

NORTH DAKOTA LEGISLATIVE COUNCIL

Minutes of the

BUDGET SECTION

Tuesday, June 29, 2004
Senate Chamber, State Capitol
Bismarck, North Dakota

Representative Ken Svedjan, Chairman, called the meeting to order at 10:00 a.m.

Members present: Representatives Ken Svedjan, Ole Aarsvold, Larry Bellew, Rick Berg, Merle Boucher, Thomas Brusegaard, Ron Carlisle, Al Carlson, Jeff Delzer, Pam Guleson, James Kerzman, Kim Koppelman, Joe Kroeber, Bob Martinson, Ralph Metcalf, David Monson, Earl Rennerfeldt, Bob Skarphol, Blair Thoreson, Francis J. Wald, John Warner, Amy Warnke; Senators Bill L. Bowman, Randel Christmann, Ray Holmberg, Ralph L. Kilzer, Aaron Krauter, Ed Kringstad, Elroy N. Lindaas, Tim Mathern, David P. O'Connell, Larry Robinson, Randy A. Schobinger, Bob Stenehjelm, Harvey Tallackson, Russell T. Thane

Members absent: Representatives Eliot Glassheim, Keith Kempenich, Mike Timm; Senators John M. Andrist, Michael A. Every, Tony S. Grindberg

Others present: See attached appendix

It was moved by Senator O'Connell, seconded by Senator Robinson, and carried on a voice vote that the minutes of the April 13, 2004, meeting of the Budget Section be approved as distributed.

STATUS OF THE STATE GENERAL FUND

At the request of Chairman Svedjan, Ms. Pam Sharp, Director, Office of Management and Budget, presented a report on the status of the state general fund. A copy of the information presented is on file in the Legislative Council office. Ms. Sharp said the consumer price index in May 2004 was up .6 percent for the month and up 3.1 percent compared to May 2003. She said the consumer price index increase is expected to average 1.9 percent during 2004, 1.3 percent during 2005, and 1.9 percent during 2006. Ms. Sharp said personal income rose 1.5 percent during 2003, which was slightly higher than the growth rates in 2001 and 2002. She said the United States farm income totaled \$55.7 billion for 2003, which was 49.1 percent higher than 2002, and farm income is anticipated to increase 14.7 percent during 2004. Ms. Sharp said North Dakota's unemployment rate in April 2004 was 2.7 percent, a decrease from the 3.9 percent rate in April 2003. She said North Dakota's unemployment rate was

considerably lower than the national unemployment rate of 5.6 percent in April 2004. Ms. Sharp said as of June 2004 there were 14 oil rigs operating in North Dakota compared to 13 in June 2003. She said production continues to increase and the Tesoro posted price for oil is approximately \$32 per barrel in North Dakota. Ms. Sharp said per capita personal income in North Dakota grew at a rate of 8.8 percent during 2003, which was faster than any other state in the nation. She said per capita personal income grew at an average rate of 2.3 percent nationally during 2003. She said as a result of North Dakota's per capita income growth rate, the federal medical assistance percentage rate will decrease, resulting in an estimated loss of \$34 million of federal funds to North Dakota for the 2005-07 biennium.

Ms. Sharp presented the following information on the status of the state general fund based on revenue collections through May 2004:

Unobligated general fund balance - July 1, 2003	\$14,790,311
Add	
General fund collections through May 31, 2004	778,416,285
Forecasted general fund revenue for the remainder of the 2003-05 biennium (based on the 2003 legislative forecast)	1,044,588,142
Jobs and Growth Tax Relief Reconciliation Act of 2003 payments	50,000,000
Jobs and Growth Tax Relief Reconciliation Act of 2003 Medicaid federal medical assistance percentage	6,456,581
Less	
Estimated impact of federal tax cuts resulting from the Jobs and Growth Tax Relief Reconciliation Act of 2003	(7,050,000)
Total estimated general fund revenue for the 2003-05 biennium	\$1,887,201,319
Less	
2003-05 biennium general fund appropriations	1,803,661,161
Estimated general fund balance - June 30, 2005 (\$73,287,249 more than the 2003 legislative estimate of \$10,252,909)	\$83,540,158

In response to a question from Representative Boucher, Ms. Sharp said the projected general fund ending balance of \$83.5 million as of June 30, 2005, includes transfers from various trust funds to the general fund because the trust fund transfers are legislatively mandated.

Ms. Sharp said potential deficiency general fund appropriations for the 2003-05 biennium total \$4.2 million as shown below:

Agency	Potential Deficiency Appropriation
Division of Emergency Management	\$1,200,000 ¹
Information Technology Department	1,000,000
Department of Corrections and Rehabilitation	2,000,000 ²
Total	\$4,200,000

¹This amount is for disaster spending through May 31, 2004, and may increase by an additional \$1.6 million for projected expenditures from June 1, 2004, through June 30, 2005.

²The Department of Corrections and Rehabilitation estimates a deficiency appropriation between \$1 million and \$3 million.

In response to a question from Representative Skarphol, Ms. Sharp said during the 2003 Legislative Assembly, the Division of Emergency Management estimated it would need a deficiency appropriation of \$8.9 million related to the 2001-03 biennium; however, that estimate has since been reduced to approximately \$3.9 million.

In response to a request from Representative Delzer, Ms. Sharp said she will provide the committee with an explanation for the \$5 million decrease in the Division of Emergency Management estimated deficiency appropriation request from \$8.9 million to \$3.9 million.

Ms. Sharp said excluding the federal fiscal relief payments and the federal fiscal relief Medicaid federal medical assistance percentage, the total revenues and transfers for the first 11 months of the 2003-05 biennium were approximately \$14.5 million above forecast. She said most of the increased revenues are from sales tax collections, which are approximately \$10 million above forecast.

