

NORTH DAKOTA LEGISLATIVE COUNCIL

Minutes of the

BUDGET SECTION

Wednesday, October 4, 2006
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, Larry Bellew, Rick Berg, Merle Boucher, Tom Brusegaard, Ron Carlisle, Al Carlson, Jeff Delzer, Eliot Glassheim, Scot Kelsh, Keith Kempenich, James Kerzman, Matthew M. Klein, Joe Kroeber, Bob Martinson, Ralph Metcalf, David Monson, Chet Pollert, Earl Rennerfeldt, Bob Skarphol, Blair Thoreson, Francis J. Wald, Alon C. Wieland; Senators John M. Andrist, Bill L. Bowman, Randel Christmann, Tom Fischer, Tony Grindberg, Ray Holmberg, Aaron Krauter, Ed Kringstad, Elroy N. Lindaas, Tim Mathern, David O'Connell, Larry J. Robinson, Randy A. Schobinger, Bob Stenehjem, Harvey Tallackson

Members absent: Representatives Pam Gulleeson, Mike Timm, Clark Williams; Senators Michael A. Every, Ralph L. Kilzer, Russell T. Thane

Others present: See attached appendix

It was moved by Senator Robinson, seconded by Representative Wald, and carried on a voice vote that the minutes of the June 14, 2006, meeting of the Budget Section be approved as distributed.

STATUS OF THE STATE GENERAL FUND

At the request of Chairman Svedjan, Ms. Pam Sharp, Director, Office of Management and Budget, presented a report on the status of the general fund. A copy of the information presented is on file in the Legislative Council office.

Ms. Sharp said the nonseasonally adjusted consumer price index in August 2006 was 3.8 percent, which is down .3 percent for the month and up .2 percent compared to one year ago. She said personal income rose at a seasonally adjusted annual rate of 3.9 percent during the second quarter of 2006, which was significantly higher than the 2.3 percent average for calendar year 2005. She said crop prices rose by 5.6 percent in the first quarter of 2006 compared to the first quarter of 2005. Ms. Sharp said North Dakota's unemployment rate in August 2006 was 3.5 percent, which was up slightly from 3.4 percent in July 2006 and 3.4 percent one year ago. She said North Dakota's unemployment rate was considerably lower than the national rate of 4.7 percent in August 2006. Ms. Sharp said average

oil production for July 2006 was over 110,200 barrels per day, a slight dip from the June 2006 average production of 111,600 barrels per day. She said the average price per barrel of oil has slipped to \$54 per barrel, down from the average prices of \$66 per barrel in July 2006 and \$63 per barrel in June 2006. She said the current rig count is 40, compared to 29 operating one year ago.

Ms. Sharp presented the preliminary information on the status of the state general fund for the 2005-07 biennium based on revenue collections through October 4, 2006:

Table with 2 columns: Description and Amount. Rows include: Unobligated general fund balance - July 1, 2005 (\$68,015,056), Add Estimated revenues and transfers (based on the revised 2005 legislative forecast) (2,192,900,190), Total estimated general fund revenue for the 2005-07 biennium (\$2,260,915,246), Less 2005-07 biennium general fund appropriations (1,989,452,623), Estimated general fund balance - June 30, 2007 (\$261,167,102 more than the 2005 legislative estimate of \$10,295,531) (\$271,462,623^1)

^1The estimated ending balance does not include potential deficiency appropriations. As of October 4, 2006, the Office of Management and Budget identified \$14,737,756 in potential deficiency appropriation requests that may be presented to the 2007 Legislative Assembly--Division of Emergency Services disaster services (\$4,300,000), Department of Corrections and Rehabilitation increased inmate population (\$4,668,655), North Dakota University System utilities (\$4,644,533), North Dakota University System flood and rain event costs (\$849,568), and Department of Public Instruction operating expenses (\$275,000).

NOTE: The Department of Human Services is not reflected in the potential deficiency appropriation request amount. However, the Department of Human Services may request a deficiency appropriation of \$3 million for the sex offender program at the State Hospital in Jamestown.

Ms. Sharp said preliminary general fund revenues and transfers through August 2006 were approximately \$183.8 million more than estimated in the March 2005 legislative forecast. She said the variance is due to increases in sales tax (\$40.7 million), individual income tax (\$53.3 million), corporate income tax (\$70.4 million), oil and gas production tax (\$10.6 million), and interest income (\$8.9 million).

In response to a question from Representative Skarphol, Ms. Sharp said information showing the

impact of increased oil activity and oil prices on sales tax, individual income tax, and corporate income tax should be available from the Tax Department.

**It was moved by Representative Skarphol, seconded by Representative Wald, and carried on a voice vote that the Budget Section, pursuant to North Dakota Century Code Section 54-44.1-07, relating to the form of budget data, requests the Office of Management and Budget to:**

1. **Provide a separate report identifying the estimated impact of increased oil activity and oil prices on all state revenue types in the projected state revenues for the 2005-07 and 2007-09 bienniums.**
2. **Arrange for representatives of Economy.com to provide information at the December 6, 2006, Budget Section meeting regarding the impact of the state's oil industry on state revenues, including oil taxes, sales taxes, and individual and corporate income taxes.**

### **TOBACCO SETTLEMENT PROCEEDS**

Ms. Sharp presented information on the status of tobacco settlement proceeds received by North Dakota. A copy of the information presented is on file in the Legislative Council office. Ms. Sharp said North Dakota received a payment of \$21.1 million in April 2006 and will continue to receive payments in April of each year. She said the April 2006 payment was \$1 million to \$2 million less than anticipated. She said the April 2007 payment will be similar to the April 2006 payment. She said she anticipates the April 2008 payment to be approximately \$38 million.

### **LEGISLATIVE FORECAST**

Ms. Sharp said Economy.com will accommodate a change in the schedule to allow for a revised revenue forecast during the 2007 Legislative Assembly. She said less historical data will be available if the forecast is provided in February 2007 rather than March 2007, as typically provided.

**It was moved by Representative Wald, seconded by Senator O'Connell, and carried on a voice vote that the Budget Section, pursuant to North Dakota Century Code Section 54-44.1-07, relating to the form of budget data, requests the Office of Management and Budget to provide the revised revenue forecast to the 2007 Legislative Assembly during the week beginning February 5, 2007.**

In response to a question from Representative Boucher, Ms. Sharp said the interest income is from all general fund deposits at the Bank of North Dakota. She said the funds are placed in money market accounts or certificates of deposit. She said the interest income includes \$5 million in interest earned on the budget stabilization fund.

Representative Aarsvold requested information be provided by the Bank of North Dakota regarding the

share of Bank of North Dakota profits attributable to student loans.

In response to a question from Representative Kroeber, Ms. Sharp said Economy.com provides a tax-based forecast. She said the forecast is based on growth rate and is not based on revenue.

In response to a question from Senator Andrist, Ms. Sharp said revenue from oil extraction taxes were less than forecasted in August 2006 due to wells that have high production but have exemptions from oil extraction taxes. She said the exemptions do not apply to oil gross production taxes.

