

## STATUTORY AND TRADITIONAL RESPONSIBILITIES OF LEGISLATIVE COUNCIL INTERIM COMMITTEES

In addition to conducting studies pursuant to concurrent resolutions or bills, the Legislative Council performs a number of statutory and traditional duties and responsibilities. This memorandum outlines those duties and responsibilities.

### STATUTORY INTERIM COMMITTEES

Eight Legislative Council interim committees are created by statute:

1. Administrative Rules Committee [North Dakota Century Code (NDCC) Section 54-35-02.5].
2. Crop Harmonization Committee [1999 Session Laws (S.L.), chapter (ch.) 9, Section 11].
3. Electric Industry Competition Committee (NDCC Section 54-35-18.1).
4. Employee Benefits Programs Committee (NDCC Section 54-35-02.3).
5. Garrison Diversion Overview Committee (NDCC Section 54-35-02.7).
6. Information Technology Committee (NDCC Section 54-35-15.1).
7. Legislative Audit and Fiscal Review Committee (NDCC Section 54-35-02.1).
8. Legislative Ethics Committee (NDCC Section 54-35-02.8).

In addition, the Advisory Commission on Intergovernmental Relations and the Regulatory Reform Review Commission traditionally have been identified as interim committees of the Legislative Council.

#### Administrative Rules Committee

Under NDCC Section 54-35-02.5, the Legislative Council is to appoint an Administrative Rules Committee. The committee must include at least one member from each of the standing committees of either the House or the Senate.

Under NDCC Section 28-32-03.3, the Administrative Rules Committee may find an administrative rule void, and suspend that rule, if the committee makes specific findings with regard to that rule.

Under NDCC Section 54-35-02.6, the committee is to study and review administrative rules and related statutes.

#### Crop Harmonization Committee

Section 11 of 1999 S.L., ch. 9, requires the Legislative Council to establish during the 1999-2000 interim a Crop Harmonization Committee consisting of the chairmen of the House and Senate Agriculture Committees and three other individuals appointed by

the Legislative Council chairman, one of whom must represent the crop protection manufacturing industry. In consultation with the Pesticide Control Board, the committee is to prioritize crop protection product labeling needs, explore this state's authority under the federal Insecticide, Fungicide, and Rodenticide Act, identify the data necessary to enable registration of a use in a timely manner, determine the research necessary to fulfill data requirements, and request the Agriculture Commissioner to pursue specific research funding options from public and private sources. (Section 12 appropriates funds to the Legislative Council for this committee--\$15,000 from the minor use pesticide fund, \$15,000 from the general fund, and \$150,000 from grants and donations.)

#### Electric Industry Competition Committee

Under NDCC Section 54-35-18.1, the Legislative Council is required to appoint an Electric Industry Competition Committee of three or four members of the House and three or four members of the Senate, with no more than two members of each house to be from the same political party. During the 1997-98 interim, the committee consisted of three members of the House and three members of the Senate. The chairman of the Legislative Council is to name one of the members as chairman of the committee. The committee is to study the impact of competition on the generation, transmission, and distribution of electric energy within this state. The law providing for the committee and its responsibilities is effective through August 1, 2003, and after that date is ineffective.

Under NDCC Sections 54-35-18 and 54-35-18.2, the committee is to study the impact of competition on the generation, transmission, and distribution of electric energy within this state. Also, under Section 54-35-18.2(9), effective until August 1, 2001, the committee is to study NDCC Chapter 49-03 and relevant statutes relating to the extension of electric lines and facilities and the provision of electric service by public utilities and rural electric cooperatives within and outside the corporate limits of a municipality.

#### Employee Benefits Programs Committee

Under NDCC Section 54-35-02.3, the Legislative Council is to appoint five members of the House of Representatives and four members of the Senate to an Employee Benefits Programs Committee.

Under NDCC Section 54-35-02.4, the committee is to make a thorough review of legislative measures and proposals that affect the retirement programs and

health and retiree health plans of state employees and employees of political subdivisions.

Under NDCC Section 18-11-15, a firefighters relief association may pay monthly service benefits under a special schedule with the consent of the governing body of the city, upon the advice of its actuary, and upon notice to the Employee Benefits Programs Committee.

Under NDCC Section 54-52.1-08.2, the Public Employees Retirement Board may adopt appropriate terminology for the uniform group insurance program to comply with federal requirements, subject to the approval of the committee.

### **Garrison Diversion Overview Committee**

Under NDCC Section 54-35-02.7, the membership of the Garrison Diversion Overview Committee consists of the majority and minority leaders and their assistants from the House and Senate, the Speaker of the House, the President Pro Tempore of the Senate selected at the end of the immediately preceding legislative session, the chairmen of the House and Senate standing Committees on Natural Resources, and the chairmen of the House and Senate standing Committees on Agriculture.

Under NDCC Section 54-35-02.7, the Garrison Diversion Overview Committee is responsible for legislative overview of the Garrison Diversion Project and related matters.

### **Information Technology Committee**

Under NDCC Section 54-35-15.1, the Legislative Council is to appoint during each biennium an Information Technology Committee consisting of four members of the House of Representatives and three members of the Senate. The chief information officer of the state is an ex officio member of the committee.