In response to a question from Representative Gulleon, Ms. Sharp said revenues from the lottery will be transferred to the general fund in June 2004 and the transfers will be made annually.

In response to a question from Representative Wald, Ms. Sharp said the interest income forecast is based on projections from Economy.com and interest income is approximately \$3.1 million (80.1 percent) less than the amount forecasted for the first 11 months of the 2003-05 biennium because interest rates are less than estimated by Economy.com.

In response to a question from Representative Svedjan, Ms. Sharp said the preliminary revenue forecast for the 2005-07 biennium will be available by mid-July 2004.

In response to a request from Representative Svedjan, Ms. Sharp said she will provide committee members with the revenue forecast when completed.

TOBACCO SETTLEMENT PROCEEDS

Ms. Sharp presented information on the status of tobacco settlement proceeds received by North Dakota. A copy of the information presented is on file

in the Legislative Council office. Ms. Sharp said the state received two payments in April 2004 totaling approximately \$22.75 million.

In response to a request from Senator Krauter, Ms. Sharp said she will provide information to the committee regarding the amount of additional interest earned on the common schools trust fund as a result of tobacco settlement deposits.

In response to a request from Representative Skarphol, Ms. Sharp said she will provide a projection of the water development trust fund balance that takes into account the funds committed.

INFORMATION TECHNOLOGY FUNDING REDUCTIONS

Ms. Sharp presented information on line item transfers to accommodate information technology funding reductions, pursuant to Section 8 of 2003 House Bill No. 1505. A copy of the information presented is on file in the Legislative Council office. Ms. Sharp said as of June 2004, two transfers have been made. She said in addition to the transfer made by the Tax Department, which she reported at the April 13, 2004, Budget Section meeting, the Land Department has transferred \$30,650 from the capital assets line item to the operating line item.

STATUS OF CONNECTND

Office of Management and Budget

Ms. Sharp presented an update on the status of the ConnectND project. A copy of the information presented is on file in the Legislative Council office. Ms. Sharp said when the implementation of ConnectND began in 2002, it was anticipated that the project would be completed in fall 2004. However, she said, because of the payroll modifications, implementation of ConnectND is estimated to be completed in December 2004. Ms. Sharp said the decision was made to modify the PeopleSoft payroll module so state employees will remain on the current monthly payroll schedule, instead of having a semimonthly payroll schedule with a timelag between the end of the pay period and the paycheck issuance date. She said the North Dakota University System decided to implement a semimonthly payroll with a two-week timelag. Ms. Sharp said the implementation of different payroll cycles for the North Dakota University System and state government will not create problems for ConnectND. She said in addition to the payroll modifications, the project team is working on an enhanced time entry system to allow for faster input of payroll information. Ms. Sharp said modifications to the PeopleSoft software and the enhanced time entry system are on schedule. Ms. Sharp said the project team is also working on implementing an employee expense module on a pilot basis. She said the State Auditor's office and the Highway Patrol are the pilot agencies.

In response to a question from Senator Christmann, Ms. Sharp said the employee expense module will allow employees to submit travel expenses online.

North Dakota University System

Chairman Svedjan called on Ms. Laura Glatt, Vice Chancellor for Administrative Affairs, North Dakota University System, to present a status report on the North Dakota University System's portion of the ConnectND project. A copy of the information presented is on file in the Legislative Council office. Ms. Glatt said in July 2004 five campuses will implement student administration, finance, and the human resource management components. At that time, she said, 8 of the 12 North Dakota University System sites will have implemented the system with the three pilot sites live since April 2003. Ms. Glatt said the remaining four campuses--North Dakota State University, University of North Dakota, Minot State University, and Minot State University - Bottineau--will not implement the system as originally planned. She said the student administration component will be implemented beginning in fall 2004 for the 2005-06 academic year. She said the earliest implementation date of the finance and human resource management components is October 2004 and the latest date is July 1, 2005. Ms. Glatt said the finance and human resource management components must be implemented at approximately the same time due to the interdependencies between them. She said this delay is primarily driven by the University System's discomfort with the features offered by the grants and contracts module.

Ms. Glatt said two ways to address the grants and contracts module weaknesses are to apply more labor in the grants and contracts offices to operate the system or to modify the software to meet the needs of the University System. She said the delay could cost the University System \$600,000 per month to cover internal staffing costs and additional consulting assistance. Ms. Glatt said funds have been identified within the University System's budget to cover the cost of almost three months' delay but a funding source has not been identified for the additional costs related to any project delay of more than three months.

Ms. Glatt said the conversion of the University System's payroll to a semimonthly pay period with a 15-day timelag for all the campuses will take place in July 2004.

In response to a question from Representative Svedjan, Ms. Glatt said only the four largest campuses will use the grants and contracts module and all the other campuses will use the general ledger module for grants and contracts.

In response to a question from Senator Bowman, Ms. Glatt reviewed the process for consultant selection. She said a request for proposal was sent to

vendors which contained the requirements for the project. She said the vendors had the opportunity to respond to the request for proposal but no vendor could meet every requirement and not all the details of the project were known at the time of the request for proposals.

In response to a comment from Senator Krauter, Ms. Glatt said the University System shares in his frustrations and concerns regarding the length of time that has been required for implementation of the project.

In response to a request from Representative Skarphol, Ms. Glatt said she will provide the committee with a project update at its next meeting and the University System will prepare an exit analysis of the project comparing the estimated costs and implementation period with the actual project costs and implementation period and present a summary of this information to the committee at its October 2004 meeting.

Representative Skarphol said he believes Maximus should be responsible for a share of the \$600,000 per month cost the University System will incur as a result of any delay in system implementation.

Senator Robinson said the ConnectND project is a very large project in which many modules are performing well. He said not everything about the project is negative.

