

NORTH DAKOTA LEGISLATIVE COUNCIL

Minutes of the

BUDGET SECTION

Wednesday, April 17, 2002
Senate Chamber, State Capitol
Bismarck, North Dakota

Representative Ken Svedjan, Chairman, called the meeting to order at 9:00 a.m.

Members present: Representatives Ken Svedjan, Ole Aarsvold, Wesley R. Belter, James Boehm, Rex R. Byerly, Ron Carlisle, Jeff Delzer, Eliot Glassheim, Pam Guleson, Robert Huether, Keith Kempenich, Kim Koppelman, Bob Martinson, Bob Skarphol, Blair Thoreson, Mike Timm, Francis J. Wald, John M. Warner, Amy Warnke; Senators John M. Andrist, Bill Bowman, Randel Christmann, Tony Grindberg, Joel C. Heitkamp, Aaron Krauter, Ed Kringstad, Elroy N. Lindaas, Dave Nething, Larry J. Robinson, Randy A. Schobinger, Ken Solberg, Bob Stenehjem, Harvey Tallackson, Russell T. Thane, Steven W. Tomac

Members absent: Representatives LeRoy G. Bernstein, Merle Boucher, James Kerzman, David Monson, Janet Wentz; Senator Ray Holmberg

Others present: See attached appendix

It was moved by Senator Robinson, seconded by Senator Tallackson, and carried on a voice vote that the minutes of the January 16, 2002, meeting of the Budget Section be approved as distributed.

STATUS OF THE STATE GENERAL FUND

At the request of Chairman Svedjan, Mr. Rod A. Backman, 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. Mr. Backman said North Dakota's unemployment rate for February 2002 was 3.5 percent as compared to 4.1 percent in January 2002.

Mr. Backman said 2001-03 biennium general fund revenues through March 30, 2002, are .7 percent or \$3.7 million more than estimated in the December 2001 revised revenue forecast and 4.1 percent or \$22.3 million more than the revenues for the first nine months of the 1999-2001 biennium.

Mr. Backman presented the following information on the status of the state general fund, based on actual revenue collections through the month of March 2002, and the revised revenue forecast for the remainder of the 2001-03 biennium:

Unobligated general fund balance - July 1, 2001	\$62,240,652
Add	
General fund collections through March 31, 2001	562,350,748
Forecasted general fund revenue for the remainder of the 2001-03 biennium (based on the December 2001 revised revenue forecast)	1,132,783,523
Total estimated general fund revenue for the 2001-03 biennium	\$1,757,374,923
Less	
2001-03 biennium general fund appropriations	1,746,983,713
Estimated general fund balance - June 30, 2003 (\$1,603,484 less than the 2001 legislative estimate of \$11,994,694)	\$10,391,210

In response to a question from Senator Krauter, Mr. Backman said annual telecommunications gross receipts tax collections in excess of \$8.4 million are transferred by the Tax Department to the general fund. He said in March 2002 the Tax Department transferred approximately \$2 million of excess telecommunications gross receipts tax collections to the general fund. He said he is not aware of any previous transfers from the telecommunications gross receipts tax collections.

In response to a question from Senator Krauter, Mr. Backman said the \$1.3 million decrease in total tax collections for the month of March 2002 as compared to March 2000 is primarily due to timing and cash flow of collections.

In response to a question from Representative Delzer, Mr. Backman said there is approximately a three-month delay from when oil and gas fieldwork is completed until the oil and gas production tax is transferred to the general fund.

TOBACCO SETTLEMENT PROCEEDS

Mr. Backman 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. He said \$60.2 million has been received by the state as of April 14, 2002, as the result of the tobacco settlement and deposited in the tobacco settlement trust fund. He said the \$60.2 million was allocated among the community health trust fund, common schools trust fund, and water development trust fund, pursuant to North

Dakota Century Code (NDCC) Section 54-27-25, as follows:

Tobacco settlement trust fund	
Community health trust fund (10%)	\$6,019,943
Common schools trust fund (45%)	27,089,744
Water development trust fund (45%)	27,089,744
Total transfers from the tobacco settlement trust fund	\$60,199,431
Community health trust fund	
Deposits	\$6,019,943
Expenditures	483,794
January 15, 2002, balance	\$5,536,149
Water development trust fund	
Deposits	\$27,089,744
Expenditures	4,794,891
January 15, 2002, balance	\$22,294,853

Mr. Backman said on April 15, 2002, an additional \$18.8 million was deposited in the tobacco settlement trust fund, increasing total collections to \$79 million. Mr. Backman said tobacco settlement collections have been reduced by approximately 20 percent from original estimates due to reduced consumption of cigarettes and a market share shift to the smaller tobacco companies not involved in the settlement.

In response to a question from Senator Heitkamp, Mr. Backman said he is not aware of any federal legislation that would adjust a state's share of tobacco settlement proceeds based on the use of the proceeds.

HOMELAND SECURITY COSTS

Mr. Backman presented information on homeland security costs incurred by state agencies and institutions. A copy of the information presented is on file in the Legislative Council office. Mr. Backman said through March 31, 2002, state agencies and institutions have incurred \$391,615 of state-funded costs for homeland security measures. He said this includes an additional \$64,859 in expenditures related to homeland security costs incurred since the January 17, 2002, Budget Section meeting.

In response to a question from Representative Svedjan, Mr. Backman said the industries most affected by the September 11 terrorist attacks, including travel-related industries, are not a significant part of North Dakota's economy.

FEDERAL FUNDS BASED ON CENSUS ESTIMATES

Mr. Backman presented a report on the effect of population census figures on federal funding received by North Dakota agencies. A copy of the information presented is on file in the Legislative Council office. Mr. Backman said the formulas used to provide federal grants to North Dakota are based on a combination of factors in which the census is a part. He said a number of programs are at minimum federal funding levels. He said the decrease in North

Dakota's population amounts are expected to have a nominal economic effect on the state; however, normal increases in federal grants should more than offset any losses related to population.

In response to a question from Representative Wald, Mr. Backman said if, based on a revenue forecast a negative ending state general fund balance is projected, the Governor may request the Industrial Commission to transfer funds from the Bank of North Dakota to the general fund up to the amount of the shortfall, not to exceed \$25 million.

IMPACT OF ECONOMIC STIMULUS LEGISLATION

Mr. Backman presented a report on the impact of the federal "tax incentives for economic recovery" legislation on North Dakota. A copy of the information presented is on file in the Legislative Council office. Mr. Backman said the estimated combined state corporate and individual income tax general fund revenue reduction as a result of accelerated depreciation for qualifying assets placed in service between September 11, 2001, and September 10, 2004, is:

- \$4,620,000 for fiscal year 2002.
- \$10,560,000 for fiscal year 2003.
- \$7,920,000 for fiscal year 2004.

Mr. Backman said the corporate and individual income tax general fund revenue reduction estimates do not reflect any anticipated increases in sales and income tax collections from the economic stimulus package. He said changes to the net operating loss carryback provisions may result in additional returns being filed by corporations for net operating loss refunds. He said he will have *economy.com*, the state's economic forecasting group, factor these items in the June 2002 revenue forecast.