Under NDCC Section 54-35-15.2, the committee is to meet at least quarterly, review the business plan of the Information Technology Department, review the activities of the department, review statewide information technology standards, review the statewide information technology plan, conduct studies, make recommendations regarding established or proposed information technology programs and information technology acquisition by the executive and judicial branches, review the cost-benefit analysis of any major information technology project of an executive or judicial branch agency, and perform periodic reviews of major information technology projects.

Under NDCC Section 54-35-15.3, the committee may review any information technology project or plan and, if the project or plan is at risk of failing to achieve its intended results, may recommend to the Office of Management and Budget the suspension of the expenditure of moneys appropriated for a project or plan. The Office of Management and Budget may suspend the expenditure authority upon agreement with the recommendation.

### **Legislative Audit and Fiscal Review Committee**

Under NDCC Section 54-35-02.1, the Legislative Audit and Fiscal Review Committee is created for the purposes of studying and reviewing the financial transactions of the state, assuring the collection and expenditures of revenues and moneys are in compliance with law and legislative intent and sound financial practices, and providing the Legislative Assembly with formal, objective information on revenue collections and expenditures for a basis of legislative action to improve the fiscal structure and transactions of the state.

Under NDCC Section 4-02.1-18, the State Fair Association is to submit annually to the Legislative Audit and Fiscal Review Committee an audit report prepared by a certified public accountant based upon an audit of all records and accounts of the association.

Under NDCC Section 10-23-03.2, any corporation that produces agricultural ethyl alcohol or methanol and receives a production subsidy from the state is required to submit an annual audit report to the Legislative Audit and Fiscal Review Committee. In addition, the committee may request the State Auditor to audit the accounts of any corporation required to submit an annual report under the section.

Under NDCC Section 10-32-156, any limited liability company that produces agricultural ethyl alcohol or methanol in this state and which receives a production subsidy from the state is required to submit an annual audit report to the Legislative Audit and Fiscal Review Committee.

Under NDCC Section 25-04-17, the reduction or writeoff of a patient's past due account from the financial records of the Developmental Center at Westwood Park, Grafton, is authorized. A detailed report is to be presented to the Legislative Audit and Fiscal Review Committee by September 1 after the close of each fiscal year.

Under NDCC Section 50-06.3-08, the Department of Human Services may authorize the reduction or writeoff of a recipient's or patient's past due account from the financial records of the department. The department is to present a detailed report to the Legislative Audit and Fiscal Review Committee by September 1 after the close of each fiscal year.

Under NDCC Section 52-02-18, the executive director of Job Service North Dakota and the auditor are required to present to the Legislative Audit and Fiscal Review Committee the report of the biennial performance audit of the divisions of Job Service.

Under NDCC Section 54-10-01, the State Auditor is vested with the responsibility to audit state agencies once every two years. Audits may be conducted at more frequent intervals if requested by the Legislative Audit and Fiscal Review Committee. The State Auditor also is to perform or provide for performance

audits as determined necessary by the Legislative Audit and Fiscal Review Committee.

Under NDCC Section 54-10-13, the State Auditor is required to perform audits of political subdivisions in accordance with Section 54-10-14 unless otherwise ordered by the Legislative Audit and Fiscal Review Committee.

Under NDCC Section 54-10-15, the Legislative Audit and Fiscal Review Committee is authorized to order the State Auditor to audit or review the accounts of any political subdivision.

Under NDCC Section 54-35-02.2, the Legislative Audit and Fiscal Review Committee is required to study and review audit reports submitted by the State Auditor.

Under NDCC Section 65-02-03.3, the director of the Workers Compensation Bureau and the chairman of the Workers Compensation Board of Directors are required to provide an annual report to the Legislative Audit and Fiscal Review Committee.

Under NDCC Section 65-02-30, the director of the Workers Compensation Bureau, the chairman of the Workers Compensation Board of Directors, and the auditor are required to present to the Legislative Audit and Fiscal Review Committee the report of the biennial performance audit of the bureau.

#### **Legislative Ethics Committee**

Under NDCC Section 54-35-02.8, the Legislative Council is to appoint an ethics committee to consider or prepare a legislative code of ethics. For the 1999-2000 interim, the Legislative Management Committee has been designated the Legislative Ethics Committee.

#### **Advisory Commission on Intergovernmental Relations**

Under NDCC Section 54-35.2-01, the Advisory Commission on Intergovernmental Relations consists of 11 members, four of whom are legislators appointed by the Legislative Council. The Legislative Council is also to designate the chairman and vice chairman of the commission and is to receive reports from the commission in the same manner as reports from interim Legislative Council committees. Under Section 54-35.2-02, the Advisory Commission on Intergovernmental Relations is to study local governmental structure, fiscal and other powers and functions of local governments, relationships between and among local governments and the state or any other government, allocation of state and local resources, and interstate issues involving local governments. Under Section 54-35.2-05, the final report of the Legislative Council is to include the report of the commission. Under Section 54-35.2-03, the commission may request the provision of appropriate staff services from the Legislative Council. (The Legislative Council staff also provides staff services to the

Legislative Compensation Commission and the Regulatory Reform Review Commission.)

