NORTH DAKOTA LEGISLATIVE COUNCIL

Minutes of the

BUDGET COMMITTEE ON HUMAN SERVICES

Thursday, July 28, 2005
Roughrider Room, State Capitol
Bismarck, North Dakota

Senator Dick Dever, Chairman, called the meeting to order at 9:00 a.m.

Members present: Senators Dick Dever, Richard L. Brown, Tom Fischer, Aaron Krauter, Judy Lee, Russell T. Thane, John M. Warner; Representatives Jeff Delzer, William R. Devlin, Lee Kaldor, James Kerzman, Gary Kreidt, Ralph Metcalf, Jon O. Nelson, Vonnie Pietsch, Chet Pollert, Todd Porter, Louise Potter, Clara Sue Price, Sally M. Sandvig, Ken Svedjan, Gerald Uglem, Alon C. Wieland

Others present: See attached appendix

Mr. Jim W. Smith, Legislative Budget Analyst and Auditor, reviewed the *Supplementary Rules of Operation and Procedure of the North Dakota Legislative Council*.

PUBLIC HEALTH UNIT STUDY

The Legislative Council staff presented a memorandum entitled *Public Health Unit and Food and Lodging Inspection Study - Background Memorandum*. The Legislative Council staff said Section 21 of 2005 Senate Bill No. 2004 directs a study of the state's public health unit infrastructure and the ability of the public health units to respond to public health issues. The study is to include an assessment of the efficiency of operations given the personnel and financial resources available and the effectiveness of services given the lines of governmental authority of the current infrastructure. In addition, the Legislative Council staff said the study is to include the efficiency of the food and lodging investigation services provided by the State Department of Health and the public health units and must result in a plan maximizing efficiencies through a coordinated system and fee structure.

The Legislative Council staff said the state is comprised of 28 public health units, which take a variety of forms--7 are multicounty health districts, 10 are single-county health districts, 3 are city/county health departments, 1 is a city/county health district, and 7 are single-county health departments.

The Legislative Council staff said that for the 2005-07 biennium, the Legislative Assembly appropriated $1.1 million from the general fund for state aid to health districts, the same amount appropriated for the 2003-05 biennium. The department is also providing funding from federal and special funds, including the community health trust fund, to the health districts. For calendar year 2004, the State Department of Health provided the following funding to the 28 health districts in the state:

General fund	$550,000
Federal funds	6,802,585
Special funds	2,227,895
Total	$9,580,480

Regarding food and lodging investigation services, the Legislative Council staff said that North Dakota Century Code (NDCC) Section 23-09-16 requires any food or lodging establishment to be licensed either by the State Department of Health or by a local health unit. Section 23-09-11 requires each establishment to be inspected by the department at least once every two years.

The Legislative Council staff said the State Department of Health has a separate Food and Lodging Division responsible for licensing and inspecting restaurants, bars, lodging facilities, mobile home parks, campgrounds, bed and breakfast facilities, retail food stores, meat markets, bakeries, schools, salvage food establishments, small food manufacturers and processors, and assisted living facilities. Under an agreement with the Department of Human Services, the division also inspects preschools and day care centers that prepare food. The division also serves as the Food and Drug Administration liaison in the state on issues relating to manufactured food and pesticide residues in food. The division consists of six full-time equivalent (FTE) employee positions--two located in Bismarck and one each in Dickinson, Fargo, Jamestown, and Minto. The division also has agreements with seven local health units. Under these agreements, the health units provide the inspection and licensing functions in their areas.

The Legislative Council staff said that prior to July 1, 2005, annual license fees for food and lodging establishments were set in statute and the collections were deposited in the state general fund. Funding for providing food and lodging inspection services in the State Department of Health was primarily from the general fund. The 2005 Legislative Assembly, in Senate Bill No. 2004, changed the funding source for these services from primarily the general fund to primarily special funds from food and lodging license fee collections deposited in the department's operating fund. Statutory references to the food and

lodging license fee rates were also removed. The State Department of Health was provided authority to establish the license fees by rule. Based on the 2005-07 funding levels approved by the Legislative Assembly for these services of $748,000, the license fee revenue will need to increase by approximately $190,000 for the biennium. The 2005-07 biennium budget for these services in the State Department of Health is listed below:

Salaries and wages	$600,634
Operating expenses	147,241
Total	$747,875
General fund	$125,000
Federal funds	79,429
Other funds	543,446
Total	$747,875

The Legislative Council staff said the committee may wish to proceed with this study as follows:

1. Review current services provided by public health units.
2. Review funding by funding source and staffing of public health units.
3. Review the governance of public health units.
4. Review food and lodging investigation services provided by the State Department of Health and public health units and fees charged for these services.
5. Receive testimony regarding the appropriate role for the State Department of Health and public health units to meet the public health needs of North Dakota.
6. Receive testimony regarding the appropriate role for the State Department of Health and public health units to provide food and lodging investigation services and the appropriate fees to charge for these services.
7. Develop a coordinated system and fee structure for providing food and lodging investigation services.
8. Develop committee recommendations and any legislation necessary to implement the recommendations.
9. Prepare the committee's report for submission to the Legislative Council.

Senator Lee asked for the difference between a public health department and a public health district. The Legislative Council staff said that a public health district has a separate governing board, has its own annual budget, and has a local funding source of the funds generated by a levy of up to five mills on the taxable valuation. A public health department is an agency within a city or county government.

Ms. Arvy Smith, Deputy State Health Officer, State Department of Health, commented regarding the public health unit study. Ms. Smith said services provided by public health units vary across the state. Ms. Smith said NDCC Section 23-35-02 authorizes the State Health Council to issue rules defining the core functions of a public health unit; however, defining core functions is an issue that other states are also attempting to determine. Ms. Smith said that the American Public Health Association Committee on Administrative Practice has adopted core functions and 10 essential services to guide public health decisionmaking and operations. She said this information may serve as a guide for establishing core functions for North Dakota public health units.

Ms. Smith presented information on the funding provided to public health units across the state from the State Department of Health which includes funding from the general fund ($550,000 per year), special funds from the community health trust fund, and the abandoned automobile fund totaling $2,227,895 and federal funds totaling $6,802,585.

Regarding food and lodging services, Ms. Smith said the department generally provides one inspection per establishment per year to ensure that the facilities meet both sanitation and certain fire and life safety standards before opening to the public and while in operation. She said the inspections ensure compliance with state laws and federal guidelines included in the Food and Drug Administration food code.

Ms. Smith suggested the committee's study plan regarding the food and lodging investigation services include whether local public health units have or could have the ability to conduct more food and lodging investigation services.