UNIVERSITY OF NORTH DAKOTA CAPITAL IMPROVEMENT Neuroscience Research Facility

Chairman Svedjan called on Mr. Rick Tonder, Facility Planner, University of North Dakota, who presented information on a request for Budget Section approval for the University of North Dakota to accept and spend an additional \$984,159 in federal grant funds for the expansion of the existing Neuroscience Research Facility, pursuant to North Dakota Century Code (NDCC) Section 15-10-12.1. Mr. Tonder said construction of the Neuroscience Research Facility is underway and the University of North Dakota was recently notified of an additional \$984,159 of federal funds available to expand the scope of the project to include additional laboratory space.

In response to a request from Representative Berg, Mr. Tonder said he will provide information to the committee regarding the ongoing costs associated with the additional laboratory space.

In response to a question from Representative Skarphol, Mr. Tonder said there is no general fund match required to receive the additional federal funds.

It was moved by Senator Tallackson, seconded by Representative Warnke, and carried on a roll call vote that pursuant to NDCC Section 15-10-12.1, the Budget Section approve the request to increase federal funds spending

authority by \$984,159 for the expansion of the existing Neuroscience Research Facility at the University of North Dakota to include additional laboratory space. Representatives Svedjan, Aarsvold, Bellew, Berg, Brusegaard, Carlisle, Carlson, Delzer, Gulleon, Kerzman, Koppelman, Kroeber, Martinson, Metcalf, Monson, Rennerfeldt, Skarphol, Thoreson, Wald, Warner, and Warnke and Senators Bowman, Christmann, Holmberg, Kilzer, Krauter, Kringstad, Lindaas, Mathern, O'Connell, Robinson, Schobinger, Tallackson, and Thane voted "aye." No negative votes were cast.

PEOPLESOFT PATCHES AND MODIFICATIONS ASSOCIATED WITH CONNECTND

Chairman Svedjan called on Mr. Curtis L. Wolfe, Chief Information Officer, Information Technology Department, to present information relating to PeopleSoft patches and modifications to the ConnectND project. A copy of the information presented is on file in the Legislative Council office. Mr. Wolfe said the PeopleSoft software is hosted at two data centers--the financial and human resource modules are hosted at the Information Technology Department in Bismarck and the student administration modules are hosted at the higher education data center at the University of North Dakota in Grand Forks.

Mr. Wolfe said modifications, or patches, consist of "fixes" for problems in the software, new federal or state regulations, user requirements, and enhancements. He said modifications are applied on a regular basis. Mr. Wolfe said minimizing the customizations and interfaces to the ConnectND system result in minimizing the amount of time necessary to implement patches. Mr. Wolfe said a process will be implemented to determine if and when patches need to be installed and moved to production. He said the process allows for progressive levels of testing to ensure the stability and quality of the application.

Mr. Wolfe said the time estimates for patching bundles or maintenance packs hosted at the state data center, which include time estimates for the implementation of maintenance related to regulatory releases due to changes in tax law, financial aid regulations, and other federal changes, total 12,520 hours per year. He said an estimated 364 hours per year of the total 12,520 hours per year are for the ongoing payroll customization maintenance.

Mr. Wolfe said the time estimates for patching bundles or maintenance packs for the student administration modules hosted at the higher education data center, which also include time estimates for the implementation of maintenance related to regulatory releases due to changes in tax law, financial aid regulations, and other federal changes, total 12,136 hours per year. Mr. Wolfe said because the student administration and portal applications are less mature

than other PeopleSoft products, upgrades are expected to be necessary every one to two years. He said maintenance packages are also expected more frequently due to the impact of federal regulation changes. Mr. Wolfe said the higher education functional staff are also involved in testing the shared PeopleSoft modules. He said an estimate of the time required to do the quality assurance review from the higher education perspective is 864 hours.

In response to a question from Representative Svedjan, Mr. Wolfe said cost estimates for Information Technology Department staff to do the modifications are approximately \$50 per hour.

In response to requests from Representatives Delzer and Skarphol, Mr. Wolfe provided each committee member with a copy of the *ConnectND Return on Investment and Benefits Analysis Update* dated March 12, 2004.

MEDICAL ASSISTANCE PROGRAM

At the request of Chairman Svedjan, Mr. David J. Zentner, Director, Medical Services, Department of Human Services, presented an update on the status of the medical assistance program, including payments, caseloads, and the receipt of enhanced federal medical assistance percentage funds and preliminary information on federal medical assistance percentage rates for the 2005-07 biennium. A copy of the information presented is on file in the Legislative Council office.

Mr. Zentner said the 3 percent increase in the federal medical assistance percentage will end as of midnight on June 30, 2004. He said the state currently receives 71.31 cents in federal funds for every dollar spent on the Medicaid program. He said on Thursday, July 1, 2004, the federal medical assistance percentage will return to the regular matching rate of 68.31 percent for the remaining three months of the federal fiscal year. Mr. Zentner said to maximize the federal funds, the department's staff worked many hours of overtime to process suspended claims and to reduce the claims backlog. He said on October 1, 2004, the federal medical assistance percentage will drop .82 percent to 67.49 percent. Mr. Zentner said calculations indicate the federal medical assistance percentage will be further reduced effective October 1, 2005, to 65.16 percent, and preliminary information for the 2007 federal fiscal year beginning on October 1, 2006, indicates the federal medical assistance percentage will decrease to 63.54 percent. He said this will result in a federal medical assistance percentage reduction of 7.77 percent in a three-year period. Mr. Zentner said it is estimated that the reduction in the federal medical assistance percentage will require the state to contribute approximately \$34 million more from the general fund for the 2005-07 biennium to maintain the 2003-05 biennium program levels.