#### **Regulatory Reform Review Commission**

Under NDCC Section 49-21-22.2, the Regulatory Reform Review Commission consists of one member of the Public Service Commission who has responsibility for telecommunications regulation, two members of the Senate appointed by the President of the Senate, and two members of the House of Representatives appointed by the Speaker. The chairman of the Legislative Council is to designate the chairman and vice chairman of the Regulatory Reform Review Commission from the legislative members of the commission. The commission is to review the operation and effect of North Dakota telecommunications law and may review the effects of federal universal service support mechanisms on telecommunications companies and consumers in this state and may review the preservation and advancement of universal service in this state and submit a report to the Legislative Council. The Public Service Commission is to provide technical assistance to the Regulatory Reform Review Commission and the Legislative Council is to provide staff services.

#### **OTHER COMMITTEE-RELATED DUTIES PROVIDED BY STATUTE**

Many statutory duties or responsibilities of the Legislative Council traditionally have been delegated to various interim committees. In addition, although not created by statute, the Budget Section of the Legislative Council is named in several statutes.

#### **Legislative Council**

##### **Permanent or Continuing Requirements**

Several responsibilities of the Legislative Council are codified in the Century Code because they are "general and permanent." In addition, some responsibilities continue past the biennium for which the original responsibility was provided. If these responsibilities are of a limited duration, they are found in the Session Laws rather than the Century Code.

Under NDCC Section 4-05.1-19, the Board of Agricultural Research and Education is required to annually evaluate research activities and expenditures and report the findings to the Legislative Council. For the 1999-2000 interim, the responsibility to receive the report has been assigned to the Agriculture Committee.

Under NDCC Section 15-10-14.2, the State Board of Higher Education is to report to the Legislative Council and the Governor in 2002, and every six years thereafter, on the status of the University System and the long-term goals and objectives that will best serve the citizens of the state. In 2003, and every six years thereafter, the board is to report to the Legislative Council and the Governor and present the directions, criteria, and timelines the board developed

for the goals. At least once during each year other than the previously described years, the board is to report to the Legislative Council and the Governor and present a progress report regarding its goals and objectives. For the 1999-2000 interim, the responsibility to receive the reports has been assigned to the Higher Education Committee.

Under NDCC Section 26.1-50-05, the governing body of the North Dakota low-risk incentive fund is required to provide annually an audited financial statement and report to the Legislative Council, the Governor, and the Insurance Commissioner. For the 1999-2000 interim, the responsibility to receive the statement and report has been assigned to the Legislative Audit and Fiscal Review Committee.

Under NDCC Section 28-32-02, an administrative agency must adopt any rule change to implement a statutory change within nine months after the effective date of the statutory change. If the agency needs additional time, a request for additional time must be made to the Legislative Council. The Legislative Council may extend the time if the request by the agency is supported by evidence that the agency needs more time through no deliberate fault of its own. For the 1999-2000 interim, this authority has been assigned to the Administrative Rules Committee.

Also, under NDCC Section 28-32-02, the Legislative Council is to establish a procedure whereby any person may request and receive mailed copies of all filings made by administrative agencies with respect to notice of proposed adoption, amendment, or repeal of agency rules. For the 1999-2000 interim, this authority has been assigned to the Administrative Rules Committee.

Also, under NDCC Section 28-32-02, the Legislative Council is to establish standard procedures for administrative agencies to follow in providing notice of proposed rulemaking. For the 1999-2000 interim, this authority has been assigned to the Administrative Rules Committee.

Under NDCC Section 28-32-03.3, an agency whose rule has been found void by the Administrative Rules Committee may petition the Legislative Council chairman for a review of the committee's decision by the Legislative Council. If the Legislative Council does not disapprove by motion the finding of the committee within 60 days after receipt of the petition, the rule is void.

Under NDCC Section 28-32-15, notice of an appeal of an administrative agency's rulemaking action must be given to the Legislative Council. For the 1999-2000 interim, this responsibility has been assigned to the Administrative Rules Committee.

Under NDCC Section 36-22-09, two copies of the audit report of the North Dakota Stockmen's Association are to be submitted to the Legislative Council. For the 1999-2000 interim, the responsibility to receive the report has been assigned to the Legislative Audit and Fiscal Review Committee.

Under NDCC Section 46-02-04, contracts for the printing of legislative bills, resolutions, and journals are to be in accordance with the rules of the Senate and the House of the previous legislative session, or as directed by the Legislative Council. For the 1999-2000 interim, this responsibility has been assigned to the Legislative Management Committee.

Under NDCC Section 48-08-04, the committee rooms, halls, passageways, and other space in the Capitol used by the Legislative Assembly may not be used during the interim between legislative sessions without authorization of the Legislative Council or its designee. This responsibility has been assigned to the director of the Legislative Council.

Under NDCC Section 50-06-01.8, the Department of Human Services, subject to the approval of the Legislative Council, is authorized to terminate any waiver obtained for the training, education, employment, and management program or the demonstration project to combine the benefits under the aid to families with dependent children, temporary assistance for needy families, fuel assistance, and food stamp programs. For the 1999-2000 interim, this authority has been assigned to the Budget Committee on Human Services.

Under NDCC Section 50-09-29, the Department of Human Services, subject to approval of the Legislative Council, is authorized to administer the temporary assistance for needy families program in a manner that avoids expending or committing all funds appropriated for that purpose earlier than June 30, 1999, or in a manner different from that provided by the section, or in a manner that avoids causing eligible individuals to become charges upon the counties. For the 1999-2000 interim, this authority has been assigned to the Budget Committee on Human Services.