Regarding the public health unit infrastructure, Ms. Smith suggested the committee could:

1. Determine the minimum level of service that should be available to all residents of the state and whether the services should be provided at the local, regional, or state levels or by the private sector.
2. Determine additional public health services that should be provided and whether the services should be determined by local, regional, state, or federal planning.
3. Review current laws regarding local public health services to ensure that a minimum of public health services are provided to all residents of the state, to determine that appropriate authority is given to local boards of health and health officers to ensure the services are provided, and to determine whether the laws should be included in state statute or in local ordinances.
4. Review available funding for public health services and determine the appropriate funding source for providing the services.
5. Review the existing public health infrastructure, including the appropriate governance at the local, regional, and state level.
6. Determine whether certification of public health entities and workers is appropriate and develop the process for certification, if necessary.

A copy of the testimony is on file in the Legislative Council office.

Representative Porter asked whether the funding provided by the State Department of Health to public health units has limits on the use of those funds. Ms. Smith said that the federal funding and the majority of the funding distributed from the community health trust fund must be used for specified purposes; however, she said, the general fund and discretionary state aid funding from the community health trust fund may be used for purposes as determined by the public health units.

In response to a question from Representative Delzer, Ms. Smith said the statutory provisions relating to public health units do not include the specific core functions that must be provided.

Representative Svedjan suggested the committee review the public health units' ability to maximize Medicaid funding for their services.

Mr. Keith Johnson, Administrator, Custer District Health Unit, Mandan, said the health units have minimal opportunities to claim additional Medicaid reimbursements for their services. He said currently service functions that receive Medicaid-related funding is Health Tracks screenings, flu shots, and some home health services. Mr. Johnson said there is currently an effort at the national level to define a public health agency and the appropriate services for these agencies to provide. He said more information should be available in approximately six months which he could make available to the committee.

Ms. Mary Kay Herrmann, Director, Fargo Cass Public Health, commented on the study. Ms. Herrmann said although Fargo Cass is a city/county health department, it does collaborate with other counties in its region on certain projects. She said Fargo has recently revised its service ordinance to include essential services. She said, if requested, she could provide this information to the committee. Ms. Herrmann said Medicaid funding is a very minimal part of a health unit's funding.

Senator Lee suggested the committee incorporate the health department's suggestions into the study plan and review the 10 essential services of public health units developed by the American Public Health Association.

Representative Svedjan suggested that as information is provided to the committee on the essential services or core functions of public health units that the related estimate of funding needs and potential sources to pay for these services also be included.

Senator Warner suggested the committee also review information on the costs and procedures involved in cleaning up methamphetamine laboratories.

Representative Delzer said the committee in conducting its study of the food and lodging investigation services needs to consider the fees being charged, the types of food and lodging investigation services being conducted by the public health units, and whether the cost of these services should be entirely paid for by fees or whether the general tax revenues be used to pay for these services.

It was moved by Senator Lee, seconded by Senator Brown, and carried on a voice vote that the committee proceed with this study as follows:

1. **Review current services provided by public health units, including activities involved in cleaning up methamphetamine laboratories.**
2. **Review funding by funding source and staffing of public health units.**
3. **Review the governance of public health units.**
4. **Consider for public health units:**
    a. **The minimum level of service that should be available to North Dakota residents and whether the services should be provided at the local, regional, or state levels or by the private sector.**
    b. **Whether additional public health services should be provided and if the determination should be made at the local, regional, state, or federal levels.**
    c. **Review current laws relating to local public health services regarding the authority provided and whether the laws should be included in state statute or local ordinances.**
    d. **Determine whether certification for public health entities and workers is appropriate and, if so, what the certification process should include.**
5. **Review food and lodging investigation services provided by the State Department of Health and public health units and fees charged for these services.**
6. **Consider whether public health units should have an expanded role in providing food and lodging investigation services rather than the State Department of Health and whether the cost of these services should be provided from fee income or general tax revenues.**
7. **Receive testimony regarding the appropriate role for the State Department of Health and public health units to meet the public health needs of North Dakota.**
8. **Receive testimony regarding the appropriate role of the State Department of Health and public health units to provide food and lodging investigation services and the appropriate fees to charge for these services.**
9. **Develop a coordinated system and fee structure for providing food and lodging investigation services.**
10. **Develop committee recommendations and any legislation necessary to implement the recommendations.**
11. **Prepare the committee's report for submission to the Legislative Council.**

HEALTHY NORTH DAKOTA STUDY

The Legislative Council staff presented a background memorandum entitled *Healthy North Dakota and Workplace Wellness Study - Background Memorandum*. The Legislative Council staff said that Section 20 of 2005 Senate Bill No. 2004 provides for a Legislative Council study of the costs and benefits of adopting a comprehensive Healthy North Dakota and workplace wellness program in collaboration with the State Department of Health, health insurers and other third-party payers, Workforce Safety and Insurance, interested nonprofit health-related agencies, and others who have an interest in establishing accident and disease prevention programs.

The Legislative Council staff said Governor John Hoeven initiated the Healthy North Dakota initiative in January 2002. The mission of the initiative is to inspire and support North Dakotans to improve physical, mental, and emotional health for all by building innovative statewide partnerships. The Healthy North Dakota Advisory Committee was formed in March 2002. The priority areas of Healthy North Dakota include:

1. Tobacco use.
2. Substance abuse/mental health.
3. Healthy weight - Nutrition.
4. Healthy weight - Physical activity.
5. Health disparities.
6. Worksite wellness.
7. Community engagement.
8. Third-party payers/insurance.

Committees have been formed to focus on each of these areas across the state.

The Legislative Council staff said the State Department of Health 2005-07 biennium budget request included a $26.1 million general fund request for Healthy North Dakota strategies to address the leading causes of death in North Dakota--tobacco use, poor nutrition, and physical inactivity. The strategies identified to address these issues include:

1. Healthy North Dakota recognition program.
2. Baby friendly hospitals.
3. Community challenge grants.
4. Worksite wellness institute.
5. Physical activity position within the State Department of Health.
6. Office of special populations.
7. Primary seatbelt initiative.
8. Tobacco programs.

For the 2005-07 biennium, the Legislative Assembly appropriated $485,746 of federal and other funds for the State Department of Health's Healthy North Dakota and worksite wellness program. Federal funds of $350,746 are from the federal preventive health block grant and are used, in part, for funding 1.5 FTE positions within the department. The $135,000 of other funds needs to be raised by the department and is for the worksite wellness program. The Legislative Assembly provided the $135,000 for the worksite wellness program for the department to use in conjunction with federal funds to contract with a nonstate entity for a worksite wellness pilot project.

The Legislative Council staff said the 2003 Legislative Assembly authorized the Public Employees Retirement System to develop an employer-based wellness program for state employees. The program must encourage employers to adopt a board-developed wellness program by either charging extra health insurance premiums to nonparticipating employers or reducing premiums for participating employers. For the 2005-07 biennium, the Public Employees Retirement System will charge an additional health insurance premium of 1 percent for employers that do not participate in the wellness program. The 2005 Legislative Assembly did not fund this potential additional cost.

