

NORTH DAKOTA LEGISLATIVE COUNCIL

Minutes of the

BUDGET SECTION

Thursday, March 9, 2000
Senate Chamber, State Capitol
Bismarck, North Dakota

Representative Jack Dalrymple, Chairman, called the meeting to order at 9:05 a.m.

Members present: Representatives Jack Dalrymple, Ole Aarsvold, James Boehm, Merle Boucher, Rex R. Byerly, Ron Carlisle, John Dorso, Serenus Hoffner, Robert Huether, David Monson, Ronald Nichols, Jim Poolman, Ken Svedjan, Mike Timm; Senators Aaron Krauter, Gary J. Nelson, David E. Nething, Larry J. Robinson, Ken Solberg, Rod St. Aubyn, Harvey D. Tallackson

Members absent: Representatives LeRoy G. Bernstein, Al Carlson, Jeff Delzer, Pam Gulleeson, James Kerzman, Ed Lloyd, Ben Tollefson, Francis J. Wald, Janet Wentz; Senators John Andrist, Bill L. Bowman, Tony Grindberg, Joel C. Heitkamp, Ray Holmberg, Ed Kringstad, Elroy N. Lindaas, Pete Naaden, Steve Tomac

Others present: See Appendix A

It was moved by Senator Tallackson, seconded by Senator Robinson, and carried on a voice vote that the minutes of the December 9, 1999, meeting of the Budget Section be approved as distributed.

STATUS OF THE STATE GENERAL FUND

Chairman Dalrymple called on Mr. Rod A. Backman, Director, Office of Management and Budget, who presented information on the status of the state general fund. A copy of the information presented is on file in the Legislative Council office. Mr. Backman said 1999-2001 biennium general fund revenues, based on preliminary revenue collections through the month of February 2000, are one percent, or \$4.8 million, more than estimated in the 1999 legislative revenue forecast. Mr. Backman presented the following information on the status of the state general fund:

Unobligated general fund balance - July 1, 1999	\$61,114,425
Add	
Actual general fund collections through February 29, 2000 (preliminary)	487,857,013
Forecasted general fund revenue for the remainder of the 1999-2001 biennium (based on the 1999 legislative forecast)	1,070,546,594
Total estimated general fund revenue for the 1999-2001 biennium	\$1,619,518,032
Less	
1999-2001 biennium adjusted general fund appropriations (legislative appropriations of	1,585,324,063

\$1,594,038,538 less 1999-2001 emergency appropriations of \$4,452,065 spent during the 1997-99 biennium and a contingent 1999-2001 appropriation of \$4,262,410, which is not anticipated to be spent)	
Estimated general fund balance - June 30, 2001 (\$22,875,113 more than the 1999 legislative estimate of \$11,318,856)	\$34,193,969

TOBACCO SETTLEMENT PROCEEDS

Mr. Backman presented information on the status of tobacco settlement proceeds received by the state. A copy of the information presented is on file in the Legislative Council office. Mr. Backman said \$16.9 million has been received by the state as a result of the tobacco settlement and deposited in the tobacco settlement trust fund. He said the \$16.9 million was apportioned among the community health trust fund, common schools trust fund, and water development trust fund, pursuant to 1999 House Bill No. 1475:

Fund	Amount Transferred from the Tobacco Settlement Trust Fund
Community health trust fund (10%)	\$1,690,862
Common schools trust fund (45%)	7,608,881
Water development trust fund (45%)	7,608,881
Total transfers from the tobacco settlement trust fund	\$16,908,624

Mr. Backman said the January 2000 tobacco settlement payment received by the state was 13 percent less than previously estimated due to decreased tobacco consumption. Mr. Backman said the January 2000 payment was used as a base to calculate future payments, assuming three percent annual declines in tobacco consumption and an inflation rate of three percent. A copy of the schedule presented by Mr. Backman which shows estimated tobacco settlement payments through fiscal year 2025 is attached as Appendix B.

Senator Nelson requested that future reports presented to the Budget Section by the Office of Management and Budget on the status of tobacco

settlement proceeds include information on anticipated and actual amounts received as reimbursements for costs incurred by the Attorney General's office relating to the tobacco settlement. Mr. Backman said future reports presented by the Office of Management and Budget on the status of tobacco settlement proceeds will include the information requested by Senator Nelson.