Under NDCC Section 50-29-02, effective October 1, 1999, the Department of Human Services is to report annually to the Legislative Council and describe enrollment statistics and costs associated with the children's health insurance program state plan. For the 1999-2000 interim, the responsibility to receive the report has been assigned to the Budget Committee on Health Care.

Under NDCC Section 50-30-08, effective until July 1, 2001, the Department of Human Services is to provide annual reports to the Governor and the Legislative Council concerning grants or loans under the nursing facility alternative grant fund or alternative loan fund. For the 1999-2000 interim, the responsibility to receive these reports has been assigned to the Budget Committee on Institutional Services.

Under NDCC Section 54-03-19.2, the expenses of the Legislative Compensation Commission are to be paid from appropriations for the Legislative Assembly. The commission may solicit the assistance of the Legislative Council staff. (The Legislative Council staff also provides staff services to the Regulatory

Reform Review Commission and the Advisory Commission on Intergovernmental Relations.)

Under NDCC Section 54-03-26, a legislator assigned a personal computer is authorized to use that computer for any use not in violation of NDCC Section 16.1-10-02 (political purposes) upon payment of a computer usage fee established by the Legislative Council. For the 1999-2000 interim, this responsibility has been assigned to the Legislative Management Committee.

Under NDCC Section 54-06-25, the chairman of the Legislative Council is to appoint four members of the Legislative Assembly to a nine-member State Employees Compensation Commission. The commission is to meet at least once each year and is to consider proper levels of compensation and fringe benefits for state employees. The commission is to make its recommendations on these issues to the Governor in time for consideration and preparation of the executive budget to be submitted to the next Legislative Assembly. The commission is also to submit its recommendations to the Legislative Council at the biennial meeting at which the Council receives reports of its interim committees.

Under NDCC Section 54-06-26, an appointed or elected state official or a state employee may use a state telephone to receive or place a local call for essential personal purposes to the extent that use does not interfere with the functions of the official's or employee's agency. Each agency may establish guidelines defining reasonable and appropriate use of state telephones for essential personal purposes. For the 1999-2000 interim, this responsibility has been assigned to the Legislative Management Committee.

Under NDCC Section 54-34.3-04, the director of the Department of Economic Development and Finance is to report at least annually to an interim committee designated by the Legislative Council on performance of all divisions of the department; on the amount of success and satisfaction the department has in meeting business client, economic developer, and community client needs and expectations; and on a comparison of dollars spent to the economic benefits created or all programs administered or supervised by the director. For the 1999-2000 interim, this responsibility has been assigned to the Commerce and Labor Committee.

Under NDCC Section 54-35-02(4), the Legislative Council is to receive, review, and make recommendations on uniform and model laws recommended to it by the State Commission on Uniform State Laws. For the 1999-2000 interim, this responsibility has been assigned to the Judiciary Committee.

Under NDCC Section 54-35-02(8), the Legislative Council is to establish guidelines for the use of the legislative chambers and displays in Memorial Hall. For the 1999-2000 interim, this responsibility has been assigned to the Legislative Management Committee.

Under NDCC Section 54-35-02(9), the Legislative Council has authority to determine access to legislative information services and impose fees for providing legislative information services and copies of legislative documents. For the 1999-2000 interim, this responsibility has been assigned to the Legislative Management Committee.

Under NDCC Section 54-35-11, the Legislative Council is authorized to make all necessary arrangements for legislative sessions. For the 1999-2000 interim, this responsibility has been assigned to the Legislative Management Committee.

Under NDCC Section 54-40-01, before any agreement between a state entity and South Dakota to form a bistate authority becomes effective, it must be approved by the Legislative Assembly, or by the Legislative Council or its designated committee if the Legislative Assembly is not in session. For the 1999-2000 interim, this responsibility has been assigned to the Budget Committee on Government Services.

Under NDCC Section 54-44.1-07, the director of the budget is to present budget information to the Legislative Assembly at the organizational session in December in the form as may be prescribed by the Legislative Council. For the 1999-2000 interim, the responsibility to determine the form of the information has been assigned to the Budget Section.

Under NDCC Section 54-59-12, the chief information officer of the state is to report to the Legislative Council or its designated committee regarding the coordination of services with political subdivisions and provides for the chief information officer and the commissioner of the State Board of Higher Education to report to the Legislative Council or its designated committee regarding coordination of information technology between the Information Technology Department and higher education. For the 1999-2000 interim, the responsibility to receive these reports has been assigned to the Information Technology Committee.

Under NDCC Section 54-59-13, the Information Technology Department is to review the information technology management of executive branch state agencies and institutions. If an agency or institution is found not to be in conformance to its information technology plan or in compliance with statewide policies and standards and does not agree to come into conformance or compliance, the department is to report the issue to the Legislative Council. For the 1999-2000 interim, the responsibility to receive these reports has been assigned to the Information Technology Committee.

Under NDCC Section 65-06.2-09, effective until July 1, 2003, the Workers Compensation Bureau is required to submit to a Legislative Council interim committee no later than 30 days before commencement of each regular session of the Legislative Assembly a report and any recommendations based on its safety audit of the Roughrider Industries work

programs and its performance audit of the modified workers' compensation coverage program. For the 1999-2000 interim, the responsibility to receive the report has been assigned to the Commerce and Labor Committee.