### **WATER DEVELOPMENT TRUST FUND**

Ms. Sharp provided information on procedures for the use of funds when water development trust fund obligations exceed the trust fund's revenues. She said North Dakota Century Code Section 61-02.1-04 provides the following order in which funds are utilized for repayment of bond costs for flood control or flood reduction costs:

1. Water development trust fund.
2. Resources trust fund.
3. Appropriations of other available revenues.
4. Other State Water Commission revenues, including federal money if received to pay bonds for specific projects.
5. Bank of North Dakota current biennium earnings not to exceed \$6.5 million per biennium.

Ms. Sharp said oil extraction taxes are the source of funds for the resources trust fund.

### **FISCAL IRREGULARITIES**

Ms. Sharp reported on irregularities in the fiscal practices of the state, pursuant to North Dakota Century Code Section 54-14-03.1. A copy of the information presented is on file in the Legislative Council office. Ms. Sharp said the irregularities were due to temporary pay adjustments for additional workloads for two employees at the Department of Commerce.

In response to a question from Representative Carlson, Ms. Sharp said the deadline for submitting budget requests for the 2007-09 biennium was July 15, 2006. She said several larger agencies were given extensions. She said she would provide a list of agencies that were granted extensions. Representative Carlson said if so many exemptions are necessary, the law should be changed.

In response to a question from Representative Skarphol, Ms. Sharp said she will provide information at the December 6, 2006, Budget Section meeting regarding anticipated one-time expenditures and capital projects requiring bond issuance for the 2007-09 biennium.

## DEFICIENCY APPROPRIATIONS FOR UTILITIES

At the request of Chairman Svedjan, the legislative budget analyst and auditor presented a memorandum entitled General Fund Deficiency Appropriations for Utility and Fuel Costs. The legislative budget analyst and auditor said the 1985 through 2005 Legislative Assemblies provided deficiency appropriations to four agencies for utility and fuel costs.

In response to a question from Senator Andrist, the legislative budget analyst and auditor said larger universities may not have needed deficiency appropriations due to the use of different types of fuel or they may have been able to absorb the additional costs in other areas of their budgets.

## STATE WATER COMMISSION

At the request of Chairman Svedjan, Mr. Todd Sando, Assistant State Engineer, State Water Commission, presented information relating to the status of the Devils Lake Outlet. Mr. Sando said Devils Lake was at a record high level early in 2006. However, he said, the drought and water spilling from Devils Lake to Stump Lake were factors in the lake dropping two feet during the summer. He said Devils Lake is at 1,447.3 feet and Stump Lake is at 1,446.5 feet. He said he anticipates that Stump Lake will equalize with Devils Lake in 2007. He said the Devils Lake Outlet has not operated this year because the Sheyenne River is dry at the insertion point for the outlet.

Mr. Sando said construction was completed on the Devils Lake Outlet in 2005. He said \$28 million was budgeted for the outlet, \$25.6 million in contracts were signed, and \$24.5 million has been paid out to date. He said there will be additional costs for the project due to lawsuits being filed relating to condemnation. He said the operating budget for the outlet is slightly over \$2 million, with the largest expense being electricity. He said operating costs have been down this year because the outlet has not been operating. Mr. Sando said the department requested a modification to the discharge permit to allow for a higher sulfate level in the Sheyenne River. He said the modification will also allow discharges whenever there is no ice on the river.

In response to a question from Senator Andrist, Mr. Sando said the State Water Commission is facing opposition from the Canadian government regarding the discharge permit. He said an appeal has been filed by the Canadian government and environmental groups.

Mr. David Laschkewitsch, Director, Administrative Services, State Water Commission, presented testimony regarding the status of the water development trust fund. Mr. Laschkewitsch said the balance in the fund as of October 3, 2006, was \$14.1 million. He said the next deposit from the tobacco settlement proceeds will be made in April 2007 and will be approximately \$10.3 million. He

said the department has decreased its estimated biennial payments from the tobacco settlement proceeds by \$1.5 million. Mr. Laschkewitsch said the next bond payment is due in February 2007. He said the payment will be \$2.1 million and will be interest only. He said a principal and interest payment on the bond will be made in August 2007. He said the department has spent \$12.9 million from the trust fund during the 2005-07 biennium. He said the department anticipates spending an additional \$12.2 million in the remainder of the 2005-07 biennium for agency operating costs and water project expenditures. He said the estimated June 30, 2007, ending balance for the water development trust fund is \$9.4 million.

In response to a question from Representative Skarphol, Mr. Laschkewitsch said the department commits all available money in the water development trust fund. He said the estimated ending balance of \$9.4 million will be carried over to the 2007-09 biennium. He said \$5.4 million will be needed for the bond payment in August 2007 and the remainder will be needed to complete projects. He said there are no commitments at this time that exceed the fund balance.

In response to a question from Representative Delzer, Mr. Laschkewitsch said the Attorney General's office provides legal services for lawsuits associated with the Devils Lake Outlet. He said the Risk Management Division will pay some expert witness fees and the State Water Commission will pay for the costs of affidavits relating to the lawsuits.

Representative Delzer requested the State Water Commission provide information on the cost of lawsuits related to the Devils Lake Outlet.

## DEPARTMENT OF EMERGENCY SERVICES

At the request of Chairman Svedjan, Major General David Sprynczynatyk, Adjutant General, National Guard, presented information relating to the Department of Emergency Services. Major General Sprynczynatyk said public safety and security are the department's greatest concerns. He said organizational changes have been made to strengthen the department's financial and personnel management. He said processes have been changed to ensure compliance with federal and state laws and policies.

Mr. Greg Wilz, Director, Division of Homeland Security, Department of Emergency Services, presented information regarding the use of homeland security funds at the local jurisdiction level for all related years. A copy of the information presented is on file in the Legislative Council office.

Mr. Wilz said the complexity of homeland security grants increased in 2003. He said a primary grant in the amount of \$3.7 million and a supplemental grant of \$8.6 million were received in 2003. In 2004, he said, the grant was divided into two categories--the state homeland security grant program and the law

enforcement terrorism protection program. He said the information presented for 2005 includes expenditures made by local jurisdictions through September 22, 2006, because these expenditures were made under the 2005 grant. He said the 2006 information represents allocations to local jurisdictions but does not include expenditure information. He said the department has issued 3,381 subgrants since 1991.

Mr. Wilz provided the Legislative Council staff with a copy of a detailed report that shows expenditures for all disciplines within each jurisdiction by category by grant. The report is on file in the Legislative Council office.

Representative Skarphol complimented the Department of Emergency Services on the reports provided to the committee. He said he is still concerned that jurisdictions may not be complying with law. He said he is concerned that the Legislative Audit and Fiscal Review Committee does not have the authority to request a performance audit regarding political subdivisions' use of homeland security funds.

Mr. Wilz said grant guidelines in past years were vague. He said he is more confident in the guidelines for the 2006 grants.

In response to a question from Representative Klein, Mr. Wilz said new grant guidelines give the department authority to require jurisdictions to purchase communication equipment that is compatible with the department's state radio equipment.

In response to a question from Senator Andrist, Mr. Wilz said general fund money was used for administrative costs associated with the homeland security grants but no general fund money was used for equipment purchased under the grants. Mr. Wilz said he would provide information regarding the use of general fund money for administration of homeland security funds.