At the request of Chairman Svedjan, Mr. John Graham, Director, Centralized Services, Job Service North Dakota, presented a report on the recently enacted federal "tax incentives for economic recovery" legislation affecting unemployment insurance. Mr. Graham said in March 2002 Congress enacted economic stimulus legislation which included Title II, the Temporary Extended Unemployment Compensation Act of 2002. He said Title II created a nationwide extended unemployment compensation program for persons who had "exhausted" regular unemployment benefits and distributed \$8 billion in Reed Act funding to states. He said through April 13, 2002, 1,698 people in North Dakota have been paid temporary extended unemployment compensation program benefits totaling \$966,926. He said North Dakota's allocated share of the Reed Act funding is \$15,267,835, which may be used for the payment of unemployment compensation benefits and/or the administration of the unemployment compensation program. He said including the Reed Act distribution funds, there is funding in the job insurance trust fund to pay approximately six months of benefits.

In response to a question from Representative Svedjan, Mr. Graham said the extended unemployment provisions are not restricted to unemployment caused by the September 11, 2001, terrorist attacks.

In response to a question from Representative Gulleason, Mr. Graham said Job Service North Dakota does not track unemployment recipients once their insurance benefits have been exhausted. He said a large percentage of the unemployed are construction workers who are seasonally unemployed and tend to return to their former employers.

In response to a question from Representative Wald, Mr. Graham said the benefits paid from the temporary extended unemployment compensation program are federally reimbursed and have no relationship to the Reed Act distribution. Mr. Graham said Job Service North Dakota has not finalized a legislative proposal for use of the Reed Act funds. He said the department is considering using a portion of the funds to modernize its information technology capabilities.

In response to a question from Representative Glasheim, Mr. Graham said Job Service North Dakota will be able to meet the targeted reserve goals for the job insurance trust fund set by the 1999 Legislative Assembly.

In response to a question from Representative Svedjan, Mr. Graham said Job Service North Dakota will present an update to the 2003 Legislative Assembly as to how the department is planning to meet the 2007 targeted Job Service trust fund reserve goals.

In response to a question from Senator Solberg, Mr. Graham said North Dakota has traditionally received a small state hold harmless base amount of federal funding for administrative expenses related to the unemployment compensation program.

HIGHER EDUCATION BUILDING PROJECTS

North Dakota State University

Chairman Svedjan called on Mr. Dick Rayl, Vice President of Finance and Operations, North Dakota State University, who presented a report on a request from North Dakota State University to hire a replacement contractor for the F Court student apartment building and a request for additional special funds spending authority relating to the project. A copy of the information presented is on file in the Legislative Council office. Mr. Rayl said the 2001 Legislative Assembly authorized \$2.31 million for a student apartment complex to replace the F Court apartment building that was destroyed by fire on October 21, 2000. He said in August 2001 DSMI General Contractors was awarded the general construction bid for the student apartment building. He said in March 2002 DSMI General Contractors' contract was terminated for untimely completion of the project, failure to provide timely submittals, and for faulty concrete

work. He said on March 14, 2002, Lee Jones and Son Construction Company was retained as general contractor for the apartment building project contingent on the State Board of Higher Education approving an emergency exception to the state bidding laws pursuant to NDCC Section 48-01.1-02 and Budget Section approval to spend additional funds for completion of the project pursuant to NDCC Section 48-02-20. He said the cost to complete the project will be approximately \$2.91 million or \$600,000 more than the original authorization. He said the additional funding for the project will be provided from the original contractor's surety bond, with any additional costs covered by residence life repair and replacement funds.

In response to a question from Senator Solberg, Mr. Rayl said the architect cannot be held responsible for the quality of the contractor's work. He said North Dakota State University did not hire an outside construction manager for this project.

In response to a question from Senator Bowman, Mr. Rayl said the \$600,000 request includes a \$84,480 contingency for unforeseen project costs. He said university personnel monitored the workmanship of the contractor on an hourly basis and said the project manager was notified of the faulty concrete; however, the problem was not adequately fixed.

Senator Heitkamp said the surety bond should cover landscaping damage caused by the construction company.

In response to a question from Representative Wald, Mr. Rayl said according to North Dakota law a state institution cannot prequalify licensed contractors. He said DSMI General Contractors have completed projects that were more difficult in nature than the F Court apartment building project.

In response to a question from Senator Schobinger, Mr. Rayl said the faulty concrete has been replaced.

Senator Heitkamp said an architectural firm is not responsible for the performance of the construction company unless the design is wrong. He said the only recourse for the university is with the bonding company.

It was moved by Senator Solberg, seconded by Senator Robinson, and carried on a voice vote that pursuant to NDCC Section 48-02-20, the Budget Section approve North Dakota State University's request to increase other funds spending authority by \$600,000 to complete the F Court student apartment building project.

Bismarck State College

Chairman Svedjan called on Mr. Dave Clark, Vice President of Operations and Corporate and Continuing Education, Bismarck State College, who presented information on a request to increase the spending authority for renovation of Schafer Hall. A copy of the information presented is on file in the

Legislative Council office. Mr. Clark said the 2001 Legislative Assembly appropriated \$596,000 from the general fund for the renovation of the second floor of Schafer Hall. He said the renovation of the second floor is almost complete and the total cost for the renovation and furnishings is estimated to be \$330,000, \$266,000 less than appropriated. He said cost estimates to renovate the third floor of Schafer Hall are \$370,000. He said Bismarck State College is requesting authority to dedicate the \$266,000 remaining authority from the second floor renovation, \$65,000 of local funds received from a lawsuit against asbestos manufacturers, and \$39,000 of spending authority in the capital assets line item to renovate the third floor of Schafer Hall.

In response to a question from Representative Warner, Mr. Clark said the engineering estimates for renovation of the second floor of Schafer Hall were overstated because they were based on previous remodeling projects which included laboratory renovations. There were no changes to the project or furnishings that were included in the original estimate.

In response to a question from Senator Nething, Mr. Clark said there is approximately \$100,000 of remaining asbestos funds dedicated for building projects. He said favorable bids have been received for the third floor renovation project and it is likely the \$39,000 from the capital assets line item will not be needed.

In response to a question from Senator Bowman, Mr. Clark said renovation of the first floor of Schafer Hall, which includes the administrative offices, is in Bismarck State College's master plan; however, it will probably not be renovated for another four to eight years.

It was moved by Representative Carlisle, seconded by Senator Kringstad, and carried on a voice vote that pursuant to NDCC Section 48-02-20, the Budget Section approve the request to increase spending authority for renovation of Schafer Hall at Bismarck State College from \$596,000 to \$700,000, \$65,000 of which is from local funds related to lawsuit settlement funds from asbestos manufacturers and \$39,000 is from the capital assets line item.

Minot State University

Chairman Svedjan called on Mr. Bruce Haskins, Vice President for Administration and Finance, Minot State University, who presented information on a request to increase other funds spending authority for renovation of Minot State University's Old Main/McFarland Auditorium. A copy of the information presented is on file in the Legislative Council office. Mr. Haskins said the 2001 Legislative Assembly approved \$7.85 million of state bonds for the renovation project, of which \$2,299,000 is to be repaid to the State Building Authority in 10 annual payments from local fundraising campaign funds. He

said there have been additional unforeseen costs associated with the project and construction bids have been higher than original estimates. He said Minot State University is requesting approval to increase other funds spending authority by \$800,000 for the renovation project.

In response to a question from Senator Nething, Mr. Haskins said the university has approximately \$300,000 in contributions for the McFarland Auditorium renovation project and additional fundraising campaigns will be instituted to raise the full \$800,000 before completion of the project.

In response to a question from Representative Aarsvold, Mr. Haskins said the construction bids for the project were higher than engineering estimates primarily due to the tight completion schedule of the project, unforeseen conditions, and additional requirements placed on the project by city inspectors.