The Legislative Council staff proposed the following study plan:

1. Receive information from representatives of the Healthy North Dakota initiative regarding the status of the initiative and planned activities.
2. Receive testimony from representatives of the Public Employees Retirement System regarding the worksite wellness program administered by the Public Employees Retirement System.
3. Receive information from the State Department of Health regarding the development of a worksite wellness pilot project.
4. Receive testimony from representatives of the State Department of Health, health insurers and other third-party payers, Workforce Safety and Insurance, interested nonprofit health-related agencies, and others who have an interest in establishing accident and disease prevention programs regarding this study.
5. Develop committee recommendations and necessary legislation to implement the recommendations.
6. Prepare the committee's report for submission to the Legislative Council.

Ms. Smith commented regarding the Healthy North Dakota study. Ms. Smith suggested the committee review similar health-related efforts in other states as well as some of the results generated by the Healthy North Dakota program.

Ms. Smith said that interest by employees in worksite wellness has increased during the past decade as studies have shown how prevention can reduce premature death and disabilities. Employers are interested in worksite wellness programs to help contain health care costs while improving productivity and morale and reducing absenteeism and employee turnover.

Ms. Smith said a 2001 study of North Dakota businesses indicated that more than 80 percent believe that healthier employees have lower insurance costs, better morale, fewer sick days, and better productivity. However, she said, in the same survey fewer than

1 in 10 respondents had conducted a worksite needs assessment or prepared a worksite wellness plan. She said a similar survey will be conducted again this fall with preliminary results available by February 2006.

Ms. Smith said that currently Healthy North Dakota serves as a connection between businesses that wish to implement worksite wellness and consultants who can assist the businesses in establishing the program.

Ms. Smith said the committee may wish to consider receiving information from employers who have developed worksite wellness programs, including Johnson & Johnson and Hedahls, Inc. A copy of the testimony is on file in the Legislative Council office.

Senator Dever asked whether the State Department of Health has information available on other states' health improvement programs. Ms. Smith said the department will provide that information to the committee at a future meeting.

Ms. Melanie Metz, registered dietitian, Grand Forks, commented on the study. Ms. Metz said she has been assisting the Healthy North Dakota program with worksite wellness efforts for the past seven months. She said workplaces have been identified as appropriate for creating environments that promote healthy behaviors that will lead to better health. She said worksite wellness programs:

1. Improve performance and productivity of employees.
2. Improve worker morale.
3. Decrease absenteeism.
4. Help attract and retain key personnel.
5. Achieve greater employee allegiance.
6. Lower health care and insurance premiums.
7. Improve the public image of the company.

A copy of the testimony is on file in the Legislative Council office.

In response to a question from Senator Thane, Ms. Metz said that depending on the comprehensiveness of the program, measurable results can be achieved in less than one year relating to improved employee morale and lower absenteeism. She said lower health insurance costs may be realized in one to two years.

Senator Thane asked for information on other states' efforts to develop worksite wellness programs. Ms. Metz said that other states that have developed these types of programs include Ohio, Utah, Nebraska, and California. Ms. Metz said that information can be provided to the State Department of Health and forwarded to the committee, if requested.

Mr. Jack McDonald, Bismarck, representing the YMCAs of North Dakota, expressed support for the Healthy North Dakota and workplace wellness program study and offered assistance in providing information to the committee, if needed. A copy of the testimony is on file in the Legislative Council office.

Mr. Dick Hedahl, President, Hedahls, Inc., Bismarck, provided information on the development of a worksite wellness program for Hedahls, Inc. He said the Hedahls worksite wellness program began in 1992 and provides cash incentives to employees for maintaining weight within standard guidelines, limiting alcohol use, and refraining from tobacco usage. He said each employee and spouse is eligible for up to $75 per month in additional compensation for maintaining these health standards. In addition, employees can receive up to $25 for each of the following tests completed annually:

1. Cancer screening.
2. Cholesterol check.
3. Blood pressure check.
4. Blood sugar check.

Mr. Hedahl provided information on Hedahls, Inc., health insurance premiums. He said the premiums decreased each year for the first six years following implementation of the program. A copy of the testimony is on file in the Legislative Council office.

Representative Price suggested that as part of this study, the committee receive information from the State Department of Health and the Public Employees Retirement System on the effects of tobacco cessation programs across the state.

It was moved by Senator Krauter, seconded by Senator Brown, and carried on a voice vote that the following study plan be approved:

1. **Receive information from representatives of the Healthy North Dakota initiative regarding the status of the initiative and planned activities.**
2. **Receive information from the State Department of Health and the Public Employees Retirement System on the effect of tobacco cessation programs on improving the health of North Dakotans across the state.**
3. **Receive testimony from representatives of the Public Employees Retirement System regarding the worksite wellness program administered by the Public Employees Retirement System.**
4. **Receive information from the State Department of Health regarding development of a worksite wellness pilot project.**
5. **Receive testimony from representatives of the State Department of Health, health insurers and other third-party payers, Workforce Safety and Insurance, interested nonprofit health-related agencies, and others who have an interest in establishing accident and disease prevention programs.**
6. **Develop committee recommendations and any necessary legislation to implement the recommendations.**
7. **Prepare the committee's report for submission to the Legislative Council.**

MEDICAID STUDY AND REPORTS

The Legislative Council staff presented a background memorandum entitled *Medical Assistance Study and Reports - Background Memorandum*. The Legislative Council staff said that Section 5 of 2005 House Bill No. 1459 provides for a Legislative Council study of the Medicaid medical reimbursement system, including costs of providing services, fee schedules, parity among provider groups, and access to services. The Legislative Council staff said that for the 2005-07 biennium, the Legislative Assembly appropriated $976.1 million for medical assistance, of which $307 million is from the general fund. Of the $976.1 million total, $385.6 million is for medical services, $343 million is for nursing home services, $211.6 million is for developmental disabilities grants, $12.1 million for Healthy Steps, and $23.8 million for other services, including personal care services, targeted case management, and waiver services.

The Legislative Council staff said that Medicaid costs are shared between the federal and state government. The federal medical assistance percentage (FMAP) determines the federal share of Medicaid costs with the state paying the remaining amount. The FMAP changes each October 1 and is based on the federal fiscal year (October to September). The FMAP is calculated using a three-year average of state per capita personal income compared to the national average per capita personal income. The state with an average per capita personal income has an FMAP of 55 percent. The state's FMAP may not be less than 50 percent nor more than 83 percent. Two programs have an enhanced FMAP--the children's health insurance program and breast and cervical cancer treatment services. The enhanced FMAP is calculated by reducing each state's share by 30 percent of the regular FMAP.