In response to a question from Representative Carlson, Mr. Wilz said the Department of Emergency Services reviews all requests for grant funds before issuance to ensure the equipment requested is on the approved list. He said the department cannot turn down a request for equipment that is on the approved list, even though it may not appear to be needed by the recipient.

### **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 North Dakota Century Code Sections 54-16-04, 54-16-04.1, 54-16-04.2, and 54-16-09. The information relating to the requests was provided to the Budget Section prior to the meeting and is on file in the Legislative Council office.

Representative Delzer requested Workforce Safety and Insurance Request #1613 be discussed separately.

**It was moved by Senator Mathern, seconded by Senator Fischer, and carried on a voice vote that pursuant to North Dakota Century Code Sections 54-16-04, 54-16-04.1, 54-16-04.2, and 54-16-09, the Budget Section approve the following requests which have been approved by the Emergency Commission:**

- **Protection and Advocacy Project (Request #1603) - To increase spending authority and the protection and advocacy line item by \$1,000,000 to accept federal funds from the United States Department of Education for the alternative financial loan program to expand personal financing options to persons with disabilities in purchasing assistive technology devices and services.**
- **Game and Fish Department (Request #1604) - To increase spending authority by \$150,000 to accept federal funds (\$112,500) from the United States Fish and Wildlife Service and other funds (\$37,500) from the game and fish fund for expenses related to increased need for noxious weed control. The game and fish fund has a balance of approximately \$28,000,000.**
- **Game and Fish Department (Request #1605) - For a line item transfer from the grants line item (\$450,000) to the operating expenses line item (\$450,000) due to increased travel expenses in the Fisheries and Enforcement Division and for replacement of radios used for enforcement purposes.**
- **State Department of Health (Request #1606) - To accept federal passthrough funds from the North Dakota Department of Transportation relating to a National Highway Transportation Safety Administration grant and to increase spending authority by \$60,000 for the salaries and wages line item (\$35,000) and operating expenses line item (\$25,000) for the new traffic assessment program, which will address ambulance and emergency health care delivery systems.**
- **State Department of Health (Request #1607) - To increase federal funds spending authority by \$263,000 and the operating expenses line item (\$63,000) and grants line item (\$200,000) to accept funds from the Centers for Disease Control and Prevention for a suicide prevention program targeted toward tribal and rural youth.**
- **State Department of Health (Request #1608) - To increase federal funds spending authority by \$153,000 and the salaries and wages line item (\$82,400), operating expenses line item (\$28,000), and grants line**

item (\$42,600) to accept funds from the Centers for Disease Control and Prevention to implement a statewide comprehensive cancer control program.

- **State Department of Health (Request #1609) - To increase federal funds spending authority by \$1,200,000 and the salaries and wages line item (\$90,000), operating expenses line item (\$360,000), capital assets line item (\$100,000), and grants line item (\$650,000) to accept funds from the Centers for Disease Control and Prevention for a pandemic influenza preparedness program.**
- **State Department of Health (Request #1610) - To increase federal funds spending authority and the grants line item by \$6,000,000 to accept funds from the Environmental Protection Agency to assist a rural water district in designing and operating an arsenic trioxide remedy site to lower drinking water arsenic concentration levels in southeast North Dakota.**
- **State Department of Health (Request #1611) - To increase federal funds spending authority and the women, infants, and children (WIC) line item by \$1,800,000 to accept funds from the United States Department of Agriculture due to increases in the number of participants enrolled in the WIC program and costs for food items, including infant formula.**
- **Bank of North Dakota (Request #1612) - To increase spending authority by \$85,500 to accept other funds from an Energy Star Exxon grant for the capital assets line item (\$85,000) and approval for a line item transfer from the contingency line item (\$625,000) to the capital assets line item (\$625,000) for items needed related to construction of a new building and for a project contingency fund.**
- **Department of Agriculture (Request #1614) - To increase spending authority by \$145,000 to accept federal funds from the United States Department of Agriculture, Animal and Plant Health Inspection Services, for the salary line item (\$35,000) and the operating expenses line item (\$110,000) to conduct a potato cyst nematode survey. Temporary employees will be hired to assist in soil sampling.**

Ms. Sheila Peterson, Director, Fiscal Management Division, Office of Management and Budget, presented information regarding Workforce Safety and Insurance Request #1613 to increase special funds spending authority by \$250,000 from the Workforce Safety and Insurance fund to cover salary increases authorized by the 2005 Legislative Assembly. Ms. Peterson said, effective January 1, 1996, Workforce Safety and Insurance was removed from the state classification and compensation system and

was directed to establish an internal personnel system governing position classification and pay administration. For the next three bienniums, she said, the Legislative Assembly provided intent that Workforce Safety and Insurance provide salary increases based on performance and merit. She said legislative salary increases for the 2003-05 biennium were contingent on the elimination of full-time equivalent positions and no general salary increases were given. She said 2005 House Bill No. 1050 included legislative intent to provide across-the-board salary increases of 4 percent beginning each July of the biennium for eligible permanent state employees. She said there was no intent language excluding Workforce Safety and Insurance from this legislative increase. She said Workforce Safety and Insurance was under the assumption salary increases for its employees were still governed by its pay-for-performance policy. She said Workforce Safety and Insurance also conducted an organizational compensation study. She said Workforce Safety and Insurance, acting in good faith, provided salary increases based on the pay-for-performance policy and the compensation study but did not give the legislative-required increase of 4 percent. Ms. Peterson said an Attorney General's opinion--Letter Opinion 2006-L-19--advised that Workforce Safety and Insurance was not exempt from salary increases provided by House Bill No. 1050 and Workforce Safety and Insurance should provide all eligible employees with the legislative increase of 4 percent beginning each July. She said the opinion was issued without regard to any other merit or performance increases given by Workforce Safety and Insurance during the 2005-07 biennium.

In response to a question from Representative Delzer, Ms. Peterson said performance and merit increases may be rescinded if the agency request is not approved by the Budget Section.

In response to a question from Representative Svedjan, Ms. Peterson said Workforce Safety and Insurance will ask that any future bills providing legislative salary increases include language exempting Workforce Safety and Insurance. She said Workforce Safety and Insurance will not provide additional performance and merit increases until November 2007.

In response to a question from Representative Carlisle, Mr. Charles Blunt, Executive Director and CEO, Workforce Safety and Insurance, said he and employees who have been with the department for less than six months did not receive the legislative salary increase.

Representative Skarphol requested Workforce Safety and Insurance provide electronic copies of all available performance evaluations for its employees. Representative Svedjan said the additional salary increases provided will be a consideration in future performance and merit increases and Workforce Safety and Insurance should be asked to provide

additional information documenting the plans to "square this up."