In response to a question from Senator Krauter, Mr. Backman said North Dakota Century Code (NDCC) Section 54-27-25 provides that the principle and interest of the tobacco settlement trust fund must be allocated 10 percent to the community health trust fund, 45 percent to the common schools trust fund, and 45 percent to the water development trust fund. He said once moneys have been transferred to the community health trust fund and the water development trust fund, the interest earned on those moneys is transferred to the general fund. He said the common schools trust fund retains the interest earned on moneys deposited in that fund.

STATUS OF WATER PROJECTS

Chairman Dalrymple called on Mr. David Sprynczynatyk, State Engineer, State Water Commission, who presented information on the status of the state water management plan and various water projects, pursuant to Section 9 of 1999 Senate Bill No. 2188. A copy of the information presented is on file in the Legislative Council office. Mr. Sprynczynatyk said the State Water Commission is currently in the process of issuing bonds to provide \$23 million for Grand Forks flood control projects and \$4.5 million for the Southwest Pipeline Project. He said the annual debt service payments for the bond issue will be approximately \$2.7 million, with the first semiannual payment due in August 2001.

Mr. Sprynczynatyk said the State Water Commission is waiting for issuance of a permit from the United States Army Corps of Engineers to proceed with the project to lower the overflow section from Devils Lake to Stump Lake. He said the corps is currently working with congressional appropriations committees to obtain funding for the design of a west end outlet to Devils Lake. He said the State Water Commission is continuing to work on plans for a temporary outlet in the Twin Lakes area. He said the proposed Twin Lakes project will be completed using state and local funds, although no state funds were specifically appropriated for the project. He said the project will not require federal permits and construction could begin this summer.

Representative Dorso asked why the United States Army Corps of Engineers has not proceeded on the design of a west end outlet for Devils Lake using emergency funding. Mr. Sprynczynatyk said the corps had indicated an intent to begin the design of a west end outlet to Devils Lake under emergency authority. He said this would have resulted in shifting moneys from authorized projects to the Devils Lake

project. He said the approval of congressional appropriations committees is required for the corps to make those reallocations. He said the congressional appropriations committees have expressed concern regarding the proposed reallocation, and the corps is providing information to the committees to address those concerns.

In response to a question from Representative Dorso, Mr. Sprynczynatyk said the corps had indicated the required permit for the Stump Lake project would be issued by early December 1999, but problems related to the project's impact on the Stump Lake Wildlife Refuge have delayed the issuance of the permit.

Representative Dalrymple asked how the Twin Lakes project can proceed during the 1999-2001 biennium if no state moneys were appropriated for the project. Mr. Sprynczynatyk said if necessary, the State Water Commission will reallocate funds intended for other projects.

Representative Dalrymple asked if the State Water Commission anticipates the construction of two outlets to Devils Lake:

- The proposed Twin Lakes outlet to be constructed by the State Water Commission.
- The proposed west end outlet to be constructed by the corps.

Mr. Sprynczynatyk said two outlets will probably be constructed because the Twin Lakes outlet is a temporary outlet which could be implemented within one year at approximately one-tenth the cost of the federal project. He said the federal project will provide for a permanent outlet and will require approximately three years of planning and construction.

In response to a question from Senator Nething, Mr. Sprynczynatyk said the State Water Commission is developing a water development priorities plan and will present the plan, along with legislation necessary to implement it, to the 2001 Legislative Assembly. Mr. Sprynczynatyk said the State Water Commission plan will provide for a balance to be maintained in the water development trust fund so that the fund can be used to provide moneys for water projects in the future.

STATE GRANT PREAPPROVAL PROCESS STUDY

At the request of Chairman Dalrymple, Legislative Council staff presented a bill draft relating to the establishment of a preapproval process for state agency grant applications. The bill draft provides that before a state agency, excluding institutions of higher education, can apply for a new grant, the agency must submit an application and a grant information report to the Emergency Commission. If the request to submit the application is denied by the Emergency Commission, the agency may submit the request to the Budget Section.

Representative Aarsvold expressed concern that implementing a grant preapproval process may jeopardize certain grants available to the state because of the limited timeframe in which state agencies must complete and submit grant applications.