The Legislative Council staff said the 2005 Legislative Assembly provided funding for 2.65 percent annual inflationary increases for Medicaid providers for the 2005-07 biennium. In addition, the Legislative Assembly added $170,940, of which $60,000 is from the general fund for increasing ambulance services payment rates. The Legislative Council staff provided a schedule prepared by the Department of Human Services showing, for fiscal year 2004, total billed charges by provider type, the amount of the billed charges paid by Medicaid, and the percentage of the billed amount paid. The percentage of billed amount paid by provider type varies from 30.5 percent for ambulance services to 95.5 percent for hearing aid dealers.

The Legislative Council staff said the committee has been assigned to receive the following reports from the Department of Human Services relating to the medical assistance program:

1. A five-year Medicaid analysis report - North Dakota Century Code Section 50-06-25 requires the department to present a biennial report to the Legislative Council providing a five-year historical analysis of the number of persons receiving services under the medical assistance program, the cost of the services by program appropriations, the budget requested, the budget appropriated, and actual expenditures for each of the five preceding fiscal years. The report is to include a comparison of the state's experience to surrounding states and using actuarial tools, and must project estimated usage trends and budget estimates for meeting those trends for the succeeding five-year period.
2. Asset disregard for long-term care insurance report - Section 2 of House Bill No. 1217 requires the department, before November 1, 2005, to report to the Legislative Council regarding the status of an amendment to North Dakota's Medicaid state plan allowing the disregard of assets if an individual has received or is entitled to receive benefits under a long-term care insurance policy. House Bill No. 1217 allows individuals to own and retain assets and still be eligible for medical assistance benefits if the individual owns a long-term care insurance policy. This section becomes effective on the date the department certifies to the committee that an amendment to the Medicaid state plan has been approved by the federal government allowing these provisions.
3. Prescription drug monitoring report - House Bill No. 1459 establishes a prescription drug monitoring working group and requires the Department of Human Services and the working group to provide periodic status reports to the Legislative Council regarding the activities of the working group and the implementation of the prescription drug monitoring program. House Bill No. 1459 provides that the working group is to:
   a. Identify problems relating to the abuse and diversion of controlled substances and how a prescription drug monitoring program may address these problems.
   b. Identify a strategy and propose a prescription drug monitoring program to address the problems. Factors to be addressed include determination of:
      (1) The types of prescription drugs that will be monitored.
      (2) The types of drug dispensers that will be required to participate in the program.
      (3) What types of data will be required to be reported.
      (4) The persons that will be allowed to access the data, the types of data that will be accessible, and how the data will be protected.

   (5) The entity that will implement and maintain the program.
 c. Establish how the program will be implemented, the fiscal requirements for the program, and the timeline for implementation. The working group is to consider the feasibility and desirability of formal or informal educational outreach to North Dakota communities and interested persons.
 d. Consider possible performance measures that the state may use to assess the impact of the program and whether special data collection instruments are needed to effectively monitor the impact of the program.
 e. Provide to the department proposed administrative rules to implement the program.

4. Medicaid program - Management report - Section 4 of House Bill No. 1459 provides that the Legislative Council receive a report from and provide input to the Department of Human Services regarding the development of recommendations relating to management of the medical assistance program. A number of the recommendations resulted from the report provided to the 2005 Legislative Assembly by Muse and Associates, the consultants who conducted a review of the North Dakota Medicaid program during the 2003-04 interim. House Bill No. 1459 as approved by the 2005 Legislative Assembly includes requirements for management of the medical assistance program the department is to implement with input from the committee. The management initiatives include:
   a. Provide statewide targeted case management services focusing on the 2000 medical assistance recipients with the highest cost for treatment of chronic diseases and the families of neonates that can benefit from case management services. The case management services must focus on the recipients in these groups which will result in the most cost-savings considering available resources and may include a primary pharmacy component for the management of medical assistance recipient medication.
   b. Require medical assistance providers to use the appropriate diagnosis or reason and procedure codes when submitting claims for medical assistance reimbursement. Review and develop recommendations to identify instances that a provider of services is not properly reporting diagnosis or reason and procedure codes when submitting claims and review and recommend any specific providers from which a potential benefit might be obtained by requiring additional diagnosis or reason and procedure codes.
   c. Review and develop recommendations for the improvement of mental health treatment and services, including the use of prescription drugs for medical assistance recipients.
   d. Review and develop recommendations regarding whether the number of medical assistance recipients placed in out-of-state nursing homes should be reduced.
   e. Review and develop recommendations regarding whether use of post-office addresses or street addresses are the appropriate mailing addresses for medical assistance recipients.
   f. Review and develop recommendations regarding whether to require medical assistance providers to secure prior authorization for certain high-cost medical procedures.
   g. Review and develop recommendations regarding whether a system for providing and requiring the use of photo identification medical assistance cards for all medical assistance recipients should be implemented.
   h. Review and develop recommendations regarding whether medical assistance providers should be required to use tamper-resistant prescription pads.
   i. Develop a plan to provide information to blind and disabled medical assistance recipients who may be eligible for Medicare Part D benefits.
   j. Review and recommend a plan for implementing the necessary infrastructure to permit risk-sharing arrangements between the department and medical assistance providers.

   The 2005 Legislative Assembly provided $565,000, of which $282,500 is from the general fund, for costs associated with implementing these initiatives during the 2005-07 biennium and reduced funding for medical assistance grants by $1,530,000, of which $537,030 is from the general fund to reflect savings from implementation of these initiatives.

5. Medicare prescription drug implementation plan report - Section 2 of 2005 House Bill No. 1465 requires the Department of Human Services to report to the Legislative Council regarding the department's progress in developing and implementing a plan for the implementation of the Medicare prescription drug program that becomes effective January 1, 2006. House Bill No. 1465

appropriates $50,000 from the general fund to the department for costs associated with developing and implementing the plan.

Under current law, individuals who are eligible for both the state Medicaid program and the federal Medicare program receive prescription drug coverage under the state Medicaid program. Beginning January 1, 2006, under the new federal Medicare Modernization Act, these individuals will receive coverage for their prescription drugs under the federal Medicare program. However, state Medicaid programs are required to pay a portion of the Medicaid program "savings" to the federal government each year. This "clawback" provision requires states to pay 90 percent of the estimated state savings each year. This percentage gradually decreases to 75 percent by 2014.