**It was moved by Representative Skarphol, seconded by Representative Wald, and carried on a roll call vote that pursuant to North Dakota Century Code Section 54-16-04, the Budget Section approve the following request, which has been approved by the Emergency Commission, and request Workforce Safety and Insurance to report at the December 6, 2006, Budget Section meeting regarding the reconciliation of salary increases provided with planned future salary increases.**

- **Workforce Safety and Insurance (Request #1613) - To increase special funds spending authority by \$250,000 from the Workforce Safety and Insurance fund to cover salary increases authorized by the 2005 Legislative Assembly.**

Representatives Svedjan, Berg, Brusegaard, Carlisle, Carlson, Delzer, Glassheim, Klein, Martinson, Monson, Rennerfeldt, Skarphol, Thoreson, Wald, and Williams and Senators Andrist, Bowman, Holmberg, Kringstad, and Stenehjem voted "aye." Representatives Aarsvold, Bellew, Boucher, Kempenich, Kerzman, Kroeber, Metcalf, Pollert, and Wieland and Senators Christmann, Fischer, Lindaas, Mathern, O'Connell, Robinson, and Schobinger voted "nay."

### **HIGHWAY PATROL TRAINING PROGRAM**

At the request of Chairman Svedjan, Major Neil Johnson, Administrative Services Commander, Highway Patrol, presented information regarding the training program for law enforcement officers and other emergency service providers, pursuant to Section 2 of 2005 Senate Bill No. 2031. A copy of the information presented is on file in the Legislative Council office.

Major Johnson said 2005 Senate Bill No. 2031 provided \$400,000 for training law enforcement officers and other emergency service providers. He said the funding was included in the Highway Patrol budget to support the efforts of the Peace Officer Standards and Training Board in providing regional training throughout North Dakota.

Major Johnson said the first course was held in February 2006. He said through September 30, 2006, there have been 14 training programs scheduled. He said reimbursement has been requested at a total cost of \$239,000. He said not all courses have requested reimbursement.

Major Johnson said concern has been expressed that smaller communities do not have the personnel resources to host training sessions. He said the ability to host training sessions at various locations throughout North Dakota is beneficial to small and large agencies by reducing costs for travel and salary while staff are away from their respective agencies.

### **BANK OF NORTH DAKOTA PROFITS**

At the request of Chairman Svedjan, Ms. Sharp presented information relating to Bank of North Dakota profits. Ms. Sharp said historically and currently approximately 40 percent of Bank of North Dakota profits are related to student loan profits.

In response to questions from Representative Wald and Senator Andrist, Ms. Sharp said she will obtain additional information from the Bank of North Dakota regarding its profits.

### **TRANSFERS TO STATE TUITION FUND**

At the request of Chairman Svedjan, Dr. Gary Gronberg, Assistant Superintendent, Department of Public Instruction, presented information on transfers to the state tuition fund, pursuant to North Dakota Century Code Section 15.1-02-14. Dr. Gronberg said the department has not replaced any of its general fund appropriation with federal or other funds; therefore, there are no transfers to the state tuition fund to report under this section.

### **PERFORMANCE ASSURANCE FUND**

At the request of Chairman Svedjan, Ms. Illona A. Jeffcoat-Sacco, Executive Secretary and Public Utilities Director, Public Service Commission, presented information regarding payments and expenditures from the performance assurance fund, pursuant to North Dakota Century Code Section 49-21-31. A copy of the information presented is on file in the Legislative Council office.

Ms. Jeffcoat-Sacco said the performance assurance fund is a special fund created by the 2003 Legislative Assembly for payments that Qwest Corporation makes to the state under Qwest's performance assurance plan. She said the money received under the plan is to be used by the Public Service Commission to offset the expenses of administering the plan. After the receipts in a biennium reach \$100,000, she said, the excess over \$100,000 is deposited into the state general fund. Ms. Jeffcoat-Sacco said the July 1, 2005, beginning balance of the fund was \$132,207. She said the amount over the \$100,000 cap was \$32,207 and that amount plus an additional \$4,217 received for May and June 2005 was deposited in the general fund. She said the fund began incurring expenses in June 2005 relating to a multistate audit of the accuracy of Qwest's performance reporting and payments. She said North Dakota's share of the audit contract costs would be approximately \$23,100. She said actual payments made by North Dakota under the contract through June 30, 2006, were \$12,653 and receipts through June 30, 2006, were \$5,400, resulting in a fund balance of \$92,747 on June 30, 2006.

## **DEPARTMENT OF COMMERCE**

### **Annual Audits of Renaissance Fund Organizations**

At the request of Chairman Svedjan, Mr. Shane C. Goettle, Commissioner, Department of Commerce, presented information relating to annual audits of renaissance fund organizations, pursuant to North Dakota Century Code Section 40-63-07(9). Mr. Goettle said the department has not received the annual audits from the two renaissance fund organizations. He said the department would report to the Budget Section once the audits have been received.

### **Annual Report on Job Web Site**

Mr. Goettle presented information relating to an Internet web site that provides career guidance and job opportunity services, pursuant to North Dakota Century Code Section 54-60-10. Mr. Goettle said the department has provided career guidance and job opportunity services in the past using the web site *NorthDakotaHasJobs.com*. He said the department has decided not to continue participation in this web site and has not spent any money in the 2005-07 biennium on a career guidance and job opportunity web site.

### **Rural Development Council**

Mr. Goettle presented information regarding the use of grant funds provided to the Rural Development Council, pursuant to Section 21 of 2005 Senate Bill No. 2018. A copy of the information presented is on file in the Legislative Council office. Mr. Goettle said Section 21 of Senate Bill No. 2018 directed the Department of Commerce to provide a grant of up to \$50,000 to the Rural Development Council. He said the Rural Development Council was initiated in 1992 by the United States Department of Agriculture as a rural outreach tool to provide rural communities with access to funds and program assistance. He said the council was relocated to the Center for Technology and Business in November 2004. He said the grant funds have been used for:

- One part-time staff.
- Electronic commerce - Web site development and hosting fees.
- Office, equipment, telephone, etc.
- Travel (one trip to Washington, D.C.); rural outreach.
- Program cost-sharing with rural communities.

### **Red River Valley Research Corridor**

Mr. Goettle presented information regarding the use of grant funds provided to the Red River Valley Research Center, pursuant to Section 25 of 2005 Senate Bill No. 2018. A copy of the information presented is on file in the Legislative Council office. Mr. Goettle said the 2005 Legislative Assembly provided \$400,000 to assist in both marketing and the development of the assets within the Red River Valley

Research Center. He said additional funding of \$155,000 for each year in the biennium was granted by the Economic Development Administration. He said the funds have been used to:

- Underwrite the cost of trade show displays in a Department of Commerce marketing event in the Silicon Valley.
- Retain the services of Development Counselors International who have brought in national journalists and site selectors to the region.
- Underwrite the cost of university staff to travel on business prospecting trips to visit with companies that may wish to relocate to the University of North Dakota or North Dakota State University.
- Underwrite the cost of university experts to travel to conferences to speak of the assets of the University of North Dakota and North Dakota State University.
- Purchase membership in a life science online community that specializes in research and development.
- Pay for sponsorship of selected conferences deemed appropriate to the development of assets.
- Underwrite the cost of general marketing pieces on an as-needed basis.