In response to a question from Representative Wald, Mr. Haskins said the unanticipated costs included the replacement of part of McFarland Hall's foundation which was built in the 1920s.

In response to a question from Representative Delzer, Mr. Haskins said the estimate for the project did go through the preliminary preplanning process and local architects and engineers were also used for the project.

In response to a question from Representative Delzer, the legislative budget analyst and auditor said the Legislative Assembly was notified of the higher education funding requests through the regular notification process, which includes e-mail notification of the meeting notice and agenda.

It was moved by Senator Robinson, seconded by Representative Byerly, and carried on a voice vote that pursuant to NDCC Section 48-02-20, the Budget Section approve the request to increase other funds spending authority by \$800,000 and total authorization from \$7,850,000 to \$8,650,000 for Minot State University's Old Main/McFarland Auditorium renovation project due to higher than estimated project costs.

University of North Dakota

Chairman Svedjan called on Dr. Charles E. Kupchella, President, University of North Dakota, who presented information on various construction projects and requests for additional spending authority at the University of North Dakota. A copy of the information presented is on file in the Legislative Council office.

Dr. Kupchella said the University of North Dakota School of Medicine and Health Sciences has been identified as a single source recipient of federal funding for the construction of a Center for Excellence in Neurosciences building. He said this will be a multiphase project to be completed as funding becomes available. He said the first phase of construction will provide 15,000 square feet of fully

functional laboratory and research space that will be capable of supporting additional expansion at a cost of approximately \$3 million.

In response to a question from Representative Skarphol, Dr. Kupchella said overhead costs associated with the Center for Excellence in Neurosciences building will be recovered with research grants. He said the university will need to apply for contract grants as they are available and the university plans to have continuous grant projects.

It was moved by Representative Wald, seconded by Senator Tallackson, and carried on a voice vote that pursuant to NDCC Section 15-10-12.1, the Budget Section approve the request to increase federal funds spending authority by \$2,953,462 for design and construction of a University of North Dakota School of Medicine and Health Sciences Center for Excellence in Neurosciences building (\$2,923,462) and for related facilities costs (\$30,000).

Dr. Kupchella said the positron emission tomographic (PET) scanner is an advanced functional imaging device used in diagnosis and biomedical research, particularly useful for studying brain functions, a key component of the School of Medicine and Health Sciences research and development efforts. He said the cost of the PET scanner, related equipment, and laboratory renovation is approximately \$4 million.

In response to a question from Representative Warner, Dr. Kupchella said this will be the first PET scanner of this type in North Dakota. He said this scanner is used exclusively for small animal research.

In response to a question from Senator Andrist, Dr. Kupchella said the PET scanner should result in additional federal grants being awarded to the university. He said there are less than 12 scanners with this capability in the country.

It was moved by Representative Warnke, seconded by Senator Robinson, and carried on a voice vote that pursuant to NDCC Section 15-10-12.1, the Budget Section approve the request to increase federal funds spending authority by \$4,086,620 for the University of North Dakota School of Medicine and Health Sciences to purchase a positron emission tomographic (PET) scanner (\$2,500,000), other related laboratory equipment (\$859,620), renovate existing facility space for a support laboratory (\$720,000), and related facilities costs (\$7,000).

Dr. Kupchella said the University of North Dakota School of Medicine and Health Sciences submitted a proposal to the National Institute of Health in February 2002 for a \$10.8 million Center for Biomedical Research in Excellence (COBRE) grant for conducting a wide variety of biomedical research projects, including funding for the renovation of existing facilities within the School of Medicine and Health Sciences into laboratory space. He said notice

of the award is anticipated in the summer of 2002 and it is critical for the university to proceed on the project as quickly as possible. He said authority to spend \$400,000 is being requested, contingent upon receipt of the COBRE grant, for construction of additional laboratory space adjacent to the PET scanning laboratory.

It was moved by Representative Wald, seconded by Senator Lindaas, and carried on a voice vote that pursuant to NDCC Section 15-10-12.1, the Budget Section approve the request to increase federal funds spending authority by \$400,000 for the University of North Dakota School of Medicine and Health Sciences to renovate existing facilities for laboratory space for conducting biomedical research projects, contingent upon receipt of a Center for Biomedical Research in Excellence grant.

Dr. Kupchella said the University of North Dakota has agreed to lease university property adjacent to the Rural Technology Center for construction of a Hilton Garden Inn hotel. He said the lease has been approved by the State Board of Higher Education and is based on the fair market value of the property. He said the hotel will be a 72,000-square-foot facility with approximately 100 rooms and is estimated to cost \$10 million. He said the developer has commenced work on the project with a scheduled December 2002 opening.

In response to a question from Representative Skarphol, Dr. Kupchella said there is an agreement with the city of Grand Forks that this property will be subject to the same taxation as other commercial businesses.

In response to a question from Representative Skarphol, Dr. Kupchella said it is the responsibility of the State Board of Higher Education to approve these types of lease agreements. The legislative budget analyst and auditor said the State Board of Higher Education appears to have the authority to approve uses of university-owned lands as provided in the state constitution. Representative Skarphol said the State Board of Higher Education should not be able to enter into an agreement that would financially obligate the state of North Dakota, without the Legislative Assembly's knowledge and approval.

Senator Solberg said he will be asking the Legislative Audit and Fiscal Review Committee to consider guidelines for the establishment of lease agreements entered into by the State Board of Higher Education and universities. Representative Skarphol said under current procedures the Legislative Assembly may not receive any notice of lease agreements.

In response to a question from Representative Wald, Dr. Kupchella said all special assessments and property taxes associated with the property will be paid by the developer.

Dr. Kupchella said the University of North Dakota Energy and Environmental Research Center is a

research, development, demonstration, and commercialization facility recognized internationally for its expertise in cleaner, more efficient energy technologies. He said the Energy and Environmental Research Center has experienced growth in contract revenue since its expansion in 1994 and the facility is utilizing all existing space. He said the planned project will expand laboratories and office space to accommodate 92 additional employees. He said the estimated cost of the project is \$8 million. He said the Grand Forks Economic Development Corporation has indicated that it may contribute up to \$1 million toward this project. He said the financing structure for the expansion is a lease revenue bond with the University of North Dakota Foundation as the lessor. He said the foundation would issue lease revenue bonds and enter into an agreement with the State Board of Higher Education to lease the facilities. He said the University of North Dakota would make the lease payments directly to the trustee.

In response to a question from Senator Andrist, Dr. Kupchella said the University of North Dakota has been advised by the legal counsel of the State Board of Higher Education that this issue can be approved by the State Board of Higher Education and is being brought to the Budget Section for information purposes.

Williston State College

Chairman Svedjan called on Mr. Joseph McCann, President, Williston State College, who presented information on a request to increase spending authority from \$5.25 million to \$5.75 million for the Health Science and Sports Complex project, pursuant to NDCC Section 48-02-20. A copy of the information presented is on file in the Legislative Council office. Mr. McCann said the 1999 Legislative Assembly authorized \$4.5 million for a health and wellness building addition for Williston State College. He said this included \$3 million in bonding, of which \$1.5 million is to be repaid from local funds in 10 annual payments.

Mr. McCann said in January 2002 the Budget Section approved an additional \$750,000 for the project based upon architectural estimates made in the fall of 2001. He said bids received in April 2002 were approximately \$9 per square foot higher than anticipated, thus an additional \$500,000 of other funds spending authority is requested for the project. He said the additional funding consists of \$425,000 from funds raised by the Williston State College Foundation and \$75,000 from student fees.

