NORTH DAKOTA LEGISLATIVE COUNCIL

Minutes of the

BUDGET SECTION

Thursday, September 25, 2008
Senate Chamber, State Capitol
Bismarck, North Dakota

Senator Ray Holmberg, Chairman, called the meeting to order at 9:00 a.m.

Members present: Senators Ray Holmberg, Bill Bowman, Randel Christmann, Tony Grindberg, Ralph L. Kilzer, Aaron Krauter, Elroy N. Lindaas, Tim Mathern, Carolyn Nelson, David O'Connell, Larry J. Robinson, Tom Seymour, Harvey D. Tallackson; Representatives Ole Aarsvold, Larry Bellew, Rick Berg, Ron Carlisle, Al Carlson, Jeff Delzer, Mary Ekstrom, Eliot Glassheim, Pam Gulleson, James Kerzman, Matthew M. Klein, Gary Kreidt, Joe Kroeber, Ralph Metcalf, David Monson, Jon Nelson, Kenton Onstad, Chet Pollert, Bob Skarphol, Blair Thoreson, Alon Wieland, Clark Williams

Members absent: Senators Tom Fischer, Karen K. Krebsbach, Bob Stenehjem, Rich Wardner; Representatives Merle Boucher, Kathy Hawken, Keith Kempenich, Bob Martinson, Ken Svedjan, Francis J. Wald

Others present: Jim W. Smith, Legislative Council, Bismarck

See Appendix A for additional persons present.

It was moved by Senator Robinson, seconded by Senator Seymour, and carried on a voice vote that the minutes of the June 18, 2008, meeting be approved as distributed.

STATUS OF THE STATE GENERAL FUND

Chairman Holmberg called on Ms. Pam Sharp, Director, Office of Management and Budget, to present a report on the status of the general fund.

Ms. Sharp said the consumer price index is expected to average 4.4 percent during 2008. She said North Dakota's unemployment rate for August 2008 was 3.3 percent, considerably lower than the national rate of 6.1 percent in August 2008. She said North Dakota oil production increased to 172,000 barrels per day in July 2008. She said the average price for North Dakota crude oil was $117 per barrel in May 2008, $126 per barrel in June 2008, and $125 per barrel in July 2008. She said the current oil price is approximately $111 per barrel and the rig count is 89, 43 more rigs than were operating in the state one year ago.

In response to a question from Senator Krauter, Ms. Sharp said oil pipeline volume constraints were considered when preparing the revised forecast.

Ms. Sharp presented the following information on the status of the state general fund for the 2007-09 biennium based on revenue collections through August 2008:

Unobligated general fund balance - July 1, 2007		$295,541,176
Add		
General fund collections through August 2008	$1,535,043,766	
Forecasted general fund revenue for the remainder of the 2007-09 biennium (based on the July 2008 revised forecast)	1,077,697,548	
Total estimated general fund revenue for the 2007-09 biennium		$2,612,741,314
Total available		$2,908,282,490
Less		
2007-09 biennium general fund ongoing appropriations	$2,317,447,307	
2007-09 biennium general fund one-time appropriations	139,526,649	
Contingent appropriation (Section 50 of 2007 Senate Bill No. 2200)	5,000,000	
Total appropriations		$2,461,973,956
Estimated general fund balance - June 30, 2009		$446,308,534

A copy of the information presented is on file in the Legislative Council office.

Ms. Sharp presented the following information on the status of the permanent oil tax trust fund for the 2007-09 biennium:

Beginning permanent oil tax trust fund balance - July 1, 2007	$143,270,662
Add	
Revenue collections through August 2008	275,158,783
Forecasted revenues for the remainder of the 2007-09 biennium (based on revised forecast assumptions for oil price and production)	358,871,552
Total estimated permanent oil tax trust funds available for the 2007-09 biennium	$777,300,997
Less expenditures and transfers	145,716,541
Estimated permanent oil tax trust fund balance - June 30, 2009	$631,584,456

A copy of the information presented is on file in the Legislative Council office.