### **Center for Technology Program**

Mr. Goettle presented information regarding the use of grant funds provided to the center for technology program, pursuant to Section 26 of 2005 Senate Bill No. 2018. A copy of the information presented is on file in the Legislative Council office. Mr. Goettle said Section 26 of 2005 Senate Bill No. 2018 directed the Department of Commerce to provide a grant up to \$50,000 to the center for technology program. He said the Center for Technology and Business was founded in 1999 as Women and Technology and has been funded by the United States Small Business Administration with annual matching grants from the Department of Commerce. He said the program has assisted more than 17,000 students from 218 North Dakota communities.

Mr. Goettle said the Center for Technology and Business provided the following technology outreach to rural North Dakota in 2006:

- 1,925 students statewide participated in classes in introductory and intermediate computers, Excel, and Access.
- Increased rural payrolls by \$1.242 million and created 115 home-based jobs working with Verety (formally known as SEI) in a unique home-based model taking orders for McDonald's restaurants. Jobs were generated in Wishek, Fessenden, Rugby, and Steele.
- Increased Telco revenues by creating more rural Internet customers (\$7.65 million cumulative over five years).

- 154 students entered the rural workforce after learning how to use a computer.
- 163 jobs were retained through increased workforce intelligence. This was done by bringing technology into businesses, nonprofit, and government entities.
- \$86,625 in classroom revenues paid to rural computer trainers.
- 90 injured workers were retrained for vocational technical education and Workforce Safety and Insurance. All workers reentered the workforce in new jobs utilizing technology as a job component.

### Partners in Marketing Program

Mr. Goettle presented information regarding the use of grant funds provided to the partners in marketing grant program, pursuant to Section 27 of 2005 Senate Bill No. 2018. A copy of the information presented is on file in the Legislative Council office. Mr. Goettle said Section 27 of Senate Bill No. 2018 provided \$250,000 for the partners in marketing grant program. Mr. Goettle said grants totaling \$175,153.32 have been approved during the 2005-07 biennium as follows:

Grant Recipient	Amount	Use
Bismarck-Mandan Development Association	\$5,000	Trade mission
Cooperstown Economic Development Authority	5,000	Trade mission
Grand Forks Region Economic Development Corporation	15,000	Trade mission/advertising
Greater Fargo-Moorhead Economic Development Corporation	6,733.79 <sup>1</sup>	Trade mission
Hannaford Community and Economic Development Corporation	3,309.53	Trade mission
Tri-County Regional Development	25,000	Specialty event
Mercer County Economic Development Corporation	7,110	Collateral materials
Southwest Region Developers	10,000	Specialty event
Tioga Area Development Corporation	5,000	Trade mission
Valley City - Barnes County Economic Development Corporation	10,000	Collateral materials
Williston Area Development Foundation	9,000	Trade mission
Greater Fargo-Moorhead Economic Development Corporation	5,500	Collateral materials
McHenry County Job Development Authority	9,000	Collateral materials
Williston Area Development Foundation	25,000	Specialty event
Jamestown Stutsman Development	19,500	Collateral materials

Grant Recipient	Amount	Use
Southwest Region Developers	15,000	Specialty event
Total	\$175,153.32	

<sup>1</sup>This grant was approved in the 2003-05 biennium and paid in the 2005-07 biennium.

### North Dakota Economic Goals and Associated Benchmarks

Mr. Goettle presented information on North Dakota economic goals and associated benchmarks, pursuant to Section 53 of 2005 Senate Bill No. 2018. A copy of the information presented is on file in the Legislative Council office. Mr. Goettle said North Dakota is making progress in the following areas:

- Net growth of 2,225 businesses and 7,100 jobs.
- Consistent increase in average annual wages.
- Largest percentage growth nationally in academic research and development expenditures from 2000 through 2004.
- Significant increases in manufacturing jobs.
- North Dakota businesses are competing successfully in the global market with North Dakota exports growing at almost twice the national rate.

Mr. Goettle said North Dakota ranks No. 1 in lowest Workforce Safety and Insurance premiums according to the Oregon Department of Consumer and Business Services and No. 2 in the lowest cost of doing business according to the Milken Institute cost of doing business index.

In response to a question from Representative Aarsvold, Mr. Goettle said he would provide information on why government comprises 16 percent of North Dakota industry in 2004.

### Accountability Measures Report

Mr. Goettle presented information regarding the Department of Commerce *Common Accountability Measures Report* for the 2003-05 and 2005-07 bienniums. A copy of the report is on file in the Legislative Council office. Mr. Goettle said the 2003 Legislative Assembly assigned the Department of Commerce the responsibility of monitoring and reporting common measures accountability for workforce development and training activities. He said the workforce development and workforce training programs covered under the accountability report include Department of Human Services job opportunities and basic skills training program, basic employment skills training program, and the senior community service employment program that was transferred from Job Service North Dakota to the Department of Human Services effective July 1, 2006; Job Service North Dakota Work Force 2000 program, Workforce 20/20 program, North Dakota new jobs training program, trade adjustment assistance program, and the Workforce Investment Act; and the University System workforce training quadrants.

In response to a question from Representative Svedjan, Mr. Goettle said many of the workforce training programs are tied to federal funds. He said programs must be analyzed to distinguish programs that provide services from programs that provide funding.

### **WORKFORCE SAFETY AND INSURANCE BUILDING MAINTENANCE ACCOUNT**

At the request of Chairman Svedjan, Mr. Curt Zimmerman, Facility Manager, Workforce Safety and Insurance, presented information regarding the status of the Century Center building maintenance account, pursuant to North Dakota Century Code Section 65-02-05.1. A copy of the information presented is on file in the Legislative Council office. Mr. Zimmerman said fiscal year 2006 was the third full year of operations at Century Center--the Workforce Safety and Insurance office building. He said in addition to Workforce Safety and Insurance, the building houses five other state agencies--the Department of Commerce, the Parks and Recreation Department, the Department of Human Services Child Support Enforcement and Provider Audit Divisions, the Council on the Arts, and the Office of Management and Budget Risk Management Division.

Mr. Zimmerman said the rental rate of \$13 per square foot per year for tenant office space and \$5 per square foot per year for storage space was set in June 2003. He said the rental rates will remain the same until July 1, 2007, at which time the rate will increase to \$13.50 per square foot per year for tenant office space. He said the increase is due to rising operating costs, such as property taxes and contract services. He said the Century Center's single largest operating expense is the payment in lieu of taxes made to the city of Bismarck. He said the 2005 property tax payment was \$251,621.44 and is approximately one-third of the operating expenses for the building.

Mr. Zimmerman said Century Center was the first state-operated facility to be awarded the Environmental Protection Agency Energy Star certification in 2004. He said the use of geothermal heat pump systems and low-voltage controlled lighting systems helped maintain consistent costs of operation. He said the anticipated ending balance of the building maintenance account of \$137,099 for fiscal year 2007 is approximately \$65,000 less than the actual ending balance for fiscal year 2006 of \$202,484.

The committee recessed for lunch at 12:00 noon and reconvened at 1:00 p.m.