Mr. Zentner said expenditures for the Medicaid program continue to track with the department's projections. He said the department still anticipates it will need to utilize the \$8 million from general fund savings to match additional federal funds for the 2003-05 biennium in order to operate the program in its present form. Mr. Zentner said it appears that the enhanced federal funds will exceed earlier projections by slightly more than \$1 million. He said it is anticipated that the State Hospital will use the related additional funds available from the general fund to meet its obligation to house and provide treatment for dangerous sexual offenders who have been committed to the facility. Mr. Zentner said the Department of Human Services is projecting to turn back approximately \$11 million to the general fund, which can be used for the 2005-07 biennium.

Mr. Zentner said caseload numbers have declined slightly since March 2004. He said in March 2004 the total number of enrolled recipients was 53,061 and as of the end of May 2004 the caseload totaled 52,646. He said it appears that the number of enrolled recipients will stabilize at approximately 53,000.

CHANGES MADE TO THE MEDICAID PROGRAM

Mr. Zentner presented a report on the changes made to the Medicaid program by the Department of Human Services. A copy of the information presented is on file in the Legislative Council office. Mr. Zentner said in an effort to avoid future deficit appropriations, the 2003 Legislative Assembly instructed the Department of Human Services to establish service copayments or limits and make programmatic changes within the medical services program to operate the program within the funding levels approved by the 2003 Legislative Assembly for the 2003-05 biennium.

Mr. Zentner said based on the direction of the 2003 Legislative Assembly, the Department of Human Services implemented the following cost-savings measures during the 2003-05 biennium:

- Cost-sharing limitations - This implemented additional copayments and limitations on services. Federal regulations prevent the imposition of copayments on children, pregnant women, or individuals in institutions.
- Eligibility - As of September 1, 2003, the department changed the amount of income that is disregarded in the family coverage group to disregard the first \$120 in earned income plus one-third of the remaining amount. Previously, families were allowed to disregard the first 27 percent of earned income plus 50 percent for the next three months and 25 percent thereafter. This change does not generally affect the eligibility of children since they can qualify under either the poverty level group or the Healthy Steps program.

- Prescription drugs - The department implemented some major changes in the prescription drug program in the 2001-03 biennium, including copayments on brand name drugs, tablet splitting, quantity limits, and implementing a maximum allowable cost-pricing policy for a substantial number of medications. The new initiative in the 2003-05 biennium implements the prior authorization program. As of April 28, 2004, the department has implemented a prior authorization requirement for proton pump inhibitors (antiulcer) and antihistamines.

Mr. Zentner said the department continues to review program utilization. He said the goal of the Department of Human Services is to preserve program services for the most vulnerable citizens in North Dakota, including children, disabled, and elderly, while still meeting the requirements in the department's appropriations bill.

In response to a question from Representative Warnke, Mr. Zentner said the original estimate for the amount of general fund savings resulting from the change in copayments was approximately \$1 million to \$2 million. He said he will provide the specific amount.

OUTSOURCING EMPLOYEE POSITIONS

At the request of Chairman Svedjan, Mr. Dean Mattern, Director of Human Resources, Department of Human Services, presented a report regarding the department's outsourcing of employee positions. A copy of the information presented is on file in the Legislative Council office. Mr. Mattern said the department has five employing units, which have seven employees working in various places outside the department's normal worksites. He said the department expects this employment option to continue to grow in popularity and success.

In response to a question from Senator Christmann, Mr. Mattern said some of the employees working outside the normal worksites are working in their homes, while others work in offices such as a county courthouse.

Chairman Svedjan called on Ms. Krista Andrews, attorney and contract officer, Department of Human Services, to present a report regarding the department's outsourcing of services. A copy of the information presented is on file in the Legislative Council office. Ms. Andrews said the Department of Human Services has over 600 contracts in effect and 7 percent are with out-of-state vendors. She said of the seven percent of out-of-state contracts, North Dakota vendors were given the opportunity to procure the contracts.

Ms. Andrews said one contract the department maintains with an out-of-state vendor is the electronic benefit transfer contract. In May 1995, she said, the North Dakota Department of Human Services, in

conjunction with the South Dakota Department of Social Services, entered into a contract for electronic benefit transfer services with Citicorp Electronic Financial Services, Inc. She said JPMorgan Electronic Financial Services, Inc., completed a purchase of all the stock in Citicorp Electronic Financial Services, Inc., in February 2004 but the contract the Department of Human Services had with Citicorp Electronic Financial Services, Inc., remains in place. She said the contract runs through June 30, 2005, at which time the departments have the option for two-year extensions. Ms. Andrews said in 1999 Citicorp Electronic Financial Services, Inc., joined forces with Mphasis, which is headquartered in California and has call centers in Florida and India, to provide additional staffing for the customer service center. She said the call center functions through a computer system in Florida that answers the calls and has menu options for the client. She said the client may speak to a trained customer service representative based in either Florida or India if the question cannot be answered by the menu options. Ms. Andrews said the majority of calls are answered by the computer system and do not require assistance from a computer service representative. She said of the approximate 82,000 calls received by the computer system from North Dakota and South Dakota clients and retailers in February 2004, approximately 1,000 calls were routed to a customer service representative.

In response to a question from Representative Gulleason, Ms. Andrews said three vendors submitted bids for the electronic benefit transfer contract.

In response to a request from Representative Gulleason, Ms. Andrews said she will provide a list to the committee of the three vendors that submitted the bids for proposal.

In response to a request from Representative Skarphol, Ms. Andrews said she will include information in the vendor list regarding the location of the vendors' employees that provide the services.