Ms. Sharp presented information on general fund revenue collections for August 2008 and the 2007-09 biennium to date. She said individual income tax collections were less than estimated for the month because the Tax Department determined it was necessary to transfer an additional $6 million to the refund reserve account to provide adequate funds for property tax income tax credit claims. She said revenues collected for the biennium to date are 16.6 percent more than the legislative forecast. She said the increase is primarily due to biennium to date increases in sales tax and individual and corporate income tax collections. She said sales tax and individual income tax collections exceed the forecast for the biennium to date by 13.1 percent and 18.6 percent, respectively. She said corporate income tax collections exceed the biennium to date forecast by $63.4 million or approximately 81.4 percent. A copy of the report is on file in the Legislative Council office.

PRELIMINARY 2009-11 REVENUE FORECAST

Ms. Sharp presented information regarding the revised 2007-09 biennium revenue forecast and the preliminary 2009-11 biennium revenue forecast. She said it is estimated that 2007-09 biennium revenue will total $2.5 billion, $363 million more than the April 2007 legislative forecast. She said it is estimated that 2009-11 biennium revenue will total $2.7 billion, $202 million more than the 2007-09 biennium revised forecast. She said it is anticipated that transfers to the permanent oil tax trust fund will total $625 million during the 2007-09 biennium and $666 million during the 2009-11 biennium. A copy of the report is on file in the Legislative Council office.

TOBACCO SETTLEMENT PROCEEDS

Ms. Sharp presented information on the status of tobacco settlement proceeds received by North Dakota. She said the tobacco settlement payment received in April 2008 was approximately $36.5 million and the next payment will be received in April 2009. She provided information regarding revenues and expenditures for the community health trust fund and the water development trust fund since inception of the funds. She said total revenues deposited in the community health trust fund and the water development trust fund since inception totaled $23 million and $105 million, respectively. A copy of the report is on file in the Legislative Council office.

FISCAL IRREGULARITIES

Pursuant to North Dakota Century Code (NDCC) Section 54-14-03.1, Ms. Sharp presented information on irregularities in the fiscal practices of the state. She said the following state agencies are reported as having fiscal irregularities:

Agency	Amount	Reason
North Dakota Vision Services - School for the Blind	$3,726	Additional work in June for four teachers outside of their nine-month teaching contract
State Fair Association	$8,764	Additional work for three individuals during transition to new State Fair Association manager
Department of Commerce	$1,625	Temporary additional work for a special project
Department of Corrections and Rehabilitation - Youth Correctional Center	$750	Additional work in August for one teacher at the Youth Correctional Center outside of her teaching contract
State Auditor's office	$14,000	Performance bonuses are limited by statute to 13, but 14 individuals received performance bonuses in fiscal year 2008.

A copy of the information presented is on file in the Legislative Council office.

ANNUAL AUDITS OF RENAISSANCE FUND ORGANIZATIONS

Mr. Gordon La France, Manager, Renaissance Zone Program, Division of Community Services, Department of Commerce, presented information regarding annual audits of renaissance fund organizations pursuant to NDCC Section 40-63-07(9). He said there are 43 renaissance zone cities, of which seven have renaissance fund organizations. He said $591,250 of the $2.5 million in renaissance credits approved by the 1999 Legislative Assembly remain but are unavailable because of pending investments. He said $682,500 of the $2.5 million in renaissance credits approved by the 2003 Legislative Assembly remain available. He said independent auditor's reports of the renaissance fund organizations examined contain no exceptions. A copy of the report is on file in the Legislative Council office.

2007-09 CENTERS OF EXCELLENCE APPLICATIONS

Chairman Holmberg called on Ms. Roxanne Woeste, Assistant Legislative Budget Analyst and Auditor, Legislative Council, to present a memorandum entitled *Summary of 2007-09 Centers of Excellence Applications - Round 2* (Appendix B).