### **DEPARTMENT OF HUMAN SERVICES Transfers Between Line Items and Between Subdivisions**

At the request of Chairman Svedjan, Ms. Brenda Weisz, Chief Financial Officer, Department of Human Services, presented information regarding transfers

between line items and between subdivisions in excess of \$50,000, pursuant to Section 6 of House Bill No. 1012. A copy of the information presented is on file in the Legislative Council office. Ms. Weisz said \$422,852 was moved from the human service center level to fiscal administration to centralize the human service center billing and receivable functions in order to apply consistent practices and maximize revenue collection. She said \$230,200 was moved from the human service center level to the Mental Health and Substance Abuse Services Division to centralize clinical and data leads from human service centers to a program and policy division for proper program alignment. Ms. Weisz said \$97,378 was moved from the Lake Region and West Central Human Service Centers to the North Central Human Service Center to consolidate child care licensing functions in those regions in order to create consistent application of policy. She said \$454,466 in national family caregiver direct grant funds was moved from human service centers to the central office to be consistent with other grant programs. She said \$387,338 was moved from administration/support to the Mental Health and Substance Abuse Services Division to consolidate the research function within the department.

### **Medicaid Management Information System**

At the request of Chairman Svedjan, Ms. Maggie Anderson, Director, Medical Services, Department of Human Services, presented information on the status of the Medicaid management information system (MMIS). A copy of the information presented is on file in the Legislative Council office. Ms. Anderson said the Department of Human Services is focusing on the requirement document meetings and completing the visioning process for future business capabilities. She said the Information Technology Department has also begun work on Phase 1 work, which includes data conversion analysis, design of system edits and audits, and design work for the recipient hub. She said the department has hired MTG Management Consultants, LLC, Seattle, Washington, to complete an analysis of five options for consideration during the 2007 legislative session which were identified in a motion from the March 8, 2006, Budget Section meeting. She said information from the analysis should be available by January 8, 2007.

Ms. Anderson said the department has established a Medicaid Systems Project Stakeholder Committee. She said the purposes of the committee are to secure input from various stakeholders regarding the vision, design, and implementation of a new MMIS and to create a communication process with the stakeholders regarding the design and operations of the eventual system. She said the committee will meet on October 5, 2006, and regularly throughout the project.

In response to a question from Representative Svedjan, Ms. Anderson said several provider groups are represented on the stakeholder committee by

individuals with knowledge in the area of information technology.

In response to a question from Representative Berg, Ms. Anderson said communication with legislators is not part of the scope of the analysis by MTG Management Consultants, LLC. She said the consultants will be looking at market analyses, evaluating and assessing the technical aspect of the five options, and making recommendations.

### Medicaid Medical Advisory Committee

At the request of Chairman Svedjan, Ms. Anderson presented information regarding the Medicaid Medical Advisory Committee. A copy of the information presented is on file in the Legislative Council office. Ms. Anderson said the federal Medicaid regulations require each state Medicaid program to have a medical care advisory committee. She said the committee is to advise the Medicaid agency director on health and medical care services. She said the Department of Human Services provided the committee with an update on services and initiatives and an overview of activities from the past year at the committee's September 2006 meeting. Ms. Anderson said the Department of Human Services asked the committee to participate in discussions regarding the future of Medicaid and the prospect of a Medicaid program that encompasses sustainability, consumer responsibility, and fiscal accountability. She said the committee will meet quarterly to continue the "modernizing Medicaid" discussions.

Representative Svedjan said he has had discussions with the Health Policy Consortium which includes four of the largest hospitals in North Dakota. He said 80 percent of acute care for Medicaid patients is provided by the four largest hospitals. He said the consortium is interested in the prospect of reforming the Medicaid system for acute care and forming a provider service network. He said the network would include a managed care system for providing Medicaid services to the recipients in North Dakota. He said the consortium will meet regularly until the start of the 2007 legislative session. He said he will keep the committee informed on the progress of the consortium.

### MILL AND ELEVATOR ASSOCIATION

At the request of Chairman Svedjan, Mr. Vance Taylor, General Manager, Mill and Elevator, presented, pursuant to Section 35 of 2005 Senate Bill No. 2014, an annual report of the Mill and Elevator, including the current role and mission of the Mill and Elevator Association, short- and long-term plans, and a description of the efforts by the Mill and Elevator Association to inform legislators about the role, mission, and operations of the mill. A copy of the information presented is on file in the Legislative Council office. Mr. Taylor said the mission of the mill is to promote and provide support to North Dakota agriculture, commerce, and industry; to provide superior quality, consistency, and service to its

customers; to grow the business and provide a profit to the owners who are the citizens of North Dakota; and to conduct business with the highest integrity so that the employees, customers, suppliers, and owners are proud to be associated with the mill.

Mr. Taylor said the Mill and Elevator has six strategic issues:

1. Promote and support North Dakota agriculture, commerce, and industry.
2. Increase profitability.
3. Grow the Mill and Elevator customer base.
4. Invest in Mill and Elevator employees.
5. Improve technology.
6. Expand internal and external communications.

Mr. Taylor said the Mill and Elevator produces 3.4 million pounds of flour per day, processes 65,000 bushels of wheat per day, has an elevator capacity of 4.3 million bushels, and has 9 million pounds of flour storage. Mr. Taylor said the mill's profits have increased each fiscal year from 2001 through 2006 as follows:

Fiscal Year	Profits
2001	\$330,085
2002	\$1,924,595
2003	\$2,003,461
2004	\$5,636,472
2005	\$5,806,157
2006	\$6,225,560

Mr. Taylor said total profits for the Mill and Elevator from 1971 to 2006 were approximately \$98.5 million and the mill has transferred \$52.5 million to the state general fund during that same time. He said the mill will transfer \$5 million at the end of the 2005-07 biennium.

Mr. Taylor said the total planned capital expenditures for fiscal year 2007 is approximately \$3.8 million, including \$1.2 million for the remainder of the C and K mill expansion project, \$480,000 remaining for the Buhler packaging system, and \$260,000 for a specialty packer palletizing system. He said capital spending for the Mill and Elevator for fiscal years 2001 through 2006 was:

Fiscal Year	Total Capital Spending	Major Project
2001	\$20,083,884	Renovation and expansion project (\$19,500,000)
2002	\$684,195	Organic wheat blending system (\$240,000)
2003	\$1,392,377	Plant electrical generator (\$540,000)
2004	\$1,094,471	K-mill capacitors (\$95,585); bulk flour plant pump room (\$82,610)
2005	\$2,262,589	Whole wheat mill project (\$1,700,000)
2006	\$8,556,280	C-mill expansion/K-mill renovation (\$5,431,858); Buhler pack line (\$363,850); railcar unload system and track (\$249,058)

In response to a question from Representative Delzer, Mr. Taylor said capital expenditures for the

mill are part of the Industrial Commission appropriation.

Representative Delzer requested the Legislative Council staff to provide information relating to the Mill and Elevator authority for capital expenditures for the 2005-07 biennium.