Senator Nething said the proposed preapproval process will provide a mechanism to keep the Legislative Assembly informed of grant applications being submitted by state agencies. He said the current process does not provide for legislative involvement until after a grant has been awarded.

It was moved by Senator Nething, seconded by Senator St. Aubyn, and carried on a roll call vote that the bill draft relating to the establishment of a grant preapproval process for state agencies be approved and recommended to the Legislative Council. Representatives Dalrymple, Boehm, Byerly, Dorso, Monson, Poolman, Svedjan, and Timm and Senators Nelson, Nething, Solberg, and St. Aubyn voted "aye." Representatives Aarsvold, Boucher, Hoffner, Huether, and Nichols and Senators Krauter, Robinson, and Tallackson voted "nay."

STATE EMPLOYEE BONUS PROGRAM

At the request of Chairman Dalrymple, Legislative Council staff presented a memorandum entitled *State Employee Bonus Programs in Selected States*. The memorandum summarizes statutory provisions in North Carolina, South Carolina, Idaho, and Maryland relating to the distribution of bonus payments to state employees. The memorandum also summarized information on the types of bonus payments distributed to state employees in Colorado, Wyoming, Vermont, and Nebraska.

Chairman Dalrymple called on Mr. Dan LeRoy, Director, Central Personnel Division, who presented information on the establishment of a performance-based bonus system for North Dakota classified state employees. A copy of the information presented is on file in the Legislative Council office. Mr. LeRoy said the proposed bonus plan requires an appropriation of approximately \$1.3 million per biennium and will allow average performance bonuses of \$500 to be distributed to 20 percent of the classified work force each year. He said the proposed bonus plan includes the following provisions:

- Prior to awarding a bonus a state agency must have a performance evaluation process in place for more than one year.
- The performance evaluation process must identify at least three levels of performance.
- Eligible employees must be employed for at least one year.
- An employee may receive no more than one bonus per year.

In response to a question from Senator St. Aubyn, Mr. LeRoy said the proposed bonus will not be part of an employee's base salary.

Representative Hoffner asked if any state agencies currently have a bonus program. Mr. LeRoy said

the North Dakota University System, which is not part of the Central Personnel system, has established a bonus program. He said he is unaware of any other state agencies that have done so.

In response to a question from Representative Hoffner, Mr. LeRoy said the first priority for funding should be general salary increases.

In response to a question from Senator Nething, Mr. LeRoy said the proposed bonus plan may be included in the executive budget for the 2001-03 biennium. Mr. LeRoy suggested that if the Legislative Assembly approves a state employee bonus program, the following items be considered:

- Amend NDCC Section 54-14-03.1, changing the definition of irregularities to allow the payment of bonuses pursuant to an improved plan.
- Provide an appropriation to the Office of Management and Budget to be distributed to state agencies with an approved plan.
- Rather than placing statutory restrictions on the bonus program, allow agencies to develop plans and provide for legislative review of the plans and the funding requirements each biennium.

Chairman Dalrymple said if the Central Personnel Division wants to present the proposal to the 2001 Legislative Assembly, the funding required to implement the proposed performance-based bonus program should be included in the 2001-03 biennium executive budget. He said including the proposal in the executive budget will ensure that the Legislative Assembly addresses the issue during the 2001 legislative session.

AGENCY REQUESTS AUTHORIZED BY THE EMERGENCY COMMISSION

Chairman Dalrymple directed the committee to consider requests which were authorized by the Emergency Commission and forwarded to the Budget Section pursuant to North Dakota Century Code provisions. Information relating to the requests was distributed to Budget Section members prior to the meeting and is on file in the Legislative Council office.

Representative Byerly requested that Emergency Commission Request #1256 from the Attorney General, Request #1257 from the Department of Public Instruction, and Request #1261 from the Tax Department be considered separately.

It was moved by Representative Boucher, seconded by Senator Nething, and carried on a voice vote that:

1. Pursuant to NDCC Sections 54-16-04, 54-16-04.1, and 54-16-04.2, the Budget Section approve the following requests which have been authorized by the Emergency Commission:

- **Job Service North Dakota (Request #1253) - To increase other funds**

spending authority by \$80,000 (\$10,000 for salaries and wages, \$70,000 for grants) for a grant from the Grand Forks Office of Urban Development for youth employment and education activities.

