

November 2005

JOINT EXERCISE OF GOVERNMENTAL POWERS

At the October 12, 2005, meeting of the Budget Committee on Government Services, the committee requested information regarding any statutory authority for the state to form an agreement with a county to share prison facilities or to share services between state and county jail facilities. North Dakota Century Code (NDCC) Chapter 54-40, which provides for the joint exercise of governmental powers, is attached as an appendix.

North Dakota Century Code Section 54-40-08 provides for the use by political subdivisions of state buildings and facilities. North Dakota Century Code Section 54-40-08(1) allows any North Dakota county to enter into an agreement with any North Dakota state agency for the use of buildings and facilities under the control of the state agency for a period of time as the parties may determine to be necessary and that before an agreement is effective, the respective governing body or officer of the state

agency must approve the agreement and the Attorney General must determine that the agreement is legally sufficient. North Dakota Century Code Section 54-40-08(2) provides that the political subdivision, pursuant to an agreement for the use of buildings or facilities, may make improvements to the buildings or facilities instead of any rental or other payments, but all improvements must first be approved by the governing body or officer of the state agency and also provides that the buildings and facilities may be moved or replaced at any time during the term of an agreement and the political subdivision may use the buildings and facilities constructed in place of the original buildings and facilities for the remainder of the term of the agreement.

ATTACH:1