### **UND SCHOOL OF MEDICINE AND HEALTH SCIENCES**

At the request of Chairman Svedjan, Dr. H. David Wilson, Dean, UND School of Medicine and Health Sciences, presented information regarding the budgetary needs for the school. A copy of the information presented is on file in the Legislative Council office. Dr. Wilson said the Medical Center Advisory Council met in August 2006 and concluded that increased funding for the school was necessary to sustain current programs and missions and to respond to growing critical health needs of the state. He said the State Board of Higher Education general fund appropriation request for the school for the 2007-09 biennium will be \$34.6 million, an increase of \$3.26 million from the 2005-07 general fund appropriation. In addition to the proposed State Board of Higher Education increase, he said, the council endorsed a plan for requesting increased funding for the following critical needs areas:

- Offsetting inflation costs that are currently paid for by medical student tuition increases - \$2.2 million to \$6.8 million.
- Addressing statewide primary care and preventive health needs - \$4 million.
- Establishing a branch of the state morgue at the school - \$1.5 million.
- Increasing clinical research and education in microbiology and immunology - \$700,000.
- Reestablishing the Geriatrics Education Center - \$800,000.
- One-time expenditure for sustaining the INMED program - \$500,000.
- New Bismarck Family Medicine Residency building - \$4 million.

Dr. Wilson said the council recommended the tuition increase request for the 2007-09 biennium be no more than 5 percent. He said the school's tuition increases have exceeded tuition increases for medical schools in Minnesota and South Dakota.

In response to a question from Representative Skarphol, Dr. Wilson said yearly tuition for medical school in North Dakota is \$24,000, Minnesota is \$26,000 to \$27,000, and South Dakota is \$18,000 to \$19,000. He said the medical school in South Dakota has a large medical patient practice which generates revenue for the school.

Dr. Wilson said the economic impact of the school on the North Dakota economy, not including the economic impact of graduates, is \$175 million a year.

In response to a question from Representative Carlson, Dr. Wilson said medical students are required to conduct research. He said funding

provided for education is not being used for research. He said funding for research supplements funding for education.

In response to a question from Senator Mathern, Dr. Wilson said the State Board of Higher Education usually approves budget requests before they are brought to the Legislative Assembly. He said the requests for critical needs areas endorsed by the council cannot wait 6 to 10 years to get to the top of the State Board of Higher Education priority list.

### **GAME AND FISH LAND ACQUISITION**

At the request of Chairman Svedjan, Mr. Roger Rostvet, Deputy Director, Game and Fish Department, presented a request for Budget Section approval for the Game and Fish Department to participate in a land acquisition of 242.37 acres in northwest McKenzie County. A copy of the information presented is on file in the Legislative Council office. Mr. Rostvet said the property to be acquired is 30 miles southwest of Williston and lies between two tracts of land that were purchased in 2003 and 2004 by 18 conservation organizations and agencies.

Mr. Rostvet said the land acquisition would be made by the American Foundation for Wildlife at a cost of \$400,000. He said the Game and Fish Department would provide funding in the amount of \$212,500 through a grant to the foundation. He said the department has the funds available in its current budget and will not be asking Emergency Commission approval for additional spending authority. He said 75 percent of the department's cost is reimbursable through a United States Fish and Wildlife Service grant. He said once the purchase is made, the American Foundation for Wildlife will deed the lands to the Game and Fish Department.

Mr. Rostvet said the land would be managed as state wildlife management areas and would be open to public hunting, fishing, and trapping and be available for educational and research uses. He said oil and gas development could take place as there is private ownership of the mineral rights.

**It was moved by Representative Wald, seconded by Representative Carlisle, and carried on a roll call vote that pursuant to North Dakota Century Code Section 20.1-05-05.1, the Budget Section approve the Game and Fish Department acquisition of 242.37 acres of land in northwest McKenzie County.** Representatives Svedjan, Aarsvold, Bellew, Berg, Brusegaard, Carlisle, Carlson, Glassheim, Kroeber, Martinson, Metcalf, Rennerfeldt, Skarphol, Wald, and Wieland and Senators Grindberg, Holmberg, Krauter, Kringstad, Lindaas, Mathern, and Robinson voted "aye." Representatives Kempenich, Klein, Monson, Pollert, and Thoreson and Senators Andrist, Bowman, Christmann, Fischer, O'Connell, and Schobinger voted "nay."

## INFORMATION TECHNOLOGY DEPARTMENT - ANNUAL REPORT

At the request of Chairman Svedjan, Mr. Mike Ressler, Deputy Chief Information Officer, Information Technology Department, distributed a copy of the department's annual report on information technology projects, services, and performance measures pursuant to North Dakota Century Code Section 54-59-19. A copy of the report is on file in the Legislative Council office. Mr. Ressler said the service desk logged 41,423 calls between July 1, 2005, and June 30, 2006. He said 93.7 percent of the calls were assigned and accepted within 15 minutes. Mr. Ressler said the department completed 18 projects over \$250,000 and has 18 active projects over \$250,000. He said total revenue for the department in fiscal year 2006 was \$37.7 million. He said 10 agencies generated 66 percent of the revenue. He said software development generated 21 percent of the revenue. He said a second data center was created in Mandan to provide disaster recovery services previously acquired through IBM in Boulder, Colorado. He said the relocation of the data center allows the department to bring critical systems up within eight hours in case of a disaster at the Bismarck data center.

In response to a question from Senator Grindberg, Mr. Ressler said he anticipates a five- to six-year rollout period for voice over technology.

## POWERS AND DUTIES OF BUDGET SECTION

At the request of Chairman Svedjan, the legislative budget analyst and auditor presented a bill draft [\[70012.0200\]](#) that would eliminate reference to the Budget Section in six sections of the North Dakota Century Code. The legislative budget analyst and auditor reviewed each section that would be amended in the bill draft.

Representative Skarphol said the Information Technology Department should continue to report to the Budget Section but not report to the Legislative Audit and Fiscal Review Committee.

**It was moved by Representative Skarphol, seconded by Representative Carlson, and carried on a voice vote that the bill draft relating to duties and responsibilities of the Budget Section be amended to change the section related to the Information Technology Department annual report to remove the reporting requirement to the Legislative Audit and Fiscal Review Committee.**

**It was moved by Representative Carlson, seconded by Senator Robinson, and carried on a roll call vote that the bill draft, as amended, relating to the duties and responsibilities of the Budget Section be approved and recommended to the Legislative Council.** Representatives Svedjan, Aarsvold, Bellew, Berg, Brusegaard, Carlisle, Carlson, Delzer, Glasheim, Kempenich, Klein, Kroeber, Martinson, Metcalf, Monson, Pollert, Rennerfeldt,

Skarphol, Thoreson, Wald, and Wieland and Senators Andrist, Bowman, Fischer, Grindberg, Kringstad, Lindaas, Mathern, O'Connell, Robinson, and Schobinger voted "aye." No negative votes were cast.

## ALTERNATIVES TO CIVIL COMMITMENT OF SEX OFFENDERS

At the request of Chairman Svedjan, Ms. Vonette J. Richter, Counsel, Legislative Council, presented a memorandum entitled [Alternatives to Inpatient Civil Commitment of Sex Offenders](#). Since 1990, Ms. Richter said 19 states, including North Dakota, have enacted laws authorizing the involuntary civil commitment of sexually violent predators. She said the cost of housing and treating an inpatient civilly committed individual for one day ranged from \$239 in California to \$137 in Massachusetts and Florida. She said the cost per day per committed individual in North Dakota is \$267.89 or \$97,780 per year. She said a study conducted by the Washington State Institute for Public Policy indicates that prison-based sex offender treatment programs at the Washington State Department of Corrections did not significantly reduce the recidivism rate of its participants.