In response to a question from Senator Christmann, Mr. McCann said the cost of the project was anticipated to be \$75 per square foot; however, actual bids were approximately \$84 per square foot.

It was moved by Representative Wald, seconded by Representative Carlisle, and carried on a voice vote that pursuant to NDCC Section

48-02-20, the Budget Section approve the request to increase other funds spending authority by \$500,000 and the total authorization from \$5.25 million to \$5.75 million for the Williston State College Health Science and Sports Complex project.

ENTERPRISE RESOURCE PLANNING SYSTEM INITIATIVE

Chairman Svedjan called on Mr. Curtis L. Wolfe, Chief Information Officer, Information Technology Department, who presented a report on the procurement and implementation of the enterprise resource planning (ERP) system. A copy of the information presented is on file in the Legislative Council office. Mr. Wolfe said the ERP system is in an initiative to replace the financial, human resources, and student administration systems for higher education and state government. He said PeopleSoft has been selected as the vendor to supply the software and MAXIMUS to implement the ERP system. He said the PeopleSoft ERP system includes financial management, supply chain management, human resources and payroll, student information and contribution relations solutions, and portal software. He said the ERP system also includes enterprise performance management services and customer relations management software which will be implemented at some time in the future. He said in addition there are 691 training units included in the package. He said each training unit equates to one day of training for one person.

Mr. Wolfe said the department's contract with PeopleSoft includes provisions for two data centers, one-time data base exchange option, an annual 5 percent cap on maintenance cost increases for seven years, a 50 percent discount on government/education software for the next five years, a two-year purchase option for additional training units at a reduced price, and license fee annual growth protection.

Mr. Wolfe said the contract with MAXIMUS for implementation of the software includes a scope of work document, implementation milestones, penalties for late delivery, retainage, performance bond, and standard contract clauses. Mr. Wolfe said Phase 1 of the implementation schedule, which is to be completed by April 2003, includes two college campuses--Mayville State University and Valley City State University, and one state agency--the Office of Management and Budget. He said Phase 2 of the implementation includes the nine remaining campuses and deployment throughout state government by the third quarter of 2004.

Mr. Wolfe said to date the department has spent approximately \$282,907 of the \$7.5 million general fund appropriation provided by the 2001 Legislative Assembly for the ERP system initiative. He said the

estimated ERP system initiative costs for the remainder of the 2001-03 biennium are:

PeopleSoft Software license	\$3,692,758	
Maintenance	997,045	
Training units	206,250	
Subtotal		\$4,896,053
MAXIMUS		6,200,000
Total		\$11,096,053

Mr. Wolfe said PeopleSoft has offered to enter into a finance agreement with the state for its estimated 2001-03 biennium ERP-related expenses of \$4,896,053. Under the proposed agreement, the department would pay PeopleSoft \$150,000 on August 1, 2002, and the remainder of the \$4,746,053 debt plus related interest of \$117,967 on August 1, 2003. He said the agreement would allow the department to use the remaining ERP system initiative 2001-03 biennium appropriation of \$7,217,093 for implementation services performed by MAXIMUS.

Mr. Wolfe said the software, maintenance, and implementation cost due to vendors for the next four bienniums are:

	2001-03	2003-05	2005-07	2007-09
PeopleSoft software and maintenance	\$150,000	\$6,453,754	\$1,752,682	\$1,932,332
MAXIMUS implementation costs	6,200,000	10,411,760	0	0
Total	\$6,350,000	\$16,865,514	\$1,752,682	\$1,932,332

Mr. Wolfe said additional areas that will need to be addressed in implementing the ERP system include hardware costs, system software costs, staff training costs, and staff resource costs. He said these costs are estimated to be approximately \$5,723,095 for the 2002-03 biennium and \$4,991,017 for the 2003-05 biennium.

In response to a question from Representative Kempenich, Mr. Wolfe said the department will be presenting to the Information Technology Committee a "hosting options" price comparison of either using one in-house data center, two in-house data centers, or outsourcing to MAXIMUS. He said the in-house options would probably compare closely to the outsourcing option.

In response to a question from Senator Andrist, Mr. Wolfe said there should be a substantial savings from efficiencies related to the implementation of the ERP system for all state agencies and higher education institutions. He said it is very difficult to determine the exact dollar amount of savings at the beginning of the project. He said for state agencies and institutions to take full advantage of the new system it will be important to change the way business is conducted.

Mr. Wolfe said the total costs associated with the ERP system for the 2003-05 biennium will be approximately \$22 million. He said the Governor is

proposing the issuance of \$20 million in revenue bonds during the 2003-05 biennium to pay for the remaining implementation cost. He said the Information Technology Department will request bonding authority from the 2003 Legislative Assembly for this amount. He said the annual bond payment will be \$2.7 million (\$5.4 million per biennium), which is tentatively expected to be allocated 60 percent to higher education and 40 percent to state agencies.

In response to a question from Representative Delzer, Mr. Wolfe said the Information Technology Department does not prioritize all state agency information technology projects. He said the ERP system is the No. 1 priority of the Information Technology Department; however, it may not be the No. 1 project for a specific agency.

In response to a question from Representative Belter, Mr. Wolfe said staff resource costs relate to the training of people who are responsible for refining the business process while implementing the ERP system.

In response to a question from Representative Gulleon, Mr. Wolfe said the 2001 Legislative Assembly authorized \$7.5 million to begin implementation of the ERP system; however, the exact cost associated with this process was not known until the vendor was selected. He said the financing proposals submitted by PeopleSoft relate to the purchase of the software. Mr. Wolfe said the department had hoped to have a signed contract with the vendor by May 2001.

In response to a question from Senator Heitkamp, Mr. Wolfe said during the one-year delay in choosing a vendor there was a six-month period in which a study was conducted to determine whether the state of North Dakota could partner with Great Plains Software in developing an ERP system. He said during that six-month period the department had a chance to develop a document relating to the required features that would be needed in the system and to meet with state and higher education employees on developing a plan to implement the system. He said the vendors were asked to extend their bids during the six-month period. He said vendors may have been frustrated at the delay but not at the bidding process. He said the department met with the Attorney General's office to make sure the bidding process was handled legally. Mr. Wolfe said it was the intent of the Information Technology Department to have a portion of the ERP system up and running by the 2003 legislative session. He said the overall schedule will be met.

Senator Krauter said NDCC Section 54-59-05(4) limits the Information Technology Department to financing the purchase of software, equipment, or implementation services only to the extent the purchase amount does not exceed the amount appropriated to the department during that biennium for equipment. The legislative budget analyst and auditor said the equipment line item for the Information

Technology Department for the 2001-03 biennium was \$5,080,000, which is slightly greater than the requested financing amount of \$4.9 million.

In response to a question from Senator Krauter, Mr. Wolfe said the State Board of Higher Education is considering the options of student fees or tuition surcharges to pay for higher education's costs of the ERP system.

In response to a question from Representative Timm, Mr. Wolfe said there will be no payments to MAXIMUS until the actual services have been performed. He said North Dakota is purchasing the license to use PeopleSoft software and if the company were to go out of business it would still have the software; however, the company would not be in existence to enhance the product. He said the state has a performance bond with MAXIMUS that if for any reason it cannot continue with the implementation of the software, another company could be hired to do that service.