SEXUAL PREDATOR TREATMENT

State Hospital

Chairman Svedjan called on Mr. Alex Schweitzer, Superintendent/Administrator, State Hospital, to provide an update on the status of the sexual offender program at the State Hospital. A copy of the information presented is on file in the Legislative Council office. Mr. Schweitzer said the State Hospital opened a second unit consisting of 10 beds on June 1, 2004, to address the growth in the sexual offender program. He said as of June 29, 2004, the secure sexual offender unit has 18 of the 22 beds occupied and the new sexual offender unit has 7 of the 10 beds occupied. He said the State Hospital has reserved four beds in the secure unit for competency evaluations, county jail transfers, and individuals who are mentally ill and dangerous. Mr. Schweitzer said the second

sexual offender unit has the capacity for 25 beds, so the hospital has the option to further expand the sexual offender program, if necessary.

Mr. Schweitzer said the State Hospital anticipated opening the new sexual offender unit by May 1, 2004, but actually opened on June 1, 2004, as the result of referral delays. He said 17 of the required 23 positions to operate the 10-bed unit have been filled. Mr. Schweitzer said the Department of Human Services anticipates the additional general fund dollars that will be available by the slight increase in the estimate of enhanced Medicaid funds will be used to offset the shortfall caused by the increase in referrals for the sexual offender program. He said the hospital anticipates receiving an additional seven referrals for evaluation by the end of 2004.

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

BIOTERRORISM FUNDING

At the request of Chairman Svedjan, Mr. Tim Wiedrich, Section Chief, Emergency Preparedness and Response Section, State Department of Health, presented an update on bioterrorism funding and uses. A copy of the information presented is on file in the Legislative Council office. Mr. Wiedrich said each state receives funding from the United States Department of Health and Human Services for public health emergency preparedness and hospital emergency preparedness. He said the funds are distributed through a noncompetitive, five-year cooperative agreement with annual application and budget requirements and the funds are 100 percent federal with no general fund match required.

Mr. Wiedrich said the State Department of Health was appropriated approximately \$20 million of federal funds for bioterrorism preparedness and response for the 2003-05 biennium. He said expenditures as of June 2004 were approximately \$5.8 million, of which local public health units received approximately \$1.3 million. He said the majority of funding is distributed to eight regional local public health units for the purposes of conducting assessment and planning, coordinating environmental health efforts, developing public information plans, creating emergency communications plans, planning for implementation of mass distribution clinics for prophylactic treatment, training, and conducting disaster exercises.

Mr. Wiedrich said the United States Department of Health and Human Services is implementing a new city readiness initiative to provide higher levels of funding for public health emergency preparedness for 21 of the nation's largest cities located in 17 states. He said if this pilot project is successful, the result may be the addition of another 20 cities to the program, none of which are located in North Dakota. He said the city readiness initiative pilot project is funded by reprogramming approximately \$55 million from state public health emergency preparedness

programs to the city readiness initiative, resulting in states receiving decreased funding for the 2004 federal fiscal year. Mr. Wiedrich said North Dakota is receiving approximately \$6.7 million for the current 2003 federal fiscal year for public health emergency preparedness but will receive approximately \$5.2 million, or approximately \$1.5 million less, for federal fiscal year 2004. He said the level of state hospital preparedness funding for federal fiscal year 2004 will remain at \$1,963,221, which is used to create hospital and emergency medical services plans that are integrated with public health and the emergency management system, to improve hospital communications, develop hospital bed and emergency management system surge capacity, and establish decontamination and isolation capacity.

AGENCY REQUESTS AUTHORIZED BY THE EMERGENCY COMMISSION

Chairman Svedjan directed the committee to consider agency requests which have been authorized by the Emergency Commission and forwarded to the Budget Section, pursuant to NDCC Sections 54-16-04.1, 54-16-04.2, and 54-16-09. The information relating to the requests was sent to Budget Section members prior to the meeting and is on file in the Legislative Council office.

Chairman Svedjan said the Department of Agriculture Request #1517 and the Veterans Home Request #1519 will be discussed separately.

It was moved by Representative Wald, seconded by Senator Robinson, and carried on a voice vote that the Budget Section approve the following requests that have been forwarded to the Budget Section, pursuant to NDCC Sections 54-16-04.1 and 54-16-04.2:

- **Game and Fish Department (Request #1512) - To increase federal funds spending authority and the grants line item by \$80,000 to accept federal funds from the United States Fish and Wildlife Service Federal Aid in Wildlife Restoration Act for shooting range improvements with priority given to groups that support the hunter education program.**
- **Game and Fish Department (Request #1513) - To increase spending authority by \$250,000 to accept federal funds from the United States Fish and Wildlife Service (\$75,000 - funding provided by federal gas tax on boat fuel) and other funds from the game and fish operating fund (\$175,000) for the capital improvements line item (\$250,000) to be used to improve and relocate water access boat ramps at Devils Lake.**

- **Division of Emergency Management (Request #1515) - To increase federal and special funds spending authority by \$7,516,231 relating to federal emergency relief funding (\$6,607,104) and state disaster loan proceeds (\$909,127 - from a Bank of North Dakota loan secured according to NDCC Section 37-17.1-23) for disaster costs associated with the snow emergency declaration in Dunn, McHenry, McKenzie, McLean, Mercer, and Ward Counties and the Fort Berthold Indian Reservation in January 2004 and the flooding emergency declaration in Benson, Cavalier, Grand Forks, Griggs, Nelson, Pembina, Ramsey, Steele, Traill, and Walsh Counties and the Spirit Lake Nation in March 2004.**

At the request of Chairman Svedjan, Ms. Sheila Peterson, Director, Fiscal Management Division, Office of Management and Budget, presented information regarding the Department of Agriculture Emergency Commission Request #1517 for increased federal funds spending authority and to accept \$83,500 of federal funds from the United States Department of Agriculture for salaries and wages and operating expenses to identify exotic plant pests as potential biosecurity threats, coordinate and conduct pest destruction surveys, and develop response plans. Ms. Peterson said this program already exists within the Department of Agriculture but after September 11, 2001, the United States Department of Agriculture increased the funding and expectations for the program and the Department of Agriculture is requesting one full-time equivalent position to perform the duties under this program. Ms. Peterson said this request is for federal funds that do not require a state general fund match.