Ms. Richter said Texas established the first outpatient sexual predator civil commitment program in the United States in 1999. She said according to the Texas Department of Health Services, the annual cost range of the outpatient program is between \$30,000 and \$37,000 per client and the success rate for offenders treated in an inpatient setting is about half of that for offenders treated in an outpatient setting. She said Texas is the only state that has implemented an outpatient sexual predator civil commitment program. She said the 2005 North Dakota Legislative Assembly passed House Bill No. 1057. The bill, she said, codified as North Dakota Century Code Section 25-03.3-24, provides that following the commitment of a sexually dangerous individual, the executive director of the Department of Human Services may conduct a risk management assessment of the individual to determine whether the individual may be treated safely in the community on an outpatient basis.

Ms. Richter said Colorado Statutes Section 18-1.3-904 allows a district court having jurisdiction to commit a sex offender to the custody of the Colorado Department of Corrections for an indeterminate term with a minimum of one day and a maximum of the individual's natural life.

## OIL PIPELINE REGULATION

At the request of Chairman Svedjan, Mr. John Bjornson, Counsel, Legislative Council, presented a memorandum entitled [Oil Pipeline Regulation - Authority of State to Require Transmission of North Dakota Oil](#). Mr. Bjornson said an oil pipeline that operates on an interstate basis is classified under federal and North Dakota law as a common carrier

that must provide transportation service on a nondiscriminatory basis. He said North Dakota Century Code Section 49-19-11 provides that a common carrier must agree to accept, carry, or purchase the oil of any person, without discrimination. He said if a pipeline carrier agrees to comply with the provisions of Chapter 49-19, that carrier is authorized under Section 49-19-12 to exercise the right of eminent domain.

In response to a question from Representative Skarphol, Mr. Bjornson said the power of eminent domain is granted by state law. He said state law could restrict the uses of eminent domain but the restrictions would apply across the board.

### LEGISLATIVE HEARINGS FOR FEDERAL BLOCK GRANTS

At the request of Chairman Svedjan, the legislative budget analyst and auditor presented a memorandum entitled [Federal Block Grants - Legislative Hearings](#). The memorandum states that the Legislative Council staff contacted state agencies receiving federal funds to determine which agencies receive block grants that require legislative hearings, and the results of the survey revealed only one block grant with that requirement and that is the community services block grant administered by the Department of Commerce Division of Community Services. A summary of the proposed use and distribution plan for the block grant will be provided by the Department of Commerce as part of the agency's appropriations hearing during the 2007 legislative session. The required public hearing will be held as part of the appropriations hearing for the Department of Commerce during the 2007 legislative session.

At the request of Chairman Svedjan, the legislative budget analyst and auditor presented a resolution draft [\[73015.0100\]](#) authorizing the Budget Section to hold any public hearings required during the period from the adjournment of the 60th Legislative Assembly through September 30, 2009.

**It was moved by Representative Brusegaard, seconded by Representative Bellew, and carried on a roll call vote that the resolution draft providing Budget Section authority to hold public legislative hearings required for receipt of federal block grant funds during the period from the recess or adjournment of the 60th Legislative Assembly through September 30, 2009, be approved and recommended to the Legislative Council.** Representatives Svedjan, Aarsvold, Bellew, Berg, Brusegaard, Carlisle, Carlson, Delzer, Glasheim, Kempenich, Kroeber, Martinson, Metcalf, Monson, Pollert, Rennerfeldt, Skarphol, Thoreson, Wald, and Wieland and Senators Andrist, Bowman, Christmann, Fischer, Grindberg, Kringstad, Lindaas, Mathern, Robinson, and Schobinger voted "aye." No negative votes were cast.

### REPORT ON FEDERAL FUNDS

At the request of Chairman Svedjan, the Legislative Council staff presented a report entitled [Analysis of Federal Funds for Bienniums Ending June 30, 2007, and June 30, 2009](#). The report provided the following information for all state agencies and institutions receiving federal funds during the 2005-07 or 2007-09 biennium:

- 2005-07 biennium - Federal funds appropriated, federal funds estimated to be received, appropriated matching funds, required maintenance of effort, and estimated amount of indirect cost reimbursed.
- 2007-09 biennium - Federal funds estimated to be received, required matching funds, required maintenance of effort, and estimated amount of indirect cost reimbursed.

The report indicated for the 2005-07 biennium, state agencies and institutions anticipate receiving \$2.293 billion of federal funds, approximately \$31.3 million less than the amount appropriated. For the 2007-09 biennium, state agencies and institutions anticipate receiving approximately \$2.314 billion of federal funds. Based on estimates, the 2007-09 biennium will require \$445.3 million of general fund matching dollars, \$81.4 million more than the 2005-07 biennium, if the estimated amounts are appropriated.

### FEDERAL FUND VARIANCES

At the request of Chairman Svedjan, the Legislative Council staff presented a memorandum entitled [Ten Largest Variances by Agency - 2005-07 Biennium - Federal Funds Appropriated and Federal Funds Estimated to Be Received](#). The memorandum provided information regarding the 10 agencies with the largest variances for what was appropriated in federal funds for the 2005-07 biennium and what is estimated the agency will receive in federal funds for the 2005-07 biennium. The memorandum also identified the 10 agencies with the largest variances for what is estimated the agency will receive in federal funds for the 2005-07 biennium and what is estimated the agency will receive in federal funds for the 2007-09 biennium.

### BUDGET TOUR REPORTS

The following reports on budget tours conducted by the Higher Education Committee were distributed to the committee:

- Tuesday, June 13, 2006 - Dickinson State University and Dickinson Research Extension Center.
- Thursday, September 7, 2006 - University of North Dakota and UND School of Medicine and Health Sciences.
- Friday, September 8, 2006 - Mayville State University.

The following reports on budget tours conducted by the Budget Committee on Health Care were distributed to the committee:

- Tuesday, July 26, 2006 - International Peace Garden, Dunseith, and State Fair Association, Minot.

The following reports on budget tours conducted by the Budget Committee on Human Services were distributed to the committee:

- Monday, July 10, 2006 - North Central Human Service Center, Minot.
- Tuesday, July 11, 2006 - West Central Human Service Center, Bismarck.

### **COMMITTEE DISCUSSION AND STAFF DIRECTIVES**

**It was moved by Senator Robinson, seconded by Representative Thoreson, and carried on a voice vote that the chairman and the staff of the Legislative Council be requested to prepare a report and the bill draft and resolution draft recommended by the committee and to present**

### **the report and recommended bill draft and resolution draft to the Legislative Council.**

Chairman Svedjan said the next Budget Section meeting is tentatively scheduled for Wednesday, December 6, 2006, at 11:00 a.m., or after the adjournment of the legislative organizational session.

The committee adjourned subject to the call of the chair at 3:15 p.m.

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Becky Keller  
Fiscal Analyst

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Jim W. Smith  
Legislative Budget Analyst and Auditor

[ATTACH:1](#)