In response to a question from Representative Skarphol, Mr. Wolfe said PeopleSoft is a financially strong company; however, it has experienced some stock price fluctuation like many software companies due to decreases in software fee revenues after the September 11 terrorist attacks. Mr. Wolfe said the Information Technology Department has had discussions with higher education about establishing a governing policy for implementation of the ERP system. He said if it is determined that a 60 percent higher education share is not appropriate, the share could be adjusted. Mr. Wolfe said higher education will establish a fee for its share of the implementation cost and approximately 25 percent of the state agency cost will be from the general fund. He said there would be a cost-savings in having one data center as opposed to two data centers.

In response to a question from Senator Grindberg, Mr. Wolfe said the Information Technology Department has had discussions about a job-creating partnership in North Dakota with MAXIMUS; however, there have not been such discussions with PeopleSoft.

Chairman Svedjan called on Mr. Larry Isaak, Chancellor, North Dakota University System, who presented information on the University System's involvement with the ERP system. Mr. Isaak said higher education's cost to implement the ERP system for the 2001-03 biennium is approximately \$3.6 million. He said the plan that will be submitted to the State Board of Higher Education includes use of \$900,000 of existing internal funds and \$250,000 of initiative funds. He said the remaining 2001-03 biennium cost of approximately \$2.5 million and future ERP system costs are planned to be generated from student fees, which will be approximately \$41 per semester for one year starting in the fall of 2002 and \$26 per semester thereafter for the life of the debt.

In response to a question from Senator Andrist, Mr. Isaak said the old system is 25 years old and has high associated maintenance costs.

Senator Tomac said there should be some related efficiencies with the new system to help pay for associated costs. He said he feels this is an issue that should be addressed by the 2003 Legislative Assembly rather than the Budget Section.

In response to a question from Senator Nothing, Mr. Isaak said students will be gaining the ability to have computerized access to services, including grades, financial aid, registration, and student records.

In response to a question from Senator Heitkamp, Mr. Isaak said tuition and state funding comprises about one-half of the total University System budget. He said of this portion of the budget 65 percent is from the general fund and 35 percent from tuition and student fees. He said since 1981 students have been gradually paying a higher percentage with the general fund portion decreasing. He said tuition increases in the last several years have been relatively low compared to other states.

Chairman Svedjan called on Mr. Chuck Stroup, President, State Board of Higher Education, who presented additional information relating to the ERP system for the University System. Mr. Stroup said the State Board of Higher Education, based on input from each campus, voted unanimously in support of the ERP system.

Chairman Svedjan called on Mr. Josh Askvig, North Dakota Student Association, and Mr. Chris Frost, Vice President, North Dakota Student Association, who testified in support of the ERP system. Mr. Frost said it is important for the state colleges and universities to have this ERP system in order to be competitive with other schools.

In response to a question from Representative Skarphol, Mr. Isaak said the ERP system will include a data warehouse that should make additional information available to the Legislative Assembly and is designed to meet the accountability measures.

In response to a question from Senator Krauter, Mr. Isaak said there are approximately 30,000 full-time equivalent (FTE) students within the North Dakota University System. Senator Krauter said he would prefer that the University System find other revenue sources to pay for the ERP system rather than tuition and fee increases.

In response to a question from Representative Delzer, Mr. Isaak said full implementation of the ERP system is scheduled for 2004. He said the system will not be completed unless the 2003 Legislative Assembly provides additional funding.

Senator Solberg said the 2001 Legislative Assembly appropriated \$7.5 million for the Information Technology Department to begin the preliminary implementation of the ERP system and it was not meant to cover the entire cost of the system. He said

it is important for North Dakota to be technologically competitive in order to keep its young people.

Chairman Svedjan called on Mr. Rod A. Backman, Director, Office of Management and Budget, who presented additional information on the funding for the ERP system. Mr. Backman said based upon the total general fund percentage of state agency and higher education institution budgets, approximately 28.5 percent of the cost of the ERP system will be from the general fund. He said, however, based upon the 2003-05 biennium Governor's budget guidelines recommendation, the University System is not expected to receive additional general fund money. He said based on this assumption, no general fund money will be used to fund the higher education share of the ERP system and the actual general fund percentage will be lower.

In response to a question from Representative Skarphol, Mr. Backman said the \$26 million to \$27 million estimate provided by the Information Technology Department to the 2001 Legislative Assembly related to vendor fees. He said actual vendor fees will be approximately \$22 million. He said North Dakota provides approximately 20 to 21 percent of its general fund budget for higher education. He said the national average is approximately 13 percent.

Senator Heitkamp said based upon current budget forecasts, he is concerned as to how the state will be able to pay for the ERP system.

Representative Glassheim said the state should not be charging students fees for basic infrastructure costs. He said this is a service that should be provided by the state.

In response to a question from Senator Tomac, Mr. Backman said the issuance of \$20 million in revenue bonds to pay for the balance of the ERP system will be addressed by the 2003 Legislative Assembly. He said the issuance of revenue bonds is an alternative to providing a general fund appropriation for the remaining balance of the project. He said the Budget Section is not obligating the 2003 Legislative Assembly to repay the approximate \$5 million loan; the company providing the loan is assuming that risk.

Senator Robinson said technology is a basic cost of doing business. He said this software will allow all of state government to be integrated onto one system.

Representative Delzer said he is concerned that the Budget Section is acting on measures that should be handled by the Legislative Assembly.

It was moved by Senator Solberg, seconded by Senator Robinson, and carried on a roll call vote that pursuant to NDCC Sections 54-16-04.2 and 54-59-05(4), the Budget Section approve the following request which has been authorized by the Emergency Commission:

- **Information Technology Department (Request #1287) - To increase the other**

funds spending authority and the enterprise resource planning system line item by \$5 million and to approve a financing proposal of \$4,896,053 to purchase software for the enterprise resource planning system.

Representatives Svedjan, Aarsvold, Belter, Carlisle, Glassheim, Gulleson, Huether, Kempenich, Koppelman, Martinson, Thoreson, Timm, Wald, Warner, and Warnke and Senators Andrist, Bowman, Christmann, Grindberg, Krauter, Kringstad, Lindaas, Nething, Robinson, Solberg, Stenehjem, Tallackson, and Thane voted "aye." Representatives Boehm, Byerly, Delzer, and Skarphol and Senators Heitkamp, Schobinger, and Tomac voted "nay."

BIOTERRORISM

Chairman Svedjan called on Dr. Terry Dwelle, State Health Officer, State Department of Health, who presented a report on the plans for use of federal funding provided to North Dakota for bioterrorism response programs. A copy of the information presented is on file in the Legislative Council office. Dr. Dwelle said on January 31, 2002, the United States Department of Health and Human Services announced details regarding the distribution of federal bioterrorism funds to the states. He said the funding provided to North Dakota is approximately \$6.9 million. He said the Centers for Disease Control and Prevention grant total for federal fiscal year 2002 is \$6.4 million and the Health Resources Services Administration grant total is \$500,000. He said the April 15, 2002, deadline for applying for the bioterrorism grants was met by the department. He said the general purpose of the grant is to build public health infrastructure to better handle bioterrorism and other public health challenges.

Dr. Dwelle said grant funding requires the following six specific focus areas to be addressed:

1. Preparedness planning and readiness assessment.
2. Surveillance and epidemiology capacity.
3. Laboratory capacity for biologic agents.
4. Chemical terrorism capacity (not funded).
5. Health alert network/communications and information technology.
6. Risk communications and health information dissemination.
7. Education and training.