In response to a question from Senator Bowman, Ms. Peterson said it will be the responsibility of the full-time equivalent position to identify exotic plant pests that are biosecurity threats. She said the request for approval of the additional full-time equivalent position is only for the remainder of the 2003-05 biennium and the Department of Agriculture will have to request approval from the 2005 Legislative Assembly to keep the position beyond the 2003-05 biennium.

In response to a question from Senator Christmann, Ms. Peterson said the full-time equivalent position included in the Department of Agriculture request will be conducting research on the North Dakota State University campus in Fargo.

It was moved by Senator Mathern, seconded by Representative Aarsvold, and carried on a voice 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:

- **Agriculture Department (Request #1517) - To increase federal funds spending authority and to accept \$83,500 of federal funds from the United States Department of Agriculture for salaries and wages (\$47,600) and operating expenses (\$35,900) to identify exotic plant pests as potential biosecurity threats, coordinate and conduct pest destruction surveys, and develop response plans. This request includes one new FTE position.**

At the request of Chairman Svedjan, Ms. Peterson presented information regarding the Veterans Home Emergency Commission Request #1519 for \$208,000 from the state contingencies fund and to increase spending authority by \$226,000 from transfer authority and other funds from resident copayments for capital assets and operating expenses to establish an in-house pharmacy. Ms. Peterson said federal policy requires a state-administered veterans home to provide prescription drugs for its residents. She said the State of North Dakota has been fortunate in that this regulation has not been enforced in the past. Ms. Peterson said the prescription drugs need to be paid for and dispensed by the Veterans Home by January 1, 2005.

Representative Svedjan said due to federal regulations the state is being forced into establishing a pharmacy at the Veterans Home. He said the balance of the state contingency fund before taking this transfer into consideration is approximately \$475,000.

In response to a question from Senator Thane, Representative Svedjan said walk-in veterans will still be served through the Fargo Veterans Administration Medical Center; however, that center can no longer dispense medications to the Veterans Home due to the federal regulation.

In response to a question from Senator Kilzer, Ms. Peterson said the federal Veterans Administration has been paying for the medications but as of January 1, 2005, the state will be required to provide the medications for the Veterans Home residents due to federal regulations.

It was moved by Senator Tallackson, seconded by Senator O'Connell, and carried on a voice vote that pursuant to NDCC Sections 54-16-04.2 and 54-16-09, the Budget Section approve the following request which has been authorized by the Emergency Commission:

- **Veterans Home (Request #1519) - For \$208,000 from the state contingencies fund and to increase spending authority by \$226,000 from transfer authority (\$208,000) and other funds from resident copayments (\$18,000) for capital assets (\$60,000) and operating expenses (\$166,000) to establish an in-house pharmacy. The pharmacy will provide medications to the Veterans Home basic care**

residents. The Fargo Veterans Administration Medical Center, which currently provides medications to these residents, will cease providing this service on January 1, 2005. The Emergency Commission added the stipulation that the Veterans Home first verify with the Veterans Administration whether it is mandatory for the pharmacy to be onsite and, if not, that the Veterans Home is to research other options with local area pharmacies to possibly become a contract depository for medications purchased through the Fargo Veterans Administration Medical Center and to dispense prescriptions onsite to residents and that any funds not used due to lower than anticipated costs be returned to the contingency fund pursuant to NDCC Section 54-16-08.

STATUS OF CONTRACTING WITH COUNTIES TO HOUSE FEMALE INMATES Dakota Women's Correctional Rehabilitation Center

At the request of Chairman Svedjan, Mr. Norbert Sickler, Administrator, Dakota Women's Correctional Rehabilitation Center, presented a report on the status of contract housing female inmates, pursuant to Section 5 of 2003 House Bill No. 1506. A copy of the information presented is on file in the Legislative Council office. Mr. Sickler said the average population for the minimum security female inmates at the center is approximately 60 to 62 inmates. He said the installation of the sprinkler system, which was scheduled to be completed on June 28, 2004, is complete at a cost of approximately \$87,000. Mr. Sickler said the architect has completed all the drawings and plans for the elevator, the price quote has been accepted, and the elevator has been ordered. He said preparation for the elevator shaft is being constructed by local contractors and the company from which the elevator has been ordered projects installation of the elevator to be complete by the end of September 2004. Mr. Sickler said on June 15, 2004, the Risk Management Division stated the medium and close custody inmates can be housed at the center before the completion of the elevator installation, if conditions are met. Mr. Sickler said all the security walls and doorframes have been installed and the metal security doors are expected to arrive at the facility by the end of June 2004.

Mr. Sickler said the Dakota Women's Correctional Rehabilitation Center has three rooms available for the prison industries program--Prairie Industries. He said the three rooms provide the facility with a total of 5,700 square feet of space for the program. Mr. Sickler said as of June 2004, one room is used by

the inmates for sewing projects and lock assembly; the second room, which is located within the secure area, can be utilized by the higher security inmates; and the third room will contain sewing equipment and a large cutting table. Mr. Sickler said the facility's architect is designing plans for either a 5,000-square-foot or a 10,000-square-foot building that could be used for the program. He said the estimated cost of the building of approximately \$600,000 would have to be obtained by the facility.

Mr. Sickler said the Dakota Women's Correctional Rehabilitation Center has completed interviewing candidates for the additional security staff positions that will be necessary at the center when it houses higher security female inmates. He said after the installation of the security doors and locks, the center will request a facility walkthrough by Mr. Tim Schuetzle, Warden, State Penitentiary, Department of Corrections and Rehabilitation, and anticipates receiving higher security female inmates shortly thereafter.