### **Temporary or Limited Requirements**

Section 13 of 1999 S.L., ch. 21, requires the Board of Agricultural Research and Education to report periodically during the 1999-2001 biennium to the Legislative Council, or a committee designated by the Legislative Council, on its activities associated with researching and developing market opportunities for biotechnologically enhanced crops. The responsibility to receive the report has been assigned to the Agriculture Committee.

Section 6 of 1999 S.L., ch. 34, provides that the human service centers, the State Hospital, and the Developmental Center are to report to the Legislative Council, or its designee, (and to the Budget Section) on the hiring of any additional full-time equivalent positions in addition to those authorized by the Legislative Assembly for the 1999-2001 biennium. The responsibility to receive the report has been assigned to the Budget Committee on Government Services.

Section 25 of 1999 S.L., ch. 34, provides for the Department of Human Services to review departmental program funding issues during the 1999-2000 interim and report its findings and recommendations to the Legislative Council, or an appropriate interim committee of the Legislative Council, during the 1999-2000 interim. The responsibility to receive the report has been assigned to the Budget Committee on Human Services.

Section 18 of 1999 S.L., ch. 35, requires the Superintendent of Public Instruction to report to the Legislative Council's interim Education Finance Committee regarding the content of the financial reports from school districts and specific actions taken to account for transfers from school district general funds, to eliminate or reduce variations in the reporting of data, and to ensure that the financial data is available in a form that allows for accurate and consistent comparisons.

Section 7 of 1999 S.L., ch. 45, requires the State Engineer to study the feasibility and desirability of constructing dams and other impoundments in the Pembina River watershed for the purpose of reducing flows in the lower reaches of the Pembina River and submit a report to an appropriate interim committee designated by the Legislative Council. The responsibility to receive the report has been assigned to the Garrison Diversion Overview Committee.

Section 5 of 1999 S.L., ch. 64, requires the Agriculture Commissioner to report at least twice during the 1999-2000 interim to the Legislative Council regarding the efforts to develop a single uniform process for the joint North American labeling of crop protection products. The responsibility to receive

these reports has been assigned to the Crop Harmonization Committee.

Section 5 of 1999 S.L., ch. 90, provides that annually for the first four taxable years beginning after December 31, 1998, the governing board of the housing development fund is to provide financial statements of the fund and a report analyzing the impact of the fund on the state's economy, business and employment activity generated by loans from the fund, and the effects of that activity on state and local tax revenues to the Governor and the Legislative Council. For the 1999-2000 interim, the responsibility to receive the statements and report has been assigned to the Budget Committee on Government Services.

Section 4 of 1999 S.L., ch. 142, requires the Department of Human Services to report in August 2000 to an interim committee designated by the Legislative Council on the progress of implementing child support income withholding through the state disbursement unit. The responsibility to receive this report has been assigned to the Budget Committee on Human Services.

Section 2 of 1999 S.L., ch. 171, requires the Education Standards and Practices Board to pursue by July 1, 2001, reciprocal acceptance of teaching certificates issued by other states and, before October 1, 2000, to present a progress report regarding implementation of the program to the Legislative Council or an interim committee designated by the Legislative Council. The responsibility to receive the report has been assigned to the Education Services Committee.

Section 3 of 1999 S.L., ch. 376, requires the Department of Human Services and the Board of Nursing to prepare a joint recommendation for consideration by the 57th Legislative Assembly regarding administration of medication and during the 1999-2000 interim to report annually to the Legislative Council regarding progress in preparing the recommendation. By December 10, 2000, the department is to certify to the Governor and the Legislative Council regarding satisfaction of the reporting and recommendation requirements. For the 1999-2000 interim, the responsibility to receive the report has been assigned to the Budget Committee on Health Care.

Section 3 of 1999 S.L., ch. 551, requires the Workers Compensation Bureau to study during the 1999-2000 interim the awards provided to injured employees with permanent impairments caused by compensable work injuries and before the 2001 legislative session report the results of the study to an interim committee identified by the Legislative Council. The responsibility to receive the report has been assigned to the Commerce and Labor Committee.

Section 2 of 1999 S.L., ch. 150, requires the Department of Human Services to monitor the progress of the Alzheimer's and related dementia

projects established under NDCC Section 50-06-14.4 and present a final progress report to the Legislative Council by June 30, 2000. The responsibility to receive this report has been assigned to the Budget Committee on Institutional Services.

Section 1 of 1999 S.L., ch. 419, requires the executive director of the Department of Human Services to report periodically during the 1999-2000 interim to the Legislative Council, or an interim committee designated by the Legislative Council, regarding the establishment of a traumatic brain-injured facility in western North Dakota. The responsibility to receive these reports has been assigned to the Budget Committee on Institutional Services.

Section 5 of 1999 S.L., ch. 421, requires the Department of Human Services to report periodically to the Legislative Council, or an interim committee designated by the Legislative Council, on the progress in its efforts to determine the most reliable current data concerning the proportion of unemployed adults living in Indian country. For the 1999-2000 interim, the responsibility to receive the report has been assigned to the Budget Committee on Human Services.

Section 9 of 1999 S.L., ch. 535, requires the State Engineer to report periodically to the Budget Section and any other interim committee designated by the Legislative Council regarding implementation of the comprehensive statewide water development program and state water management plan and the issuance and sources for repayment of bonds to finance construction of flood control projects, the Southwest Pipeline Project, a Devils Lake outlet, and a statewide water development program during the 1999-2000 interim. The responsibility to receive these reports has been assigned to the Garrison Diversion Overview Committee.