Chairman Svedjan called on Ms. Arvy Smith, Deputy State Health Officer, State Department of Health, who presented information regarding the budget details of the bioterrorism grant. Ms. Smith said the State Department of Health is requesting Budget Section approval for an additional 10 FTE positions relating to the Centers for Disease Control and Prevention and Health Resources Services Administration bioterrorism grants. She said the department is requesting \$6,319,495 in additional

federal funds spending authority for salaries (\$519,702), operating expenses (\$3,338,251), equipment (\$424,632), and the grants line item (\$2,036,910).

Ms. Smith said the bioterrorism grant runs through August 30, 2003. She said because the funding period extends two months past the end of the biennium, some of the spending authority will be requested as part of the department's 2003-05 budget. She said, in addition, in January 2002 the Budget Section provided the department authority to spend \$400,000 of these funds for the laboratory building addition. The department currently has some spending authority for bioterrorism which will be replaced with the new grant money.

Ms. Smith said the grants are intended for infrastructure and capacity to respond to bioterrorism. She said the infrastructure is to be at the state, local, and medical community levels. She said approximately \$250,000 of the grant is for conducting assessments of the regional health facilities to meet bioterrorism response needs.

In response to a question from Representative Svedjan, Ms. Smith said \$410,000 from the Health Resources Services Administration grant is to be allocated to hospitals among eight regions in North Dakota. She said the State Department of Health will be looking for future funding to supplement hospital bioterrorism response needs. She said after assessments are completed, the State Department of Health may be able to provide additional funding to the hospitals.

In response to a question from Senator Andrist, Ms. Smith said the bioterrorism grant includes approximately \$60,000 for indirect bioterrorism program costs. She said the operating line item includes some funding for rent which is attributed to the new FTE positions. She said some existing State Department of Health people will be used on a part-time basis for the bioterrorism program; however, these positions are already primarily federally funded. She said the Centers for Disease Control and Prevention grant money cannot be used to supplant general fund money.

In response to a question from Senator Krauter, Ms. Smith said the State Department of Health has been informed by the federal agencies that there will be additional bioterrorism funding next biennium but to be "cautious."

In response to a question from Representative Svedjan, Dr. Dwelle said the bioterrorism grant is to begin the process to allow the medical community to be able to respond to bioterrorism events. He said the beginning of the process is to assess capabilities and future funding will address identified hospital needs.

Senator Bowman said both small and large hospitals need to be prepared to address bioterrorism events.

In response to a question from Senator Solberg, Ms. Smith said the State Department of Health and the Legislative Assembly would need to address the priorities of bioterrorism programs if federal bioterrorism funding is reduced or eliminated.

It was moved by Senator Bowman, seconded by Senator Krauter, 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:

- **State Department of Health (Request #1399) - To authorize 10 FTE positions and increase other funds spending authority by \$6,319,495 to accept federal funds from the Centers for Disease Control and Prevention bioterrorism supplemental grant (\$5,826,910) and the Health Resources Services Administration bioterrorism grant (\$492,585) for salaries (\$519,702), operating expenses (\$3,338,251), equipment (\$424,632), and the grants line item (\$2,036,910) for bioterrorism response programs.**

LEGISLATIVE COUNCIL BIENNIUM REPORT ON AGENCY COMPLIANCE WITH LEGISLATIVE INTENT - 2001-03 BIENNIUM

At the request of Chairman Svedjan, Mr. Allen H. Knudson, Assistant Legislative Budget Analyst and Auditor, Legislative Council, presented the Legislative Council report entitled *2001-03 Biennium Report on Compliance With Legislative Intent*. The report provides information regarding agency compliance with the legislative intent included in the agencies' 2001-03 biennium appropriations. The report also includes information on the status of selected special funds. The report reflects agencies' activities through December 31, 2001, and later, as appropriate. Copies of the report are available in the Legislative Council office.

In response to a question from Representative Wald, Mr. Knudson said based on advice from the Attorney General's office, the State Treasurer is not using the check-signing services of the Information Technology Department. Representative Wald said the State Treasurer's office had clear direction from the Legislative Assembly to use the electronic signature service.

It was moved by Representative Skarphol, seconded by Representative Thoreson, and carried on a voice vote that the Budget Section request an Attorney General's opinion regarding the State Treasurer's compliance with the provisions contained in North Dakota Century Code Section 54-27-08 requiring the State Treasurer, with respect to electronic records and signatures,

to utilize the services provided by the Information Technology Department.

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, 54-16-04.1, and 54-16-04.2. 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. Committee members requested that Emergency Commission request #1392, #1394, #1398, and #1401 be handled separately.

It was moved by Senator Andrist, seconded by Senator Robinson, and carried on a voice vote that the Budget Section approve the following requests that have been authorized by the Emergency Commission and forwarded to the Budget Section pursuant to NDCC Sections 54-16-04, 54-16-04.1, and 54-16-04.2:

- State Board for Vocational and Technical Education (Request #1388) - To increase the operating expenses line item by \$230,000 to accept federal funds from the United States Department of Education (\$65,000) for the development of curriculum to be used for vocational education finance career programs and approval for a line item transfer (\$165,000) from the grants line item to the operating expenses line item for assuming administrative responsibilities for the school-to-work initiative previously with the Bismarck Public Schools.
- Council on the Arts (Request #1389) - To increase other funds spending authority by \$107,400 to accept federal funds from the National Endowment for the Arts for support of various art organizations as well as educational and arts programming in underserved areas.
- Department of Human Services (Request #1391) - To increase other funds spending authority by \$244,346 and the operating expenses line item (\$54,520) and the grants line item (\$189,826) to accept funds from a Bush Foundation grant for providing professional development training for early childhood education personnel in the state.
- Department of Transportation (Request #1393) - To transfer \$70,000 from the grants line item to the equipment line item to purchase a computer server for use in the department's geographic information systems applications.
- Parks and Recreation Department (Request #1395) - To transfer \$1,261,063 from the grants line item to the operating expenses line item (\$115,063), equipment line item (\$200,000), and capital projects line item (\$946,000) to reflect anticipated expenditures for Federal Emergency Management Agency (FEMA) construction projects and recreational trail program projects.
- Parks and Recreation Department (Request #1397) - To establish a \$1.4 million line of credit at the Bank of North Dakota pursuant to NDCC Section 54-16-13 to pay the required match for FEMA reimbursement and other expenses relating to June 2000 flood damage at Turtle River State Park.
- Department of Agriculture (Request #1400) - To authorize one FTE position and increase other funds spending authority and the Board of Animal Health line item by \$101,394 to accept passthrough funds from the State Department of Health relating to the federal bioterrorism grant for an animal disease outbreak rapid response program.
- Division of Emergency Management (Request #1402) - To increase other funds spending authority and the grants line item by \$777,000 to accept federal funds from the United States Department of Justice state domestic preparedness equipment program for grants to be distributed primarily to local government units and other state agencies to purchase first responder equipment.

In response to a question from Representative Byerly, Mr. Backman said Emergency Commission requests that include funding for salaries but do not include new FTE employee positions may be used to hire temporary employees, pay overtime to existing staff, or save general fund appropriations.

It was moved by Representative Aarsvold, seconded by Representative Byerly, and carried on a voice vote that the Budget Section approve the following requests that have been authorized by the Emergency Commission and forwarded to the Budget Section pursuant to NDCC Section 54-16-04.1:

- Department of Agriculture (Request #1392) - To increase other funds spending authority by \$113,228 for salaries (\$35,000) and operating expenses (\$78,228) to accept federal funds from the Environmental Protection Agency for pesticide storage security education, to convert state pesticide labels to electronic format, and to monitor the pesticide products sold in North Dakota for proper registration.

