this section, "rural areas" means the area of the state not within the corporate limits of a city with a population of eight thousand or more.

SECTION 4. Loan administration. An application for a loan from the fund must contain the information prescribed by the governing board. Except as provided in this section, information contained in applications for loans from the fund is confidential. The fund administrator shall review each loan application; report to the governing board whether the applicant represents a housing project, whether the housing project is for multifamily housing, and whether the housing project is located in a rural area; and make a recommendation to the governing board on whether to approve the loan application.

SECTION 5. Audited financial statement - Report of fund operations. The governing board shall contract annually with a certified public accountant for performance of an audit and preparation of audited financial statements of the fund, prepared in accordance with generally accepted accounting principles, and a report containing an analysis of 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 governing board shall provide the financial statements and report to the governor and the legislative council. The governing board shall make copies available to the public upon request. The cost of the audit and preparation of financial statements and report must be paid from the fund.

SECTION 6. Financial institutions tax credit - Penalty. If the requirements of this Act are met, a financial institution is entitled to a credit against taxes due under section 57-35.3-03 as determined under this section.

1. A financial institution making or participating in a loan under this Act is entitled to a credit calculated for each calendar year the loan is in place. The amount of the credit is the difference between:

   a. The participating financial institution's share of the interest earned on the loan during the calendar year; and

   b. The participating financial institution's share of an amount of interest that would have been earned during the same period by applying an interest rate, calculated by adding three hundred basis points to a comparable treasury security rate at the date of the issuance of the loan.

2. The maximum credit allowed a financial institution for any calendar year is the amount of interest that would have been earned during the period by applying an interest rate of three hundred basis points. A credit may not be allowed if the interest earned exceeds the interest that would have been earned by applying the calculation in subdivision b of subsection 1.

3. The credit may not exceed the total amount of the financial institution's tax liability under chapter 57-35.3 and unused credit may not be carried forward.

4. Credits under this section for all financial institutions may not exceed an aggregate amount of seven hundred and fifty thousand dollars in a calendar year.

5. A financial institution claiming a credit under this section shall attach to its return a schedule identifying each county within this state within which are located housing development projects funded by loans for which credits are claimed by that financial institution. The schedule must identify the location of, and the dollar amount of credit attributable to, each project within each county.

SECTION 7. Loans limited by assets of financial institutions. The aggregate amount of all loans made by a financial institution under this Act or the aggregate amount of a financial institution's participation in loans made under this Act may not at any time exceed five percent of the financial institution's admitted assets or the amount equal to the company's capital and surplus in excess of the minimum capital and surplus required by law, whichever is less.

SECTION 8. AMENDMENT. Section 57-35.3-09 of the 1997 Supplement to the North Dakota Century Code is amended and reenacted as follows:

57-35.3-09. Financial institution tax distribution fund - Continuing appropriation. The balance in the financial institution tax distribution fund on February first of 1999 and each subsequent year must be distributed in the following manner:

1. On or before February 1, 1999, the commissioner shall determine and certify to all county auditors:

a. The total amount of tax certified to each county under chapters 57-35 and 57-35.1 in the years 1993 through 1997; and

b. The amount determined under subdivision a for each county as a percentage of the amount determined under subdivision a for all counties.

2. On or before February fifteenth of 1999 and each subsequent year, the commissioner shall determine and certify to the state treasurer an amount for payment by the state treasurer to each county treasurer equal to:

a. The percentage for that county determined under subdivision b of subsection 1; multiplied by

~~b.~~ ~~The~~ the balance in the financial institution tax distribution fund on February first of that year plus five-sevenths of the total amount of credits claimed and allowed in the state under section 6 of this Act for the taxable year for which the distribution is being made; minus

b. Five-sevenths of the total amount of credits claimed and allowed in that county under section 6 of this Act for the taxable year for which the distribution is being made. If the amount subtracted under this subdivision exceeds the county's share of fund distributions for the taxable year, any excess amount may be carried forward and deducted from distributions to the county for up to two taxable years.

3. On or before March first of 1999 and each subsequent year, the state treasurer shall pay to the treasurer of each county the amount determined for that county under subsection 2. The amounts necessary to make these payments are appropriated to the state treasurer as a standing and continuing appropriation for distribution under this subdivision.

4. On or before February 1, 1999, the treasurer of each county shall determine and certify to the state treasurer and to all affected political subdivisions of the county:

a. The total amount of tax apportioned and distributed to the state, the county, and each political subdivision of the county under sections 57-35-13 and 57-35.1-06 in the years 1994 through 1998; and

b. The amount determined under subdivision a for each distributee as a percentage of the amount determined under subdivision a for all distributees.

5. On or before the tenth working day of March in 1999 and each subsequent year, the treasurer of each county shall determine and distribute to each distributee described in subsection 4 an amount equal to:

a. The percentage for that distributee determined under subdivision b of subsection 4; multiplied by

b. The amount of the payment by the state to the county in that year under subsection 3.

SECTION 9. AMENDMENT. Section 57-35.3-10 of the 1997 Supplement to the North Dakota Century Code is amended and reenacted as follows:

57-35.3-10. Certification of estimated tax. On or before August 1, 1998, and each subsequent year, the commissioner shall provide a preliminary estimate of the distribution to be made to each county in the following year. The preliminary estimate must show the total amount of credits claimed and allowed in each county under section 6 of this Act for the taxable year and how those credits affect distributions. The preliminary estimate must identify the location of, and the dollar amount of credit attributable to, each project within each county. On or before November fifteenth of 1998 and each subsequent year, the commissioner shall determine the estimated amount of the distribution to be made to each county in the following year under section 57-35.3-09 and shall certify that amount to the county auditor.

SECTION 10. EFFECTIVE DATE - EXPIRATION DATE. This Act is effective for the first four taxable years beginning after December 31, 1998, and is thereafter ineffective.

Speaker of the House	President of the Senate
Chief Clerk of the House	Secretary of the Senate

This certifies that the within bill originated in the House of Representatives of the Fifty-sixth Legislative Assembly of North Dakota and is known on the records of that body as House Bill No. 1383.

House Vote:	Yeas	82	Nays	14	Absent	2
Senate Vote:	Yeas	32	Nays	14	Absent	3

Chief Clerk of the House

Received by the Governor at _____ M. on _____, 1999.

Approved at _____ M. on _____, 1999.

Governor

Filed in this office this _____ day of _____, 1999,

at _____ o'clock _____ M.

Secretary of State