- Job Service North Dakota (Request #1254) - To increase other funds spending authority by \$63,028 (\$7,958 for salaries and wages, \$2,663 for operating expenses, \$52,407 for grants) for a grant from the veterans' postwar trust fund to assist eligible veterans in obtaining employment.
- Department of Public Instruction (Request #1258) - To increase federal funds spending authority and the operating expenses line item by \$80,000 for a grant from the National Center for Education Statistics to contract for the development of an on-line reporting system to be used by schools to report data to the department.
- Department of Public Instruction (Request #1259) - To increase federal funds spending authority by \$116,469 (\$14,550 for salaries and wages, \$96,919 for operating expenses, \$5,000 for equipment) for a grant from the United States Department of Agriculture to assist certain school districts in transitioning to a new reporting system for free and reduced price meals.
- Department of Public Instruction (Request #1260) - To increase federal funds spending authority and the grants line item by \$340,000 for a grant from the United States Department of Health and Human Services to provide tutoring and extracurricular activities for refugee students, to provide training to educational personnel dealing with refugee students, and to establish a state advisory committee.
- State Historical Society (Request #1262) - To increase federal funds spending authority and the operating expenses line item by \$250,000 for a grant from the National Historical Publications and Records Commission for research and the cataloging of records relating to the Fort Buford state historic site.
- Department of Human Services (Request #1266) - To increase federal and other funds spending authority and the salaries and wages line item of the economic assistance subdivision by \$219,160 for funds available from federal child support enforcement funding (\$144,645) and the department operating fund (\$74,515) to correct a shortage in salaries and wages funding and to provide funding for additional costs relating to the completion of the computerized fully automated child support enforcement system.
- Department of Human Services (Request #1267) - To transfer \$2 million from the operating expenses line item of the program and policy subdivision to the Northwest Human Service Center (\$400,000), the Lake Region Human Service Center (\$400,000), the Northeast Human Service Center (\$400,000), the South Central Human Service Center (\$400,000), and the Badlands Human Service Center (\$400,000) to provide services to severely emotionally disturbed children in each region.
- Department of Human Services (Request #1268) - To transfer within the management and councils subdivision \$221,131 from operating expenses to salaries and wages (\$53,914) and grants (\$167,217) and to transfer within the economic assistance subdivision \$34,729 from operating expenses to salaries and wages to provide additional funding for temporary salaries for the Medicaid/TANF computer project and to allow certain counties to acquire new computers with the speed and capacity necessary to operate the system being developed.
- Department of Human Services (Request #1269) - To increase federal funds spending authority by \$426,000 (\$317,000 for operating expenses within the management and councils subdivision and \$109,000 for operating expenses within the program and policy subdivision) for a grant from the Social Security Administration for a computerized system to process disability claims.
- Department of Human Services (Request #1270) - To increase federal funds spending authority by \$1,200,000 (\$151,000 for salaries and wages, \$43,000 for operating expenses, and \$1,006,000 for grants)

for a grant from the Federal Emergency Management Agency to provide counseling and assistance to persons living in areas included in the June 1999 presidential disaster declaration.

- Division of Emergency Management (Request #1271) - To increase federal funds spending authority by \$410,000 (\$50,000 for salaries and wages, \$35,000 for operating expenses, \$325,000 for grants) for a grant from the United States Department of Justice to enhance state and local capabilities to respond to domestic terrorism.
 - Parks and Recreation Department (Request #1273) - To increase federal funds spending authority by \$1 million (\$500,000 for the natural resources program line item, \$500,000 for the recreation program line item) for grants from:
 - The National Park Service (\$400,000) for Phase II of the On-A-Slant Mandan Indian Village project.
 - The Federal Emergency Management Agency (\$100,000) for campground development costs relating to Devils Lake.
 - The national recreation trails program (\$300,000) for increased funding available for the recreation program.
 - The land and water conservation fund (\$200,000) for additional funding available for the recreation program.
 - Department of Agriculture (Request #1274) - To increase federal funds spending authority and the waterbank program line item by \$440,303 for a grant from the Environmental Protection Agency for waterbank program costs in the Devils Lake Basin and priority nonpoint watersheds.
 - Department of Public Instruction (Request #1276) - To increase other funds spending authority and the operating expenses line item by \$600,000 for payments from local school districts for processed food costs billed to the department rather than individual districts in order to achieve costs savings.
2. Pursuant to NDCC Sections 54-16-04.1 and 48-02-20, the Budget Section approve

the following request which was authorized by the Emergency Commission:

- Adjutant General (Request #1272) - To increase federal funds spending authority and the capital improvements line item by \$500,000 for a grant from the Federal Emergency Management Agency to expand the Fraire Barracks Emergency Operations Center addition which was authorized by the 1999 Legislative Assembly.
3. Pursuant to NDCC Sections 54-16-04.1 and 54-16-04.2 and Section 4 of 1999 Senate Bill No. 2168, the Budget Section approve the following request which has been authorized by the Emergency Commission:
- Department of Human Services (Request #1265) - To increase federal and other funds spending authority and the grants - medical assistance line item of the economic assistance subdivision by \$24,628,405 for funds available from Medicaid funding (\$17,357,920) and a loan from the Bank of North Dakota (\$7,270,485) for making government nursing facility funding pool payments, pursuant to Section 4 of 1999 Senate Bill No. 2168.

Representative Byerly, referring to Emergency Commission Request #1257, asked how the nine schools included in the proposed character education program were selected by the Department of Public Instruction. Chairman Dalrymple called on Dr. Gary Gronberg, Unit Manager of School Improvement, Department of Public Instruction, to respond to Representative Byerly's question. Dr. Gronberg said the schools that will receive funding under the proposed character education program volunteered to participate in a pilot program which will result in the development of character education standards to be used in all schools in the state.

In response to a question from Representative Poolman, Dr. Gronberg said the grant will be administered by existing Department of Public Instruction staff. He said \$116,388 of the grant will be used for salaries and wages to replace moneys from other sources which would otherwise be used to pay salaries and wages for the employees involved in the grant.

Representative Poolman asked if the use of the proposed grant to pay salaries and wages will result in general fund savings and additional general fund turnback by the department. Dr. Gronberg said some of the funds will be used to pay salaries and wages at the Division of Independent Study which would otherwise be paid from other funds generated from tuition revenue. He said using the grant to pay salaries and

wages at the Division of Independent Study will not result in general fund savings.

Representative Poolman asked if the guidelines used to prepare the grant application include a formula which allows the department to claim a portion of the grant award for administrative expenses. Dr. Gronberg said some grants allow a maximum amount or percentage of the grant award to be claimed for administrative expenses, but the department does not always claim the maximum amount. He said administration can include financial management, programmatic management, training, and developing a resource center.

Senator Krauter asked if the department may be at risk of losing grant funds if administrative requirements are not met. Dr. Gronberg said grants are awarded through a competitive process and grant applications are rated based on the activities to be funded with the grant. He said if the administrative procedures used by the department differ from those proposed in the grant application, the department's grant application may not be acceptable to the federal agency.

It was moved by Senator Robinson, seconded by Senator Krauter, and carried on a roll call vote that, pursuant to NDCC Section 54-16-04.1, the Budget Section approve the following request which has been authorized by the Emergency Commission:

- **Department of Public Instruction (Request #1257) - To increase federal funds spending authority by \$600,000 (\$116,388 for salaries and wages, \$63,612 for operating expenses, \$420,000 for grants) for a grant from the United States Department of Education to establish character education programs in schools.**

Representatives Dalrymple, Aarsvold, Boehm, Boucher, Carlisle, Dorso, Hoffner, Huether, Monson, Nichols, Svedjan, and Timm and Senators Krauter, Nething, Robinson, St. Aubyn, and Tallackson voted "aye." Representatives Byerly and Poolman and Senators Nelson and Solberg voted "nay."

Chairman Dalrymple called on Mr. Rick Clayburgh, Tax Commissioner, to respond to questions relating to Emergency Commission Request #1261. Mr. Clayburgh said the request is to increase spending authority and the motor fuels federal grant line item by \$100,000 for fuel tax compliance and dyed fuel enforcement programs.