- **Parks and Recreation Department (Request #1398) - To increase other funds spending authority by \$850,000 and the salaries line item (\$69,850), operating expenses line item (\$100,150), equipment line item (\$35,000), and the grants line item (\$645,000) to accept federal funds for the On-A-Slant Mandan Indian Village reconstruction project and for land and water conservation projects.**

In response to a question from Senator Bowman, Mr. Backman said the Game and Fish Department is requesting \$1.5 million to use funds from the game and fish fund to increase the amount of private land open for sportsmen with the coverlocks program. He said hunting and fishing license fees are not anticipated to increase as a result of this program.

In response to a question from Senator Christmann, Mr. Backman said the accelerated access program provides options for people who wish to hunt without paying.

Senator Tomac said he believes this request does not fall under the definition of an emergency. He said he believes this process should be handled through the budgeting process and that nothing new has been identified since the 1991 legislative session. Mr. Backman said the Emergency Commission legislation includes unforeseen events such as an additional \$3 million of fees that have gone into the game and fish fund. Senator Tomac said this request appears to relate to the Governor's proposal to open the pheasant hunting season a week early.

Senator Nething said the Emergency Commission can approve requests relating to natural disasters, transfers of dollars within agency budgets, and approval of additional federal and special funds. He said this request relates to the transfer of additional available funds.

In response to a question from Senator Heitkamp, Mr. Backman said the success of the accelerated access program and the three additional FTE positions for the program will be based upon the additional acreage that is opened for nonfee hunting. Senator Heitkamp said landowners have been opposed to the coverlocks program because it requires them to sign a 30-year agreement. He said the Game and Fish Department needs a program that is more agreeable to the landowners. Mr. Dean C. Hildebrand, Director, Game and Fish Department, said currently there are about 180,000 acres available for hunting and the goal of the department is to add 50,000 acres per year.

In response to a question from Representative Kempenich, Mr. Hildebrand said the coverlocks program requires a 30-year commitment from landowners because there needs to be time for the habitat to develop. He said trees that have a 5- or 10-year growth can be removed and returned to farmland. He said there are a number of additional access

programs available and the FTE employee positions are needed to make the public aware of these programs.

It was moved by Senator Andrist, seconded by Representative Wald, and carried on a voice vote that pursuant to NDCC Section 54-16-04.2, the Budget Section approve the following request which has been authorized by the Emergency Commission:

- **Game and Fish Department (Request #1394) - To authorize three FTE positions and to increase other funds spending authority and the private land habitat program line item by \$1.5 million to accept funds from the game and fish fund for the accelerated access program to increase the amount of private land open to sportsmen.**

In response to a question from Senator Solberg, Mr. Backman said the Department of Agriculture request of funds from the national scrapie eradication program relates to the testing of animals to determine what genetic makeup is resistant to the disease.

In response to a question from Representative Warner, Mr. Backman said the primary work relating to the scrapie disease testing would be conducted in Fargo. He said there was no discussion on whether the veterinarian services could be provided in conjunction with the State Department of Health's bioterrorism request.

It was moved by Senator Stenehjem, seconded by Senator Solberg, 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:

- **Department of Agriculture (Request #1401) - To increase other funds spending authority and the Board of Animal Health line item by \$80,000 to accept federal funds from the United States Department of Agriculture national scrapie eradication program to provide resolution of cases when animals have been infected and exposed to scrapie and to minimize the impact on producers.**

NATIONAL GUARD ARMORY SURVEY

At the request of Chairman Svedjan, Brigadier General Michael J. Haugen, Adjutant General, presented information on the National Guard survey of all political subdivision-owned armories pursuant to Section 1 of 2001 House Bill No. 1215. A copy of the information presented is on file in the Legislative Council office. General Haugen said the 2001 Legislative Assembly appropriated \$250,000 to be distributed on an equal matching fund basis for grants of up to \$25,000 per political subdivision for the

maintenance and repair of political subdivision-owned armories.

General Haugen introduced Lieutenant Colonel David Anderson, National Guard, who was the engineer in charge of the armory survey. Lieutenant Colonel Anderson said priority was given to those projects for which the political subdivision contributes the highest ratio of funds for each dollar of state funds. He said surveys were sent to mayors of 18 cities, with 14 responding, requesting assessments of major maintenance and repair projects. He said the projects were to have a direct benefit to the full-time National Guard personnel.

Lieutenant Colonel Anderson said the state match was calculated based on an equal share match with the city, or the remaining cost of the proposed projects for those cities providing more than an equal share of funding. He said projects were funded from each of the 14 cities requesting the state match. He said prioritizing was not necessary because the total state match did not exceed the \$250,000 appropriated after each political subdivision received the amount of state match for which they were qualified for according to the guidelines in the bill. He said the total recommended state match for armory repair and maintenance projects is \$249,111.

In response to a question from Representative Byerly, General Haugen said the National Guard cannot receive federal funding for guardsmen to do state maintenance projects.

In response to a question from Representative Glassheim, General Haugen said the National Guard is working with the city of Grafton to develop a plan to make up the remaining \$25,000 that is not available to clean lead-contaminated surfaces.

It was moved by Representative Wald, seconded by Senator Robinson, and carried on a voice vote that the Budget Section accept the National Guard's survey of all political subdivision-owned armories and project funding recommendations pursuant to Section 1 of 2001 House Bill No. 1215.

STATUS OF ACTUAL MEDICAL ASSISTANCE EXPENDITURES

Chairman Svedjan called on Ms. Carol K. Olson, Executive Director, Department of Human Services, who reported, pursuant to Section 20 of 2001 House Bill No. 1012, on the status of actual medical assistance expenditures to date compared to projections and whether the actual expenditures for the biennium are anticipated to exceed funding appropriated. A copy of the information presented is on file in the Legislative Council office. Ms. Olson said the Department of Human Services provides services for home, community-based, and institutional care. She said because of a variety of factors, the cost of these services have greatly increased, placing a tremendous strain on the department's budget. She said the

department has instituted a plan requiring review and justification to fill central office staff vacancies. She said since the implementation of this plan, 20 percent of the vacancies remain unfilled. She said in addition, the department has implemented a freeze on all out-of-state travel for staff that is not federally mandated or would cause extreme negative impact to the department. She said the Department of Human Services is taking steps to slow the growth of new eligibles allowed on the service payments for the elderly and disabled (SPED) and expanded SPED programs each month. Ms. Olson said the department is asking for direction from the Budget Section as to how to proceed with the projected budget shortfall.

In response to a question from Senator Krauter, Ms. Olson said the vacant positions that have not been filled are in the central office. She said 4 of the 20 vacant positions (20 percent) in the central office have not been filled.

Mr. David Zentner, Director, Medical Services, Department of Human Services, said nursing facility services constitute the greatest percentage of Medicaid expenditures. He said based on current Medicaid expenditures, projections indicate there will be a 2001-03 biennium general fund shortfall of between \$12 million to \$14 million. Mr. Zentner said a November 2001 projection indicated that due to a 9.3 percent increase in Medicaid recipients, an additional \$2.2 million from the general fund will be necessary. He said in addition, the federal medical assistance percentage is scheduled to decrease by 1.51 percent starting on October 1, 2002. He said this change was not anticipated at the time the executive budget was developed. He said the federal medical assistance percentage reduction is a direct result of an increase in the per capita income of North Dakota citizens and will result in a reduction of \$4.5 million in federal funds for the remainder of the 2001-03 biennium.