Mr. Sickler presented the committee with information regarding the medical expenses at the Dakota Women's Correctional Rehabilitation Center. He said total medical costs for the center from November 2003, when the center first began housing inmates, through May 2004 was approximately \$288,000, which results in an average prisoner cost of \$24.82 per day. Mr. Sickler said the projected medical cost for the center for a 24-month period is approximately \$1.4 million, which is approximately \$396,000 more than the amount that would be available in the medical account fund for the same time period. He said the center anticipates the medical costs to decrease for the second half of the 2003-05 biennium due to the elimination of the 24 hours a day seven days a week nursing staff requirement and the center will be purchasing prescription medications at a cheaper rate. Mr. Sickler said the elimination of nursing staff on duty from midnight to 6:00 a.m. should result in approximately \$82,000 of savings for a biennium.

Representative Berg said he has concerns regarding the high medical costs. He said the daily cost to house a female inmate at the Dakota Women's Correctional Rehabilitation Center is approximately \$99 per day for inmates requiring treatment and approximately \$87 per day for inmates not receiving treatment when the actual average prisoner medical cost of \$24.82 per day is used instead of the \$15.50 per inmate per day medical rate anticipated in the contract with the Department of Corrections and Rehabilitation. He said the center needs to become fully operational and the 2005 Legislative Assembly needs to receive accurate cost information from the center for decisionmaking.

Mr. Sickler said he is aware of the concerns of the Legislative Assembly. He said he believes the Dakota Women's Correctional Rehabilitation Center

will be able to hold down medical costs and the center has entered into a contract with a local accountant to provide budgetary information.

In response to a question from Representative Warnke, Mr. Sickler said the Dakota Women's Correctional Rehabilitation Center has a good medical director that determines that all medical services are required before provided.

In response to a question from Representative Carlisle, Mr. Sickler said he anticipates the Dakota Women's Correctional Rehabilitation Center will be ready to house higher security inmates by the end of July 2004.

Representative Svedjan said the 2003 Legislative Assembly chose to house state female inmates at the Dakota Women's Correctional Rehabilitation Center based on the information that was presented during the 2003 Legislative Assembly but there have been cost "overruns" since that time. He said the process of getting the center fully operational has been delayed too long and the center needs to "nail down" a date for the facility to be complete and able to house the higher security inmates.

Chairman Svedjan said a document was distributed containing comments from Mr. Glenn Giese, a New England citizen, regarding Mr. Sickler and the Dakota Women's Correctional Rehabilitation Center, a copy of which is on file in the Legislative Council office.

Department of Corrections and Rehabilitation

Chairman Svedjan called on Ms. Elaine Little, Director of Corrections, Department of Corrections and Rehabilitation, to report on the status of contract housing female inmates, pursuant to Section 5 of 2003 House Bill No. 1506. A copy of the information presented is on file in the Legislative Council office. Ms. Little said minimum custody female inmates were transferred to the Dakota Women's Correctional Rehabilitation Center in New England in November 2003. She said the contract the department has with the Dakota Women's Correctional Rehabilitation Center provides that the center was to begin housing the higher custody female inmates in January 2004; however, as of June 2004, since the center is not ready to accept them, the higher custody female inmates continue to be housed at the James River Correctional Rehabilitation Center in Jamestown. She said after the Dakota Women's Correctional Rehabilitation Center is ready to house the higher custody female inmates, the orientation of new female inmates will also be transferred to the center.

Ms. Little said the Department of Corrections and Rehabilitation has three major areas of concern that must be addressed before the higher custody female inmates can be transferred to the Dakota Women's Correctional Rehabilitation Center:

1. Security doors and locks must be installed.

2. An industry program must be available in the higher custody building for the higher custody female inmates.
3. An elevator must be installed to meet the Americans with Disabilities Act standards.

Ms. Little said in regard to the elevator, the Risk Management Division has agreed that if all other concerns are resolved and if there are no handicapped female inmates, then the higher custody female inmates can be transferred to the Dakota Women's Correctional Rehabilitation Center prior to completion of the elevator provided that progress has been made on the project and it will be completed within a specified time period.

Ms. Little said the Department of Corrections and Rehabilitation, Risk Management Division, and Attorney General's office have worked with the Dakota Women's Correctional Rehabilitation Center staff to develop an alternative to the 24 hours a day seven days a week nursing requirement at the center. She said an addendum to the housing contract was approved to provide that during the hours of midnight to 6:00 a.m., if there are no patients in the infirmary, the Dakota Women's Correctional Rehabilitation Center can have a trained "first responder" on duty and nursing staff on call in place of onsite nursing staff.

Ms. Little said representatives from the Department of Corrections and Rehabilitation and the Dakota Women's Correctional Rehabilitation Center met to discuss which entity should provide the long-term residential treatment services. She said the Tompkins Rehabilitation and Correction Center is a self-contained, 30-bed unit located at the State Hospital that provides daily intensive alcohol and drug addiction and cognitive restructuring classes. She said after discussing the program and space requirements for the Tompkins Rehabilitation and Correction Center, both parties agreed that if appropriate space is available at the Dakota Women's Correctional Rehabilitation Center, the Tompkins Rehabilitation and Correction Center services will be provided for the female inmates by the Dakota Women's Correctional Rehabilitation Center beginning July 2007.

In response to a question from Representative Svedjan, Ms. Little said she does not believe that any of the requests the Department of Corrections and Rehabilitation has made to the Dakota Women's Correctional Rehabilitation Center were unreasonable. She said the department must maintain parity between male and female inmates due to liability issues.