In response to a question from Representative Byerly, Mr. Clayburgh said no dyed fuel enforcement testing is currently being done in North Dakota. He said through an agreement with the Highway Patrol, the \$100,000 will be used to purchase supplies and pay for testing costs.

In response to a question from Representative Byerly, Mr. Clayburgh said the Tax Department will provide to the 2001 Legislative Assembly information

regarding the impact of the dyed fuel enforcement program.

It was moved by Senator Robinson, seconded by Representative Carlisle, and carried on a roll call vote that, pursuant to NDCC Section 54-16-04.1, the Budget Section approve the following request which has been authorized by the Emergency Commission:

- **Tax Department (Request #1261) - To increase other funds spending authority and the motor fuels federal grant line item by \$100,000 for a grant from the Department of Transportation for fuel tax compliance programs and a dyed fuel enforcement program in cooperation with the Department of Transportation and the Highway Patrol.**

Representatives Dalrymple, Aarsvold, Boucher, Byerly, Carlisle, Dorso, Hoffner, Huether, Monson, Poolman, Svedjan, and Timm and Senators Krauter, Nelson, Nething, Robinson, St. Aubyn, and Tallackson voted "aye." Representatives Boehm and Nichols and Senator Solberg voted "nay."

Chairman Dalrymple called on Ms. Rosellen Sand, General Counsel, Attorney General's office, who responded to questions relating to Emergency Commission Request #1256. Ms. Sand said the 1999 Legislative Assembly, through enactment of Section 5 of Senate Bill No. 2015, indicated an intent to allow the Attorney General's office to increase local gaming enforcement grants through line item transfers within the Attorney General's budget. She said Request #1256 does not provide for a line item transfer but requests other funds spending authority, pursuant to NDCC Section 54-16-04.2. She said the source of the funds is cost and fee recoveries related to the tobacco settlement negotiations.

Representative Byerly expressed concern that if authorized, the Attorney General's request will allow part of the tobacco settlement proceeds to be used for gaming enforcement grants. He said such use would be contrary to 1999 House Bill No. 1475, which provides that all moneys received by the state pursuant to the judgment and all moneys received by the state for enforcement of the judgment must be deposited in the tobacco settlement trust fund. Ms. Sand said although the cost and fee recoveries are related to the tobacco settlement, they are not tobacco settlement proceeds received by the state under Sections IX and XI of the master settlement agreement, which are the funds specifically referred to in 1999 House Bill No. 1475.

In response to a question from Representative Dalrymple, Ms. Sand said the cost and fee recoveries are to reimburse the Attorney General's office for time spent working on the tobacco settlement negotiations. She said the amount billed for the Attorney General's time exceeded the Attorney General's actual salary, which resulted in the receipt of additional cost and fee recovery moneys.

Representative Poolman said the 1999 Legislative Assembly provided legislative intent that the distribution of gaming enforcement grants by the Attorney General's office be done on a competitive basis (Section 6 of 1999 Senate Bill No. 2003). He asked how many grant applications were received and how many grants were awarded by the Attorney General's office. Ms. Sand said in previous bienniums gaming enforcement grants were paid to over 300 communities. She said for the 1999-2001 biennium, 27 grant applications were received and 27 grants were awarded. Ms. Sand said the reduced number of applications for gaming enforcement grants is primarily attributable to the new requirement that information be provided on how gaming enforcement grant moneys were spent in the past.

Representative Byerly expressed concern that the request from the Attorney General's office violates the legislative intent of Section 5 of 1999 Senate Bill No. 2015. He said the intent of that section was to allow the Attorney General to transfer, if savings could be realized in other areas of the budget, up to \$310,086 for the purpose of providing additional local gaming enforcement grants. He said the request presented by the Attorney General's office does not provide for a transfer.

In response to questions from Representative Poolman, Ms. Sand said the Attorney General's office request, if approved by the Budget Section, will provide for the distribution of additional gaming enforcement grants to jurisdictions that have already applied for grants. She said the gaming enforcement grants will be awarded at either the level requested or the level received by those jurisdictions during the previous biennium.