In response to a question from Representative Svedjan, Ms. Olson said the department has been exploring ways to realize cost-savings; however, the department would like direction from the Budget Section for policymaking decisions.

In response to a question from Representative Delzer, Mr. Zentner said the federal medical assistance percentage is based on a three-year moving average of each state's per capita income adjusted annually. He said North Dakota's per capita income increased more than the national average. He said the number of individuals receiving Medicaid assistance has increased due to a greater understanding of the program and better outreach. He said most of the other states have more significant budget problems than North Dakota. He said Congress would need to provide additional relief to the states soon in order to make a difference this biennium.

Senator Solberg said reductions will have to be made to the Medicaid program now or the 2003 Legislative Assembly will have to address a \$14 million deficiency appropriation.

In response to a question from Senator Solberg, Mr. Zentner said the original United States House of Representatives stimulus package included a hold harmless provision and an additional 1 to 1.5 percent increase in the federal medical assistance percentage; however, this stimulus package was not included in the final bill.

In response to a question from Senator Heitkamp, Mr. Zentner said within the next 10 to 15 years North Dakota will have 35,000 more elderly individuals and 15,000 fewer children in the state.

In response to a question from Representative Svedjan, Ms. Olson said 93.2 percent of the Department of Human Services budget goes directly to client services and assistance. Mr. Zentner said there could be some reduction in optional Medicaid services and changes to Medicaid eligibility levels.

In response to a question from Senator Andrist, Mr. Zentner said the Department of Human Services has several programs with copayments; however, the federal Medicaid program allows a minimal amount that can be charged to individuals. Also, he said, children, pregnant women, and people in institutions cannot be charged for services.

In response to a question from Senator Krauter, Ms. Olson said the Department of Human Services has based its most recent budgets on program trends and projections. She said the department has received a great deal of guidance and involvement from both the Governor's office and the Office of Management and Budget. She said the Department of Human Services has not had a discussion with the Governor's office about developing program priorities.

In response to a question from Senator Heitkamp, Ms. Olson said the department was aware of the possible Medicaid program shortfall at the end of the 2001 session. She said the department was underfunded in the Medicaid grant line item by \$3.5 million and there were some indications the federal medical assistance percentage would be lowered.

In response to a question from Senator Bowman, Ms. Olson said the Department of Human Services is projecting that the department will run out of its general fund appropriation in May or June 2003. Senator Bowman said whenever Medicaid eligibility is expanded, the risk of budget shortfalls increases.

In response to a question from Senator Solberg, Mr. Zentner said the department would like to implement changes by this summer in order to effectively address the budget shortfall.

In response to a question from Senator Heitkamp, Representative Svedjan said the Department of Human Services will need to verify projections and provide estimated dollar savings of alternative proposals. He said in addition, assurances will have to be

provided by the department that the utilization review process is in place and functioning as intended. Representative Svedjan said at the end of the 2001 legislative session he did not believe the Medicaid budget was underfunded.

Representative Delzer said there were a lot of unanswered questions and uncertainties involving the Department of Human Services budget during the 2001 legislative session.

In response to a question from Representative Delzer, the legislative budget analyst and auditor said the Budget Section's responsibility includes receiving reports from the Department of Human Services if it is anticipated that actual expenditures will exceed the funding provided by the Legislative Assembly for medical assistance grants. He said the department is to seek Budget Section approval to spend funds at a level which will require a request for a general fund deficiency appropriation in the next Legislative Assembly.

Senator Nething said he would like to know what the appropriate dollar savings would be if the Department of Human Services were to implement a 95 percent budget on January 1, 2003.

Chairman Svedjan requested the department analyze areas in which funding authority may be moved within the Medicaid program and from other programs. He said Emergency Commission and Budget Section approval may be required for some transfers. Chairman Svedjan requested the Department of Human Services be included on the June 2002 Budget Section meeting agenda.

Representative Byerly asked that the Department of Human Services provide an outline for the June 2002 Budget Section meeting of changes that could be made administratively versus changes that require legislative action.

Senator Solberg said Mr. Zentner reported to the Senate Appropriations Committee during the 2001 legislative session that the Department of Human Services budget would be underfunded by \$4 million. He said at that time no one could foresee what would happen to the economy.

In response to a question from Senator Andrist, Chairman Svedjan said he would discuss with the chairman of the Legislative Council about the possibility of providing legislative input to the Department of Human Services to address the budget shortfall.

STATUS OF THE DEPARTMENT OF COMMERCE

Chairman Svedjan called on Mr. Lee Peterson, Commissioner, Department of Commerce, who reported on the status of the Department of Commerce, pursuant to Section 7 of 2001 Senate Bill No. 2019, and an update on the northern California energy industry campaign. A copy of the information presented is on file in the Legislative Council office.

Mr. Peterson said the Department of Commerce has targeted five industries for economic development in North Dakota, including:

1. Value-added agriculture.
2. Energy.
3. Advanced manufacturing.
4. Information technology.
5. Tourism.

Mr. Peterson said in 2001 more than 2,400 new jobs were created and personal wages were up 5 percent. He said \$305,000, including \$55,000 of private funds, was spent for the California campaign. He said the campaign included advertising and a reception which was held in San Francisco at which 330 executives from California businesses attended. He said the campaign generated five solid business leads, some of which will generate jobs in North Dakota.

CORRESPONDENCE FROM ETHANOL PLANTS

Pursuant to Section 4 of 2001 Senate Bill No. 2019, correspondence from North Dakota ethanol plants receiving production incentives from the state was distributed to committee members. The correspondence relates to the Alchem, Ltd., and the Archer Daniels Midland Company plants and indicates that the plants did produce a profit in calendar year 2001 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.

BUDGET TOUR REPORTS

Chairman Svedjan called on Senator Nething to present the report on budget tours conducted by the Higher Education Committee. The committee conducted budget tours of the University of North Dakota and the University of North Dakota School of Medicine and Health Sciences in Grand Forks on January 9-10, 2002; Mayville State University, Mayville, and Lake Region State College, Devils Lake, on March 4-5, 2002; and Bismarck State College on March 25, 2002.

It was moved by Senator Nething, seconded by Senator Solberg, and carried on a voice vote that the Budget Section accept the reports on the

budget tours conducted by the Higher Education Committee.

Chairman Svedjan called on Representative Delzer to present a report on the budget tour conducted by the Budget Committee on Human Services on April 4-5, 2002. The committee conducted budget tours of the Northeast Human Service Center, North Dakota Vision Services - School for the Blind, and Mill and Elevator in Grand Forks.

It was moved by Representative Delzer, seconded by Representative Kempenich, and carried on a voice vote that the Budget Section accept the report of the Budget Committee on Human Services tour group.

COMMITTEE DISCUSSION AND STAFF DIRECTIVES

It was moved by Representative Wald, seconded by Representative Koppelman, and carried on a voice vote that the Budget Section receive at the next meeting a status report from the State Board of Agricultural Research and Education pursuant to Section 10 of 2001 Senate Bill No. 2021.

It was moved by Senator Bowman, seconded by Representative Kempenich, and carried on a voice vote that North Dakota State University present a report on expenditures for the F Court student apartment building to the Budget Section upon completion of the project.

It was moved by Senator Robinson, 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 5:10 p.m.

Donald J. Wolf
Fiscal Analyst

Jim W. Smith
Legislative Budget Analyst and Auditor

ATTACH:1