In response to a question from Representative Svedjan, Ms. Little said Mr. Dennis Fracassi, Director, Roughrider Industries, Department of Corrections and Rehabilitation, has been working with the Dakota Women's Correctional Rehabilitation Center to establish an industries program at the center. She said Mr. Fracassi wrote a letter to the Dakota Women's

Correctional Rehabilitation Center detailing items required for an industries program; however, the center has done very little in regard to Mr. Fracassi's recommendations.

In response to a question from Representative Wald, Ms. Little said the higher security female inmates located at the James River Correctional Center in Jamestown have an industry program available to them that consists of "cut and sew" operations.

Representative Kerzman said although there are many frustrations in regard to the operations of the Dakota Women's Correctional Rehabilitation Center, he believes the center provides a good environment for the female inmates.

Ms. Little said she does not want her comments to be misunderstood. She said the department has been working hard to implement the decision of the 2003 Legislative Assembly to house the female inmates at the Dakota Women's Correctional Rehabilitation Center.

At the request of Chairman Svedjan, Mr. Dave Krabbenhoft, Director of Fiscal Affairs, Department of Corrections and Rehabilitation, presented a report on the status of the department's 2003-05 biennium budget. A copy of the information presented is on file in the Legislative Council office. Mr. Krabbenhoft said the department estimates a budget shortfall for the 2003-05 biennium between \$1 million and \$2.5 million, depending on inmate population growth rates. He said the majority of the budget shortfall is the result of a much higher than estimated male inmate population. Mr. Krabbenhoft said the actual average male inmate population for May 2004 was 1,173 inmates, which was 126 inmates more than was estimated in the department's budget for May 2004. He said the actual average female inmate population for May 2004 was 125 inmates, which was eight inmates more than was estimated in the department's budget for May 2004.

In response to a question from Representative Svedjan, Mr. Krabbenhoft said the delay in housing female inmates at the Dakota Women's Correctional Rehabilitation Center resulted in cost-savings for the Department of Corrections and Rehabilitation but the growth in the male inmate population will cost the department more than the amount saved by the housing delay, therefore resulting in the budget shortfall.

In response to a question from Representative Warnke, Mr. Krabbenhoft said at the end of June 2004 there were approximately 47 male inmates housed at the private prison in Appleton, Minnesota, and approximately 40 male inmates housed in county jails around the state.

2003-05 BIENNIUM REPORT ON COMPLIANCE WITH LEGISLATIVE INTENT

At the request of Chairman Svedjan, the assistant legislative budget analyst and auditor presented the *2003-05 Biennium Report on Compliance With Legislative Intent*. The assistant legislative budget analyst and auditor said the report is a summary of key items and changes within each agency from the beginning of the 2003-05 biennium through the date of the report.

Representative Carlson requested the Legislative Council staff to update the vacant full-time equivalent position schedule as of June 30, 2004, include a description of how the excess money for salaries and wages resulting from vacant positions has been spent, and distribute the report at the committee's October 2004 meeting.

BUDGET TOUR REPORTS

Chairman Svedjan called on Senator Holmberg to present a report on the budget tours of Williston State College, Williston Research Extension Center, Dickinson State University, and Dickinson Research Extension Center on April 21-22, 2004; Mayville State University and Lake Region State College on May 3-4, 2004; and Bismarck State College on June 14, 2004, conducted by the Higher Education Committee.

Chairman Svedjan called on Representative Carlisle to present a report on the budget tour of Roughrider Industries on June 17, 2004, conducted by the Budget Committee on Government Services.

The legislative budget analyst and auditor said the reports include information regarding state institution utilization of land and buildings which will be completed in a report available during the 2005 Legislative Assembly.

It was moved by Senator Robinson, seconded by Representative Thoreson, and carried on a voice vote that the Budget Section accept the reports of the April 21-22, 2004, May 3-4, 2004, and June 14, 2004, budget tours conducted by the Higher Education Committee and the report of the June 17, 2004, budget tour conducted by the Budget Committee on Government Services.

CORRESPONDENCE FROM ETHANOL PLANTS

The legislative budget analyst and auditor said pursuant to NDCC Section 4-14.1-07, correspondence from the North Dakota ethanol plant receiving production incentives from the state was distributed to the committee members. The correspondence

relates to Alchem, Ltd., LLP, and indicates that the plant produced a loss after deducting the payments received from the North Dakota ethanol production incentive program. A copy of the correspondence is on file in the Legislative Council office.

COMMITTEE DISCUSSION AND STAFF DIRECTIVES

Representative Skarphol requested the Legislative Council staff to prepare a schedule of "off-budget" full-time equivalent positions, including the number of "off-budget" positions, the name of the agencies the "off-budget" positions are located in, whether the employees receive benefits, and the funding source for the positions. The legislative budget analyst and auditor said there are various reasons for positions to be "off-budget," including those related to continuing appropriations, such as higher education and agricultural commodity groups. He said the 2005 Legislative Assembly Appropriations Committees will receive detailed information regarding continuing appropriations.

Representative Skarphol requested that a representative from PeopleSoft provide a status report regarding the state's information technology project at the next Budget Section meeting.

Representative Skarphol requested that Mr. Jeff Carr, Systems Architect, Information Technology Department, provide a report at the next Budget Section meeting regarding the future of the state's server and operating system infrastructure.

The next Budget Section meeting is tentatively scheduled for Tuesday, October 5, 2004.

It was moved by Representative Carlson, seconded by Representative Carlisle, and carried on a voice vote that the Budget Section meeting be adjourned subject to the call of the chair.

Chairman Svedjan adjourned the meeting at 3:22 p.m.

Stephanie A. Johnson
Fiscal Analyst

Jim W. Smith
Legislative Budget Analyst and Auditor

ATTACH: 1