Senator Nothing expressed concern that the grants were not awarded on a competitive basis. Ms. Sand said criteria were developed to review the applications and award grants competitively. She said the criteria used were:

1. How gaming enforcement grants moneys were used in the past.
2. The amount of gaming activity in the jurisdiction based on gross-gaming procedures.
3. Demonstrated financial need.

Representative Dalrymple asked if all jurisdictions except Fargo and Bismarck received their requested amount. Ms. Sand said grant awards were reduced proportionately to all jurisdictions based on the amount of funds available.

Representative Dorso said if the grant awards were reduced proportionately, they were not awarded on a competitive basis. Representative Dorso said it was his understanding that the Attorney General's office would be reimbursed for any costs incurred as a result of the tobacco settlement litigation, but that any amounts received in excess of costs incurred by the Attorney General's office would be deposited in the tobacco settlement trust fund. Representative Dorso

suggested that at the committee's next meeting, information be presented regarding:

1. The legislative intent of Section 5 of 1999 Senate Bill No. 2015.
2. Information presented and committee discussion during the 1999 legislative session relating to the use of tobacco settlement cost and fee recoveries anticipated to be received in excess of costs incurred by the Attorney General's office.
3. Information on amounts anticipated to be received and actually received for cost and fee recoveries relating to the tobacco settlement, as previously requested by Senator Nelson.

Chairman Dalrymple said the requested information will be presented at the committee's next meeting.

It was moved by Representative Dorso, seconded by Representative Byerly, and carried on a roll call vote that the Budget Section postpone taking action on the following request until the committee's next meeting:

- **Attorney General (Request #1256) - To increase other funds spending authority and the grants line item by \$197,714 for funds available from cost and fee recoveries relating to the tobacco settlement case to be used for additional local gaming enforcement grants.**

Representatives Boehm, Byerly, Dorso, Monson, Poolman, Svedjan, and Timm and Senators Nelson, Nothing, Solberg, and St. Aubyn voted "aye." Representatives Dalrymple, Aarsvold, Boucher, Carlisle, Hoffner, Huether, and Nichols and Senators Krauter, Robinson, and Tallackson voted "nay."

HIGHER EDUCATION CAPITAL PROJECTS

Chairman Dalrymple called on Mr. Larry Isaak, Chancellor, North Dakota University System, who introduced Ms. Donna Thigpen, President, Bismarck State College.

Ms. Thigpen presented a request for approval to expand the Bismarck State College student union project, pursuant to NDCC Section 48-02-20. A copy of the information presented is on file in the Legislative Council office. Ms. Thigpen said the project has been expanded to include lobby refurbishment, contract dining improvements, and meeting room configuration in the lower level of the student union. She said these changes have increased the estimated cost from \$250,000 to \$500,000. Costs relating to the project will be paid through the implementation of a service/facility fee. She presented the following proposed budget for the project:

Snack bar improvements	\$156,000
Lower level meeting rooms	132,000
Alumni rooms/elevator	73,000

Contract dining improvements	60,000
Lobby improvements	34,000
Professional services	45,000
Total	\$500,000

It was moved by Senator Nething, seconded by Representative Hoffner, and carried on a voice vote that, pursuant to NDCC Section 48-02-20, the Budget Section approve Bismarck State College's request to expand the student union project, increasing the cost from \$250,000 to \$500,000.

Ms. Thigpen presented a request for approval to use local funds in excess of \$200,000 for the Bismarck State College music addition project, pursuant to Section 8 of 1999 House Bill No. 1003. Ms. Thigpen said 1999 House Bill No. 1003 provides a \$200,000 appropriation of local funds for the music addition project but provides that additional federal, public, private, or other funds in excess of \$200,000 can be used by Bismarck State College, subject to Budget Section approval. Ms. Thigpen said the Tom and Frances Leach Foundation has informed the Bismarck State College Foundation of its intent to provide a \$381,000 grant for the music center addition. She said the original design provided for an addition of approximately 3,600 square feet. She said due to the contribution from the Leach Foundation, the project has been expanded to provide for an addition of 6,200 square feet. She said the cost to maintain the additional space will be minimal (less than \$5,000 per year for utilities, custodial, and maintenance costs). She said in addition to the general fund appropriation of \$200,000 and the Leach Foundation grant of \$381,000, an additional \$181,000 will need to be raised through the college's fundraising efforts. She presented the following proposed budget for the project:

Music addition	\$525,000
Renovation	74,000
Elevator	100,000
Professional fees	63,000
Total	\$762,000

It was moved by Senator Tallackson, seconded by Senator Nething, and carried on a voice vote that, pursuant to Section 8 of 1999 House Bill No. 1003, the Budget Section approve the Bismarck State College request to use an additional \$362,000 of local funds for the Bismarck State College music addition project, increasing the estimated cost of the project from \$400,000 to \$762,000.