The Legislative Council staff proposed the following study plan:

1. Receive an updated report showing the percentage of Medicaid payments to billed charges by provider type for fiscal year 2005.
2. Receive testimony from Medicaid service providers regarding the cost of providing services and the appropriateness of the amounts paid by Medicaid.
3. Receive testimony from other interested persons regarding the Medicaid medical reimbursement system, including the costs of providing services, fees schedules, and parity among provider groups.
4. Receive testimony from the Department of Human Services, providers, advocacy groups, and other interested persons on the availability and accessibility of services across the state.
5. Receive status reports at each meeting from the Department of Human Services regarding the development of recommendations relating to the management of the medical assistance program.
6. Receive status reports at each meeting from the Department of Human Services and the prescription drug monitoring program working group regarding the activities of the working group and implementation of the prescription drug monitoring program.
7. Receive status reports from the Department of Human Services regarding the department's progress in developing and implementing a plan for implementation of the Medicare prescription drug program.
8. Receive reports from the Department of Human Services before November 1, 2005, regarding the status of the amendment to the Medicaid state plan regarding the disregard of any assets to the extent the payments are made or because an individual has received or is entitled to receive benefits under a long-term care insurance policy.
9. Receive the biennial report from the Department of Human Services providing a five-year historical analysis of the number of persons receiving services under the medical assistance program, the cost for the services by program appropriations, the budget requested, the budget appropriated, and actual expenditures and projections for the succeeding five-year period.
10. Receive status reports from the Department of Human Services on Medicaid expenditures during the 2005-07 biennium.
11. Receive testimony from other interested persons regarding the study, reports, or other areas relating to the medical assistance program.
12. Develop committee recommendations and any legislation necessary to implement the recommendations.
13. Prepare the committee's final report for submission to the Legislative Council.

Mr. David Zentner, Director, Medical Services, Department of Human Services, commented on the Medicaid study and other Medicaid-related reports. Mr. Zentner discussed the Medicaid payment process. He said Medicaid pays based on a fee-for-service concept. He said payments for physicians and their allied providers are based on a relative value process. Each procedure is assigned a value based on the type of procedure being performed. The relative value for each procedure is then multiplied by a conversion factor to arrive at the payment amount. Currently, he said, this rate after the 2.65 percent inflationary increase provided by the 2005 Legislative Assembly is $34.02 per unit. For comparison, he said, the Medicare rate is $37.8975 per unit.

Mr. Zentner said dentists, ambulances, and other similar providers are also paid on the basis of established procedure codes. He said fees were established decades ago and generally increase only when the department receives specific direction regarding inflation or other increases from the Legislative Assembly.

Mr. Zentner said inpatient services are paid based on a diagnosis-related group that classifies each hospital stay based on the diagnosis and procedures that are performed. He said there are currently about 540 different groups. Each group has a particular value based on its complexity. That value is multiplied by the established rate to arrive at the payment for each hospital stay.

Mr. Zentner said outpatient hospital services are based on the established cost-to-charge ratio for each facility with no cost settlements.

Mr. Zentner said pharmacies are paid on the basis of average wholesale price minus 10 percent, plus a dispensing fee of $5.60 for a generic drug and $4.60 for a brand name drug. In addition, he said,

approximately 1,200 generic drugs are paid based on the maximum allowable cost process that estimates the actual cost of the drug. He said this pricing process has saved the state an estimated $3.8 million per year since it was implemented in 2002.

Mr. Zentner said nursing facilities are paid based on the allowable costs that are submitted annually. He said facilities that have costs below established limits will receive those costs plus inflation, operating margins, and incentives. He said providers over the limits have their costs provided only up to the limit recognized for the ratesetting process. He said the limits are currently recalculated based on costs submitted by providers for the cost reporting year ending June 30, 2003, and will next be rebased for the rate year beginning January 1, 2006.

Mr. Zentner said the Medicaid payment process is similar to systems used by other third-party payers; however, the concern expressed by providers is that the Medicaid program pays less for similar services than Medicare or other third-party payers.

Regarding the five-year Medicaid statistical report that the department will be providing, Mr. Zentner said the department is in the process of writing the request for proposal for the actuarial services to be used as part of the report. He asked the committee for guidance on when the report should be available.

Regarding the department's submission of an amendment to the North Dakota Medicaid state plan allowing the disregard of assets for individuals owning a long-term care insurance policy, Mr. Zentner said the department anticipates that Congress may take action to allow states to disregard assets for persons who purchase long-term care insurance.

Regarding implementation of the drug monitoring program, Mr. Zentner said the department is in the process of developing a proposal to obtain federal grant funding to implement the program. The first meeting of the planning group will be on August 24, 2005.

Regarding the Medicaid management initiatives contained in House Bill No. 1459, Mr. Zentner said the department has begun its review of these provisions and will have more information available at the committee's next meeting.

Regarding implementation of the Medicare prescription drug program, Mr. Zentner said the department has contracted with Muse and Associates for $99,000 to prepare an action plan for the state. He said the department has recently received the draft implementation plan from the consultant and has scheduled training for county office staff to respond to questions regarding the program.

A copy of the report is on file in the Legislative Council office.

In response to a question from Representative Svedjan, Mr. Zentner said that in order to address the concern regarding the disparity of payments to various provider groups, the committee may wish to receive detailed information on the methods used to reimburse specific provider groups and consider recommending a system that would provide more uniformity for all provider types.

Senator Warner suggested the committee obtain information on actual costs of services provided by the various provider types. Mr. Zentner said this information may be difficult to obtain except for what might be available from various provider associations.

Representative Porter suggested the committee compare Medicaid payment levels to those provided by Medicare and Workforce Safety and Insurance for similar services.

Representative Pollert asked for the department's estimate of the payment that the state needs to make to the federal government beginning in 2006 under the Medicare prescription drug program. Mr. Zentner said the payment the state will need to make is based on 2003 costs inflated at a rate of approximately 14 percent per year. He said the department does not yet know the specific amount; however, there may be minimal savings compared to the costs the state would have paid under the previous system.

Representative Svedjan said he is aware of a few states that are challenging the federal government's authority to require the state payment.

Representative Devlin suggested the committee consider comparing the pharmaceutical dispensing fee paid by the North Dakota Medicaid program to dispensing fees paid by other states. He said the committee should also consider whether the dispensing fee should be set in statute.

Senator Warner expressed concern regarding prescription drug payments being based on the average wholesale price less 10 percent. He suggested the committee review how other states are determining prescription drug payments.

Representative Price asked whether prescription drug costs and other medical costs are included in payments made to nursing homes and developmental disabilities providers. Mr. Zentner said over-the-counter drugs are considered a part of the daily rate for these facilities; however, he said, prescription drugs and physician, hospital, and dental services are billed directly from those providers and are not included in the rates paid to nursing homes and developmental disabilities service providers.

Representative Svedjan suggested the provision directing this study referencing "medical" reimbursement include the review of payments made to all providers under the Medicaid program, including nursing homes and developmental disabilities service providers.