Section 5 of 1999 S.L., ch. 556, requires the Workers Compensation Bureau to report before the 2001 legislative session to an interim committee designated by the Legislative Council the recommendations from its study of the benefits available to persons receiving long-term disability or death benefits from the bureau. The responsibility to receive the report has been assigned to the Commerce and Labor Committee.

Section 2 of 1999 S.L., ch. 273, requires the director of the Department of Transportation to report in 2002 to an interim committee designated by the Legislative Council regarding the effectiveness of exempting a secured person from damages for noneconomic loss of a party operating a vehicle without liability insurance in decreasing the incidents of driving without liability insurance.

### **Budget Section**

#### **Permanent or Continuing Requirements**

Several responsibilities of the Budget Section are codified in the Century Code because they are

"general and permanent." In addition, some responsibilities continue past the biennium for which the original appropriation or responsibility was provided. These are of a limited duration and are found in the Session Laws rather than the Century Code.

Under NDCC Section 4-19-01.2, all moneys received for charges in excess of the cost of production of seedlings from the state nursery must be deposited in the State Forester reserve account. The State Forester is authorized to use the reserve account after receiving approval from the Budget Section.

Under NDCC Section 15-03-04, Budget Section or Legislative Assembly approval is required for any purchase of commercial or residential property by the Board of University and School Lands as sole owner.

Under NDCC Section 15-10-12.1, the State Board of Higher Education may not authorize, without the consent of the Legislative Assembly or the Budget Section if the Legislative Assembly is not in session and will not convene in six months, the use of land for the construction of buildings and campus improvements financed by donations. If the board submits a request to the Budget Section for approval, the Legislative Council is to notify each member of the Legislative Assembly of the date of the Budget Section meeting at which the request will be considered and is to provide a copy of the meeting agenda to each member of the Legislative Assembly. The chairman of the Budget Section is to allow any member of the Legislative Assembly an opportunity to present testimony to the Budget Section regarding any such request.

Under NDCC Section 20.1-02-05.1, the director of the Game and Fish Department is to establish a comprehensive statewide land acquisition plan that must be approved by the Budget Section. Every land acquisition made by the department exceeding 10 acres or \$10,000 must be approved by the Budget Section.

Under NDCC Section 20.1-02-16.1, the Game and Fish Department is required to spend moneys in the game and fish fund within the limits of legislative appropriations but only to the extent the balance is not reduced below \$10 million, unless otherwise authorized by the Budget Section.

Under NDCC Section 25-04-02.2, the Developmental Center at Westwood Park, Grafton, may provide any service, not otherwise authorized by law, under contract with a governmental or nongovernmental person, upon approval of the Budget Section. The Budget Section may approve the provision of a service only after determining that the service is not otherwise being provided by either the private or public sector.

Under NDCC Section 50-06-05.1, the Department of Human Services is authorized to administer the federal food stamp and energy assistance programs, but with the consent of the Budget Section the

department may terminate either program upon any decrease or limit on federal financial participation.

Under NDCC Section 52-02-17, the job insurance trust fund balance is to be maintained at a level of at least \$40 million. If the fund balance is projected to go below \$40 million, Job Service North Dakota is to notify the members of the Budget Section. At the next meeting of the Budget Section, Job Service North Dakota is to report on the condition of the fund, the circumstances leading to the decrease in the fund balance, and a proposal on how to increase the fund balance back to the required minimum.

Under NDCC Section 54-14-03.1, the Office of the Budget is to report irregularities in the fiscal practices of state agencies and institutions to the Budget Section.

Under NDCC Section 54-16-04, the Emergency Commission needs Budget Section approval before authorizing these transfers:

1. Any transfer of moneys or spending authority which would eliminate or make impossible the accomplishment of a program or objective funded by the Legislative Assembly.
2. Any transfer exceeding \$50,000 from one fund or line item to another unless the transfer is necessary to comply with a court order or to avoid an imminent threat to safety or an imminent financial loss to the state.

Under NDCC Section 54-16-04.1, the Emergency Commission may authorize a state officer to accept and expend federal moneys if the Legislative Assembly has not indicated an intent to reject the moneys and the authorization is subject to Budget Section approval only if the amount under consideration exceeds \$50,000.

Under NDCC Section 54-16-04.2, the Emergency Commission may authorize a state officer to accept and expend moneys for programs if the Legislative Assembly has not indicated an intent to reject the moneys or program and the authorization is subject to Budget Section approval only if the amount under consideration exceeds \$50,000.

Under NDCC Section 54-27-22, state agencies may receive funds from the preliminary planning revolving fund for designs and cost estimates relating to capital improvements only upon receiving authorization from the Budget Section.

Under NDCC Section 54-27-23, the Office of Management and Budget is authorized to issue certificates in anticipation of revenue. The certificates are not to offset projected deficits in state finances unless first approved by the Budget Section. The Budget Section is also authorized to approve additional cash flow financing not to exceed 80 percent of the estimated general fund revenues relating to sales or production occurring prior to June 30, to be collected in July and August after the end of the biennium.

Under NDCC Section 54-27.2-03, any transfer from the budget stabilization fund ordered by the Governor must be reported to the Budget Section.