Chairman Dalrymple called on Ms. Laura Glatt, Vice Chancellor, Administrative Affairs, North Dakota University System, who presented information on the boiler and steamline replacement projects at Mayville State University and allocations from the University System's contingency and capital improvements emergency fund line item for the projects. A copy of

the information presented is on file in the Legislative Council office.

The committee recessed for lunch at 11:55 a.m. With the approval of Chairman Dalrymple, Senator Nething reconvened the meeting at 1:00 p.m.

INTERGOVERNMENTAL TRANSFER PROGRAM

Senator Nething called on Mr. David Zentner, Director, Medical Services Division, Department of Human Services, who presented information on federal funds estimated to be received pursuant to 1999 Senate Bill No. 2168. A copy of the information presented is on file in the Legislative Council office. Mr. Zentner said 1999 Senate Bill No. 2168 established an intergovernmental transfer program which allows the Department of Human Services to provide loan and grant funds to nursing facilities and other entities. He said the bill allows the department to create a funding pool, the balance of which is determined by calculating, for each nursing facility in the state, the difference between the average Medicare nursing rates and the average rates for Medicaid recipients.

Mr. Zentner said the first year pool allocation will be approximately \$37 million, including the state match requirement of approximately \$11 million. The state match portion will be returned to the general fund, and approximately \$26 million will be deposited in the health care trust fund. He said of the \$26 million of federal funds, approximately \$8.7 million was anticipated by the 1999 Legislative Assembly and was appropriated and approximately \$17 million was not appropriated. Mr. Zentner said because of uncertainty regarding the impact on Medicare rates of conversion to a prospective payment system, the department underestimated the amount of funds available by approximately \$17 million the first year of the biennium and approximately \$25 million for the second year.

Mr. Zentner said Emergency Commission and Budget Section approval has been received to make the additional government nursing facility funding pool payments and access the anticipated federal funds, pursuant to Section 4 of 1999 Senate Bill No. 2168. He said the department plans to request additional spending authority, pursuant to Section 5 of 1999 Senate Bill No. 2168, when additional information is available regarding the number of projects that will qualify for loan or grant funding.

STATUS OF FUNDING FOR TRADITIONAL MEDICAID GRANTS

Mr. Zentner presented information on the status of funding for traditional Medicaid grants. A copy of the information presented is on file in the Legislative Council office. Mr. Zentner said for the period August 1, 1999, through January 31, 2000, estimated Medicaid expenditures were \$126.3 million. He said

actual expenditures for that six-month period were \$117.8 million resulting in an estimated savings of \$8.5 million. He said savings have been realized in the institutional portion of the budget, including nursing facilities, inpatient and outpatient hospital services, and physician services. He said Medicaid drug expenditures for July 1, 1999, through January 31, 2000, were \$14.7 million, \$2.1 million more than estimated.

COMMITTEE DISCUSSION AND STAFF DIRECTIVES

Senator Nething announced the report on the Budget Committee on Human Services budget tour of the West Central Human Service Center will be postponed until the Budget Section's next meeting.

Representative Byerly said the Administrative Rules Committee recently considered rules relating to the Department of Human Services reimbursement of skilled nursing and basic care facilities. With the permission of Senator Nething, Representative Byerly requested the Legislative Council staff prepare

information on Department of Human Services reimbursement policies and the Department of Human Services formula used to calculate reimbursements to skilled nursing and basic care facilities in the state and that the information be distributed to members of the Budget Section and the Administrative Rules Committees.

Senator Nething adjourned the meeting at 1:20 p.m.

Joe R. Morrisette
Senior Fiscal Analyst

Jim W. Smith
Legislative Budget Analyst and Auditor

ATTACH:2