It was moved by Senator Lee, seconded by Representative Devlin, and carried on a voice vote that the committee proceed with this study as follows:

1. **Receive an updated report showing the percentage of Medicaid payments to billed charges by provider type for fiscal year 2005.**

2. **Receive testimony from Medicaid service providers, including nursing homes and developmental disabilities service providers, regarding the cost of providing services and the appropriateness of the amounts paid by Medicaid.**
3. **Receive testimony from other interested persons regarding the Medicaid reimbursement system, including the costs of providing services, fee schedules, and parity among all provider groups.**
4. **Receive testimony from the Department of Human Services, providers, advocacy groups, and other interested persons on the availability and accessibility of services across the state.**
5. **Compare Medicaid payment rates to actual costs, to the extent available, and to payment rates provided by Medicare and Workforce Safety and Insurance.**
6. **Compare the prescription drug payment process, including dispensing fees, to other states and determine whether the dispensing fee should be set in statute.**
7. **Receive status reports at each meeting from the Department of Human Services regarding the development of recommendations relating to the management of the medical assistance program.**
8. **Receive status reports at each meeting from the Department of Human Services and the prescription drug monitoring program working group regarding the activities of the working group and implementation of the prescription drug monitoring program.**
9. **Receive status reports from the Department of Human Services regarding the department's progress in developing and implementing a plan for implementation of the Medicare prescription drug program.**
10. **Receive reports from the Department of Human Services before November 1, 2005, regarding the status of the amendment to the Medicaid state plan regarding the disregard of any assets to the extent the payments are made or because an individual has received or is entitled to receive benefits under a long-term care insurance policy.**
11. **Receive the biennial report from the Department of Human Services providing a five-year historical analysis of the number of persons receiving services under the medical assistance program, the cost for the services by program appropriations, the budget request, the budget appropriated, and the actual expenditures and projections for the succeeding five-year period.**
12. **Receive status reports from the Department of Human Services on Medicaid expenditures during the 2005-07 biennium.**
13. **Receive testimony from other interested persons regarding the study, reports, or other areas relating to the medical assistance program.**
14. **Develop committee recommendations and any legislation necessary to implement the recommendations.**
15. **Prepare the committee's final report for submission to the Legislative Council.**

The committee recessed for lunch at 12:15 p.m. and reconvened at 1:00 p.m.

FOSTER CARE FACILITY PAYMENT SYSTEM STUDY

The Legislative Council staff presented a background memorandum entitled *Residential Treatment Center and Residential Child Care Facility Payment System Study - Background Memorandum*. The Legislative Council staff said that Section 15 of 2005 House Bill No. 1012 provides for a Legislative Council study of the services provided by residential treatment centers and residential child care facilities and the appropriateness of the payments provided by the state for the services. The Legislative Council staff presented the following schedule showing the unduplicated number of children in the North Dakota foster care system in recent years.

	Federal Fiscal Year				
Placement Type	**2000**	**2001**	**2002**	**2003**	**2004**
Residential child care facility or residential treatment center	577	540	619	604	555
Group home	125	109	127	125	120
Family foster home	875	835	824	932	912
Relative placement	237	240	276	328	383
Preadoption home	154	166	157	160	207
Other	10	39	18	34	28
Total	1,978	1,929	2,021	2,183	2,205

The Legislative Council staff provided information on the licensed residential child care facilities and group homes and residential treatment centers in the state as well as the number of licensed beds in each facility and June 2005 payment rates. The Legislative Council staff said the 10 licensed group homes and residential child care facilities are licensed for 281 beds. The daily rate for room and board (maintenance) ranges from $94 to $218 per day. The Legislative Council staff said that although the service and treatment costs at these facilities range from 28 cents to $32.73 per day, the Department of Human Services reimbursement for service costs may not exceed $11.51 per day.

The Legislative Council staff said that the 6 licensed residential treatment centers provide

84 licensed beds. The room and board (maintenance) rate for these facilities ranges from $45.95 to $110.11 per day. The Legislative Council staff said the treatment or service rate for these facilities ranges from $179.60 to $364.15 per day.

The Legislative Council staff said the 2005 Legislative Assembly added $475,944, of which $71,630 is from the general fund, to the Department of Human Services 2005-07 biennium appropriation for increasing the maximum treatment services payment for residential child care facilities by $3.49 per day, from $11.51 to $15 per day. As a result, it is anticipated that 9 of the 14 residential child care facilities and group homes will receive increased payments.

The Legislative Council staff presented the following schedule showing the Department of Human Services estimate of foster care payments made to residential child care facilities and group homes and residential treatment centers for the 2003-05 and 2005-07 bienniums:

2003-05 Biennium				
	General	Federal	Other	Total
Residential child care facilities/group homes				
Room and board	$3,122,288	$14,594,140	$3,768,676	$21,485,104
Treatment/services	477,094	1,273,964	71,989	1,823,047
Total	$3,599,382	$15,868,104	$3,840,665	$23,308,151
Residential treatment centers				
Room and board	$932,632	$4,359,289	$1,125,709	$6,417,630
Treatment/services	3,140,857	7,191,998		10,332,855
Total	$4,073,489	$11,551,287	$1,125,709	$16,750,485

2005-07 Biennium				
	General	Federal	Other	Total
Residential child care facilities/group homes				
Room and board	$2,993,360	$16,611,999	$4,676,382	$24,281,741
Treatment/services	910,982	1,719,872	139,982	2,770,836
Total	$3,904,342	$18,331,871	$4,816,364	$27,052,577
Residential treatment centers				
Room and board	$894,120	$4,962,026	$1,396,841	$7,252,987
Treatment/services	3,817,404	6,945,700		10,763,104
Total	$4,711,524	$11,907,726	$1,396,841	$18,016,091

The Legislative Council staff proposed the following study plan:

1. Receive information from the Department of Human Services regarding the types of services provided by residential child care facilities and group homes and residential treatment centers and methods of determining payment rates for each facility.
2. Receive testimony from representatives of residential child care facilities and group homes and residential treatment centers regarding services provided and the appropriateness of payment rates for these services.
3. Consider alternative methods of determining payment rates for residential child care facilities and group homes and residential treatment centers for services provided.
4. Receive testimony from other interested persons relating to the residential treatment center and residential child care facility payment system study.
5. Develop committee recommendations and any legislation necessary to implement the recommendations.
6. Prepare the committee's report for submission to the Legislative Council.

Mr. Paul Ronningen, Director, Children and Family Services, Department of Human Services, commented on the foster care facility payment system study. Mr. Ronningen said the department has been notified by the federal Centers for Medicare and Medicaid Services that the department must change its method of making payments to foster care providers for rehabilitation and treatment services. He said the federal government is requiring the department to use a 15-minute, fee-for-service billable unit for the services, rather than using the daily rate method.

Mr. Ronningen said the department, in meeting with providers, has developed the following strategies for complying with the federal regulation:

1. Residential treatment centers will seek accreditation status allowing them to become accredited residential treatment centers which will enable them to continue to bill using a daily rate.
2. Residential child care facilities will begin billing Medicaid for the rehabilitation services on a 15-minute unit basis.

