Memo

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

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BISTATE AGREEMENTS - LEGISLATIVE ACTION IN NORTH DAKOTA AND SOUTH DAKOTA

During the 1995-96 interim, legislators from North Dakota and South Dakota met as the North Dakota/South Dakota Commission to study ways that North Dakota and South Dakota could collaborate to provide government services more efficiently. As a result of commission action, one bill was introduced to the North Dakota Legislative Assembly and three bills were introduced to the South Dakota Legislature relating to bistate agreements.

NORTH DAKOTA

Senate Bill No. 2048 provided that an agency 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 to perform. Any agreement entered into must be submitted to the Legislative Assembly for approval or rejection at the next regular or special session after the agreement is entered and may not become effective until approved by the Legislative Assembly. The Legislative Assembly approved this bill; however, it was vetoed by the Governor and the Legislative Assembly sustained the veto.

Subsequent to the Governor's veto, the Legislative Assembly amended a similar but revised section into House Bill No. 1015, which addressed the concerns of the Governor. This bill was approved by the Legislative Assembly and signed by the Governor. The section provides that an agency 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.

SOUTH DAKOTA

Senate Bill No. 7 was introduced to but was not approved by the South Dakota Legislature. This bill provided that any state agency may enter into an agreement with another state or agency of another state to form a multistate authority to jointly exercise any function that the entity is authorized by law to perform. The bill provided that any authority formed pursuant to this section may assume or acquire debts, obligations, revenues, or assets of any public agency that is a party to the agreement; however, any agreement that involves the assumption of any debt or obligation must be submitted to the Legislature for approval at the next regular or special session after the agreement is entered into and the agreement may not become effective until approved by the Legislature.

Senate Bill No. 9 was introduced to but was not approved by the South Dakota Legislature. This bill provided that the Department of Transportation may enter into agreements with the state of North Dakota for the provision of highway construction or maintenance activities and services in counties in either state that are adjacent to the boundary between the two states. Such services or activities may include the sharing of sand or salt stockpiles and reassigning of winter road maintenance responsibilities on certain sections of United States Highway 85, North Dakota Highway 49, United States Highway 83, North Dakota Highway 11, South Dakota Highway 63, and Interstate 29.

Senate Bill No. 10 was introduced to but was not approved by the South Dakota Legislature. This bill authorized the South Dakota Board of Regents to enter into cooperative purchasing agreements with the North Dakota State Board of Higher Education.

Although the bills introduced to the South Dakota Legislature were not approved, the South Dakota Legislature will meet in 1998 and if similar legislation is introduced and approved, agencies may form agreements that would need to be considered for approval during the 1997-98 interim. In addition to these agreements to form bistate authorities which must be approved before becoming effective, agencies and institutions of North Dakota and South Dakota may cooperate and share information, services, and activities without forming a bistate authority. Various examples of cooperation and sharing between the states were discussed by the North Dakota/South Dakota Commission. Some areas of cooperation and sharing include higher education reciprocal tuition agreements, elementary and secondary reciprocal agreements, and sharing of library materials and other information between the states.