Under NDCC Section 54-44-04, the director of the Office of Management and Budget is to report to the Budget Section on the status of tobacco settlement funds, settlements, offsets, and net resulting revenues and any other related information the Budget Section requires.

Under NDCC Section 54-44.1-12.1, the Budget Section may object to any allotment by the director of the budget, any expenditure of a budget unit, or any failure to make an allotment or expenditure if the action or failure to act is contrary to legislative intent as recorded in any reliable legislative records. The objection must be filed in a permanent register in the Legislative Council office. A copy is to be transmitted to the director of the budget and the affected budget unit. The affected budget unit is to respond in writing within 14 days. After receipt of that response, the Budget Section may withdraw or modify its objection. After the filing of an objection, the burden of persuasion is on the budget unit with respect to any judicial review of whether the allotment or expenditure is contrary to law.

Under NDCC Section 54-44.1-13.1, the director of the budget is authorized to reduce budgets affected by initiative or referendum action by a percentage sufficient to cover the estimated losses caused by the initiative or referendum action, subject to the approval of the Budget Section.

Under NDCC Section 54-56-03, Budget Section approval is required for grants, not otherwise specifically approved by the Legislative Assembly, distributed by the Children's Services Coordinating Committee to children's services organizations and programs.

Under NDCC Section 65-08.1-02, the Workers Compensation Bureau may establish a casualty insurance organization for the purpose of offering extraterritorial workers' compensation insurance coverage or other states' insurance. The organization may be established only upon the director's determination that the organization is needed to provide sufficient workers' compensation coverage for the employees and employers of this state and upon approval of the Budget Section.

### **Temporary or Limited Requirements**

Section 8 of 1999 S.L., ch. 3, authorizes Bismarck State College and Lake Region State College to obtain and use any funds beyond the minimum local match required for the Bismarck State College music addition and the Lake Region State College auditorium renovation, upon approval of the Budget Section.

Section 11 of 1999 S.L., ch. 3, provides for a report to the Budget Section from any higher education institution that spends local funds in excess of the local funds appropriated to the institution.

Section 12 of 1999 S.L., ch. 3, requires the Board of Higher Education to receive permission from either the Legislative Assembly or the Budget Section before purchasing goods or contracting for services for the service, access, growth, and empowerment project.

Section 4 of 1999 S.L., ch. 11, requires Budget Section approval before various line item transfers by the Highway Patrol.

Section 2 of 1999 S.L., ch. 12, requires Budget Section approval before various line item transfers by the director of the Department of Transportation.

Section 4 of 1999 S.L., ch. 13, requires Budget Section approval before various line item transfers by the commissioner of university and school lands.

Section 2 of 1999 S.L., ch. 14, requires Budget Section approval of certain types of statewide grants distributed by the Children's Services Coordinating Committee without specific approval by the Legislative Assembly.

Section 14 of 1999 S.L., ch. 15, requires the Industrial Commission and the Indian Affairs Commission to report to the Budget Section regarding the status of home mortgage finance programs of the Housing Finance Agency available within Indian reservations located within the state. Reports are to be presented at the Budget Section's first meeting of the 1999-2000 interim and thereafter as requested by the chairman of the Budget Section.

Section 2 of 1999 S.L., ch. 16, authorizes the director of the Department of Corrections and Rehabilitation, upon approval of the Budget Section, to transfer appropriation authority contained in the various subdivisions in the department's appropriation.

Section 3 of 1999 S.L., ch. 16, requires Budget Section approval before various line item transfers by the director of the Department of Corrections and Rehabilitation.

Section 6 of 1999 S.L., ch. 17, requires Job Service North Dakota to report to the Budget Section on the status of its asbestos abatement project.

Section 5 of 1999 S.L., ch. 19, requires any North Dakota ethanol plant receiving production incentives from the state to file with the Budget Section, within 90 days after the close of each fiscal year, a statement as to whether the plant produced a profit from its operation in the preceding fiscal year after deducting payments received from the incentive program.

Section 3 of 1999 S.L., ch. 26, requires Budget Section approval of various line item transfers by the State Auditor.

Section 15 of 1999 S.L., ch. 31, requires the Agriculture Commissioner and the State Veterinarian to report periodically during the 1999-2000 interim to the Budget Section on the status of the bovine tuberculosis disease in cattle and associated costs.

Section 19 of 1999 S.L., ch. 34, requires the Department of Human Services to report periodically to the Budget Section regarding the status of funding for traditional Medicaid grants and receive prior

Budget Section approval before exceeding the amount appropriated for traditional Medicaid grants during the 1999-2001 biennium.

Section 6 of 1999 S.L., ch. 34, provides that the human service centers, the State Hospital, and the Developmental Center are to report to the Budget Section and the Legislative Council, or its designee, on the hiring of any additional full-time equivalent positions in addition to those authorized by the Legislative Assembly for the 1999-2001 biennium.

Section 18 of 1999 S.L., ch. 34, requires the Department of Human Services to present a report to the Budget Section regarding planned reductions resulting from identified savings, totaling \$500,000 from the general fund, in the budget to be requested for the Northeast Human Service Center for the 2001-03 biennium.

Section 19 of 1999 S.L., ch. 34, requires the Department of Human Services to report periodically to the Budget Section regarding the status of funding for traditional Medicaid grants and receive prior Budget Section approval before exceeding the amount appropriated for traditional Medicaid grants during the 1999-2001 biennium.