Mr. Ronningen said the committee may wish to consider alternative methods of paying for foster care services, including a system that pays based on performance. He said Kansas has implemented this system. He said the state of Kansas contracts with a foster care service provider for a capitated rate and the provider is required to provide the full range of foster care services in the designated area and to:

1. Place the child in the least restrictive environment and close to family.
2. Develop a wraparound plan with the family, foster family, and other persons important in the life of the child within two weeks.
3. Place the child in a home that enables the child to continue in their current educational placement which enables the child to maintain friendships, continue extracurricular activities, and be close for reunification efforts with the family.

Mr. Ronningen said Kansas has reduced its number of children placed in residential services to 5 percent by implementing this model. He said currently North Dakota has 25 percent of its children in residential services while Wyoming has over 60 percent of their foster care children in residential facilities. Mr. Ronningen said while residential facilities continue to serve a critical function in Kansas, their focus has changed to providing crisis stabilization and reconnecting children with the community, therefore reducing lengths of stay in foster care.

A copy of the testimony is on file in the Legislative Council office.

Representative Delzer asked for the fiscal effect of changing the method of paying for foster care rehabilitation services to the 15-minute unit. Ms. Brenda Weisz, Director, Fiscal Management, Department of Human Services, estimates the effect of this change to be either revenue-neutral or result in a minimal amount of additional costs to the department.

Senator Krauter asked for the timeline for implementing this payment change. Mr. Zentner said the department has asked the federal Centers for Medicare and Medicaid Services for time to make the transition. He anticipates the change will be made by November 2005.

Senator Krauter asked how this change will affect payments made to out-of-state facilities. Mr. Zentner said this change will affect other states as well as who may be paying based on a daily rate. He said the department will reimburse out-of-state facilities using the process established for that state.

Representative Price commented on the department's suggestion to consider developing a performance-based payment system for foster care providers. She said a concern regarding this type of system may be that the provider would not accept children who may be difficult to serve.

Mr. Dave Marion, Executive Director, Prairie Learning Center, Raleigh, commented on the foster care facility payment system study. Mr. Marion suggested the committee consider increasing the rehabilitation rate to more accurately reflect the actual cost of the services provided to these children. He suggested the committee review the services provided by residential child care facilities compared to residential treatment centers. He said the children placed in residential child care facilities are requiring increasingly intensive services to meet their needs. Mr. Marion said currently 27 of the 50 children served by the Prairie Learning Center are receiving psychotropic medications. A copy of the report is on file in the Legislative Council office.

Mr. Patrick Peterman, Executive Director, Home on the Range, Sentinel Butte, commented on the foster care facility payment system study. Mr. Peterman expressed concern that the current system for providing payments to residential child care facilities is based on costs incurred in previous years; therefore, the payment amount is not representative of the current costs being paid by the facilities. Mr. Peterman suggested the committee consider providing payments at 100 percent of costs or providing a set rate for services.

Mr. Peterman expressed concern regarding Mr. Ronningen's suggestion to consider the Kansas model which provides services to children close to home. He said because the Home on the Range facility is located in rural western North Dakota, there would not be enough children needing services at the Home on the Range in southwestern North Dakota to continue operating the facility.

Mr. Tim Eisinger, Director of Operations, Dakota Boys and Girls Ranch, Fargo, commented on the foster care facility payment system study. Mr. Eisinger suggested the committee consider allowing facilities to develop creative ways to use funding received from the state more efficiently and effectively.

Representative Kerzman asked whether additional administrative costs will be incurred by the facilities to report treatment costs based on 15-minute increments. Mr. Eisinger said that some additional administrative costs will be incurred; however, the facilities believe they can address these within the current administrative structure.

Ms. Susan Grenz, Director, Pride Manchester House, Bismarck, commented on the foster care facility payment system study. Ms. Grenz commented that the current system lacks flexibility and suggested the committee consider allowing additional flexibility under a new payment system structure.

Senator Krauter suggested that as part of the study plan, the committee receive information on out-of-state placements and on payment system methods used by surrounding states.

Senator Krauter suggested that as the committee conducts its interim budget tours, the committee also consider visiting foster care facilities, when appropriate.

It was moved by Senator Krauter, seconded by Representative Kerzman, and carried on a voice vote that the committee proceed with this study as follows:

1. **Receive information from the Department of Human Services regarding the types of services provided by residential child care facilities and group homes and residential treatment centers and methods of determining payment rates for each facility.**
2. **Receive information from the Department of Human Services on the number of foster care children placed out of state.**
3. **Review payment systems of surrounding states.**
4. **Receive testimony from representatives of residential child care facilities and group homes and residential treatment centers regarding the services provided and the appropriateness of payment rates for these services.**
5. **Consider alternative methods of determining payment rates for residential child care facilities and group homes and residential treatment centers for services provided.**
6. **Receive testimony from other interested persons relating to the residential treatment center and residential child care facility payment system study.**
7. **Develop committee recommendations and any legislation necessary to implement the recommendations.**

8. **Prepare the committee's report for submission to the Legislative Council.**

CHILDREN WITH SPECIAL HEALTH CARE NEEDS STUDY

The Legislative Council staff presented a background memorandum entitled *Study of Services to Children With Special Health Care Needs - Background Memorandum*. The Legislative Council staff said House Concurrent Resolution No. 3054 provides for a study of state programs providing services to children with special health care needs to determine whether the programs are effective in meeting these special health care needs, whether there are gaps in the state system for providing services to children with special health care needs, and whether there are significant unmet special health care needs of children which should be addressed. In addition, the Legislative Council staff said Section 5 of 2005 Senate Bill No. 2395 requires the Department of Human Services to report to the Legislative Council regarding the status of the Medicaid waiver to provide in-home services to children with extraordinary medical needs who would otherwise require hospitalization or nursing facility care, the number of applications the department receives for the in-home services, and the status of the program's appropriation.

The Legislative Council staff said the 2005 Legislative Assembly approved Senate Bill No. 2395, which authorizes the Department of Human Services to provide services for children with Russell-Silver syndrome. The bill authorizes the department to pay up to $50,000 per child per biennium for medical food and growth hormone treatment at no cost to the children who have been diagnosed with Russell-Silver syndrome, regardless of the family's income. The bill appropriates $150,000 from the general fund for providing these services for the 2005-07 biennium.

Section 3 of the bill requires the department to apply for a Medicaid waiver to provide in-home services to children with extraordinary medical needs who would otherwise require hospitalization or nursing facility care which, if approved, will allow the services to be provided under the Medicaid program. The department may limit the waiver to 15 participants and may prioritize the applicants by degree of need.