Section 26 of 1999 S.L., ch. 34, provides the Department of Human Services is to receive prior Budget Section approval before reducing the nursing home limitations for direct and indirect cost categories from the levels anticipated in the executive budget during the 1999-2001 biennium.

Section 35 of 1999 S.L., ch. 34, appropriates funds to the Department of Human Services and authorizes the department to spend the funds only if additional beds for traumatic brain-injured persons are established in western North Dakota and after receiving Emergency Commission and Budget Section approval.

Section 23 of 1999 S.L., ch. 35, declares legislative intent that the Superintendent of Public Instruction shall report any transfer of positions to the Division of Independent Study above 38.7 full-time equivalent positions to the Budget Section at its next meeting.

Section 24 of 1999 S.L., ch. 35, requires the Superintendent of Public Instruction to present a report to the Budget Section during the 1999-2001 biennium on the distribution of federal class size reduction initiative grants.

Section 7 of 1999 S.L., ch. 37, requires Budget Section approval of various line item transfers by the director of the Office of Management and Budget.

Section 11 of 1999 S.L., ch. 37, declares legislative intent regarding compensation adjustments for permanent state employees and requires the Office of Management and Budget to report to the Budget Section at its December 2000 meeting concerning the amounts provided by state agencies and institutions for salary increases for the second year of the biennium, line item transfers relating to the increases, the source of the funding, and the impact on the provision of agency services.

Section 18 of 1999 S.L., ch. 37, provides if the director of the Office of Management and Budget determines by revised projections that general fund revenue collections will not meet the revenues as forecast in the March 1999 legislative forecast, the Industrial Commission is to transfer to the state general fund an additional amount, as determined by the director of the Office of Management and Budget and as approved by the Budget Section, from the earnings and accumulated profits of the Bank of North Dakota.

Section 19 of 1999 S.L., ch. 37, provides if the federal government during the 1999-2001 biennium terminates funding for any program administered by a state agency, the agency may terminate the program with Budget Section approval. If the federal government combines funding into a block grant, the agency

may prioritize or reprioritize programs as necessary, with Budget Section approval. The agency may administer funds under a new federal block grant notwithstanding any other provision of law and shall report any program termination, reduction, or change to the Budget Section for its approval.

Section 4 of 1999 S.L., ch. 38, provides the Division of Emergency Management may request the Bank of North Dakota to make loans to political subdivisions during the 1999-2001 biennium for those disaster claims relating to the spring 1997 flooding in the Red River Valley which have been approved by the division, the Emergency Commission, and the Budget Section.

Section 9 of 1999 S.L., ch. 43, requires Budget Section approval before various line item transfers by the Parks and Recreation Department.

Section 3 of 1999 S.L., ch. 156, provides that a state agency or institution may not significantly change or expand a building construction project beyond what has been approved by the Legislative Assembly unless the Legislative Assembly or the Budget Section, if the Legislative Assembly is not in session, approves the change or expansion of the project or any additional expenditure for the project.

Section 4 of 1999 S.L., ch. 429, appropriates funds for payments to governmental nursing facilities and, if additional funds become available, authorizes the Department of Human Services to increase the amounts paid, subject to Emergency Commission and Budget Section approval.

Section 5 of 1999 S.L., ch. 429, provides for allocations from the health care trust fund, and amounts in excess of \$8,715,279 may be allocated by the Department of Human Services, subject to Emergency Commission and Budget Section approval.

Section 5 of 1999 S.L., ch. 535, provides that the Corporate Center in Grand Forks may not be voluntarily sold without prior approval of the Budget Section and any refinancing of debt or any improvements to the Corporate Center requiring the incurring of indebtedness cannot be entered without prior approval of the Budget Section.

Section 9 of 1999 S.L., ch. 535, requires the State Engineer to report periodically to the Budget Section and any other interim committee designated by the Legislative Council regarding implementation of the comprehensive statewide water development program and state water management plan and the issuance and sources for repayment of bonds to finance construction of flood control projects, the Southwest Pipeline Project, a Devils Lake outlet, and a statewide water development program during the 1999-2000 interim.

## **TRADITIONAL COMMITTEE RESPONSIBILITIES**

In addition to the statutory committees and committee-related responsibilities, some committee assignments have become traditional.

### **Legislative Rules**

The Legislative Management Committee has in recent years consisted of the leadership from both houses and has reviewed legislative rules.

### **Statutory and Constitutional Revision**

An interim Judiciary Committee traditionally has been assigned the responsibility for continuing statutory revision and constitutional revision. Senate Concurrent Resolution No. 4003 (1977), recommended by the interim Committee on Constitutional Revision and approved by the Legislative Assembly, directed the Legislative Council to create a permanent interim committee to study the Constitution of North Dakota and to make recommendations regarding

constitutional revision. For the 1999-2000 interim, this responsibility has been assigned to the Judiciary Committee.

### **Status of State Agency Appropriations**

A budget committee traditionally has been assigned the responsibility to monitor the status of state agency and institution appropriations. For the 1999-2000 interim, this responsibility has been assigned to the Budget Committee on Government Services.

### **Budget Data**

The Budget Section traditionally has been assigned the responsibility to review and report on budget data prepared by the director of the budget (and presented to the Legislative Assembly in December preceding the regular legislative session).