The Legislative Council staff said North Dakota Century Code Chapter 50-10 provides for aid to crippled children in North Dakota which is the basis for the Department of Human Services special health services program. The program is within the Medical Services Division and assists in the costs of medical services for eligible North Dakota residents up to 21 years of age who require health and related services beyond those needed by most children. The program provides assistance for diagnostic and treatment services for over 100 eligible medical conditions. Financial eligibility is not required for diagnostic services; however, for treatment services, families at or below 185 percent of the federal poverty level receive services at no cost to the family. If a family's income exceeds 185 percent of the federal poverty level, the child may still be eligible but the family shares in the cost of the services.

For the 2005-07 biennium, the Legislative Council staff said the children's special health program includes seven FTE positions and funding as follows:

Salaries and wages	$636,127
Operating expenses	92,540
Grants	1,056,911
Total	$1,785,578
General fund	$790,750
Federal funds	994,828
Total	$1,785,578

The Legislative Council staff proposed the following study plan:

1. Receive information from the Department of Human Services regarding children's special health services program statistics, including the number of children served, covered medical conditions, the appropriateness of the eligibility guidelines, and other conditions that should be considered for coverage.
2. Receive testimony from other interested persons regarding the children's special health services program guidelines and other conditions that should be considered for inclusion in the program.
3. Receive information on surrounding states' services provided to children with extraordinary health care needs.
4. Receive status reports from the Department of Human Services regarding the department's Medicaid waiver to provide in-home services to children with extraordinary medical needs under the Medicaid program.
5. Develop committee recommendations and any legislation necessary to implement the recommendations.
6. Prepare the committee's report for submission to the Legislative Council.

Mr. Zentner commented on the study of services to children with special health care needs. Mr. Zentner said children with special health care needs receive services from the Department of Human Services under the children's special health services program, the medical assistance program, and the Healthy Steps program. He suggested the committee develop a definition of who is covered under the term "children with special health care needs."

Mr. Zentner said the department has organized a task force to assist in gathering information, evaluating the needs of children, and providing input to the committee during this study. He said the task force consists of family members, advocates, providers, and government agency personnel. The first meeting of the task force is tentatively scheduled for August 15, 2005.

Regarding the department's application for a waiver for providing in-home services to children with special health care needs, Mr. Zentner said the department would like input from the committee regarding the components of the waiver.

A copy of the testimony is on file in the Legislative Council office.

Representative Svedjan asked how the list of diagnoses covered under the children's special health services program was developed. Mr. Zentner said the program has a medical advisory council that meets and maintains the list.

Ms. Donene Feist, Family Voices of North Dakota, Edgeley, stressed the importance of defining which children will be considered those with special health care needs. She offered assistance in providing information on what other states have available for children with special health care needs.

Ms. Jennifer Restemayer, Bismarck, commented on the committee's study. She said her family has a child with a rare disease who is now 4 years old. She said the family received early intervention services up to the age of 3; however, since then public assistance has no longer been available. She said the family's insurance is paying for the cost of services that totals approximately $2,000 per week. She said these situations put a tremendous amount of financial stress on families.

It was moved by Senator Thane, seconded by Senator Brown, and carried on a voice vote that the committee proceed with this study as follows:

1. **Receive information from the Department of Human Services regarding children's special health services program statistics, including the number of children served, covered medical conditions, the appropriateness of the eligibility guidelines, and other conditions that should be considered for coverage.**
2. **Receive testimony from other interested persons regarding the children's special health services program guidelines and other conditions that should be considered for inclusion in the program.**
3. **Receive information on surrounding states' services provided to children with extraordinary health care needs.**
4. **Receive status reports from the Department of Human Services regarding the department's Medicaid waiver to provide in-home services to children with extraordinary medical needs under the Medicaid program.**
5. **Develop committee recommendations and any legislation necessary to implement the recommendations.**
6. **Prepare the committee's report for submission to the Legislative Council.**

OTHER RESPONSIBILITIES

The Legislative Council staff presented a memorandum entitled *Other Responsibilities of the Budget Committee on Human Services*. The Legislative Council staff said the committee has been assigned responsibility to receive two other reports as follows:

1. Receive a report from the Department of Human Services by July 1, 2006, regarding the department's review of its budget, programs, and services to determine the extent to which the department can provide for additional general fund requirements resulting from changes in the federal medical assistance percentage for North Dakota without affecting the level of services provided by the department. This report is required by Section 11 of 2005 House Bill No. 1012.

   The Legislative Council staff said that each percentage point reduction in the federal medical assistance percentage requires the state to pay an additional $4.5 million per year.
2. Receive a report from the Department of Human Services during the 2005-06 interim of the department's plan, developed with input from developmental disabilities service providers, to transfer appropriate individuals from the Developmental Center to community placements and to begin the transfers during the 2005-07 Biennium. The report is to include its plan and the anticipated number of individuals that will be transferred during the biennium. The report is required by Section 16 of 2005 House Bill No. 1012.

The Legislative Council staff said the 2005 Legislative Assembly appropriated $50,000 from the general fund for costs relating to transferring these individuals to community placements. The department may use up to $5,000 of the $50,000 appropriation for developing the plan for the transfers.

Mr. Zentner commented on the other responsibilities of the committee. Mr. Zentner said the department will be monitoring its expenditures and the changes to the federal medical assistance percentage throughout the biennium and providing an update to the committee on the status of the department's budget. A copy of the testimony is on file in the Legislative Council office.

Mr. Alex C. Schweitzer, Superintendent of the State Hospital and Developmental Center, commented on the other responsibilities of the committee.

Mr. Schweitzer said in order to comply with the legislative intent included in 2005 House Bill No. 1012, the department has organized an internal task force to continue to work toward placing individuals in appropriate community settings from the Developmental Center. In addition, he said, the department will convene an external task force of

interested stakeholders to provide input and feedback to further develop the plan for placing Developmental Center individuals into appropriate community settings. Mr. Schweitzer said the Developmental Center's population in July 2005 was 141.

Mr. Schweitzer said to fully accomplish the goal of transitioning individuals to the community, fiscal resources will need to follow the individuals from the Developmental Center to the community. He said to accomplish this, the Developmental Center will need to close enough living areas so funding may be transferred to community-based services programs. He said the plan must ensure that once individuals are transferred they will be able to remain in the community because once living areas are closed at the Developmental Center the center will not have the funding or staff resources to provide for readmissions.

A copy of the testimony is on file in the Legislative Council office.

Regarding the Department of Human Services request for input on when the five-year statistical analysis report on the Medicaid program should be available, Chairman Dever said it may be appropriate for the report to be completed and available by March or April 2006.

Representative Delzer suggested that it may be more appropriate to have the report available by January 2007.

Chairman Dever announced the next meeting will be tentatively scheduled for Wednesday, September 28, 2005, in Bismarck. The committee adjourned subject to the call of the chair at 3:00 p.m.

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Allen H. Knudson
Assistant Legislative Budget Analyst and Auditor

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Jim W. Smith
Legislative Budget Analyst and Auditor

ATTACH:1