Ms. Woeste said the 2007 Legislative Assembly appropriated $15 million from the permanent oil tax trust fund to the Office of Management and Budget for centers of excellence grants and authorized the Office of Management and Budget, as directed by the Centers of Excellence Commission and with Emergency Commission and Budget Section approval, to borrow up to $5 million from the Bank of North Dakota for providing additional funding for centers of excellence, if the $15 million is committed. She said centers of excellence projects totaling $10 million were approved in Round 1 of the application process in October 2007. She said of the six centers of excellence applications approved in Round 1, two have been discontinued. As a result, she said the Centers of Excellence Commission will not be distributing $4.6 million of the $10 million approved for Round 1 projects; therefore, $14.6 million is available for Round 2 applications. She said Round 2 of the 2007-09 centers of excellence applications includes seven projects totaling $14,050,000 and, if all are approved, $550,000 of the total $20 million appropriated for centers of excellence grants for the 2007-09 biennium would remain unawarded. She presented statutory provisions and summary information for each of the seven Round 2 centers of excellence applications and a brief summary of the centers of excellence approval process.

Mr. Mark Nisbet, Chairman, Centers of Excellence Commission, presented the centers of excellence projects for consideration by the Budget Section.

North Dakota State University - Center for Integrated Electronic Systems

Mr. Nisbet presented information on the North Dakota State University Center of Excellence for Integrated Electronic Systems. He said the Centers of Excellence Commission recommends $2,050,000 for the center. He said the private sector partners are Bobcat, Pedigree Technologies, Intelligent InSites, Inc., and Datacom International, Inc. He said the center will perform market-driven research and development involving systems integration of electronic hardware and software and anticipates the project will create 60 new jobs.

Dr. Philip Boudjouk, Vice President for Research, Creative Activities, and Technology Transfer, North Dakota State University, said software embedded in machines will allow for more efficient machine control.

Mr. Tom Sagasser, Director of Technology, Bobcat, said his company anticipates the industry will change substantially in the next 10 years and Bobcat would benefit from working with North Dakota State University to be a leader in the development of electronic-embedded controllers.

In response to a question from Senator Bowman, Dr. Boudjouk said there is no commitment by the state beyond the original project cost for any of the centers of excellence projects.

North Dakota State University - Center for Biopharmaceutical Research and Production

Mr. Nisbet presented information on the North Dakota State University Center for Biopharmaceutical Research and Production. He said the Centers of Excellence Commission recommends $2,000,000 for the center. He said the private sector partners are Aldevron, Clinical Supplies Management, Paraclin, PRACS Institute, Ltd., and MeritCare. He said the project will review experimentation and processing technologies for vaccines and anticipates the project will create 40 new professional and technical jobs.

Dr. Charles Peterson, Dean of the College of Pharmacy, Nursing, and Allied Sciences, North Dakota State University, said the project proposes to create a basic science research laboratory at North Dakota State University, hire a high-profile vaccinologist, and build a foundation for vaccine research and development for participating private sector partners.

Mr. Michael Chambers, President and CEO, Aldevron, said this project will support the research and development of vaccines. He said the center of excellence allows businesses like Aldevon to be involved with the university researchers to complete necessary research to expand business opportunities.

University of North Dakota - Passive Therapeutics

Mr. Nisbet presented information on the University of North Dakota Center of Excellence for Passive Therapeutics. He said the Centers of Excellence Commission recommends $2,650,000 for the center. He said the private sector partners are Aldevron, Avianax, Mayo Clinic, NovaDigm Therapeutic, Cangene, Schiltz Goose Farms, North, and Schiltz Goose R&D. He said the project's goals include advancing the development of therapeutic antibodies as effective treatment for West Nile virus and avian influenza. He said the project anticipates providing new training and job opportunities for students enrolled in the life sciences, developing and producing high-value products utilizing raw agricultural materials, and creating 40 to 50 jobs over the next three to five years.

Dr. James Petell, Associate Vice President for Intellectual Property Commercialization and Economic Development, University of North Dakota, said the project has been extensively developed and therapeutic antibodies have been demonstrated to be highly effective against West Nile virus in animals.

Mr. Rich Glynn, Special Projects Coordinator and Administrative Assistant to the Vice President, Schiltz Goose Farms, said Schiltz Goose Farms is the largest producer and processor of geese in North America and has developed a cure for West Nile virus in geese that has been approved by the University of North Dakota. He said Schiltz Goose Farms is working with the University of North Dakota and Mayo Clinic to develop the vaccine for use in mammals and humans. He said Schiltz Goose Farms has moved a portion of its operation from South Dakota to North Dakota to have a supply of geese closer to the research.

University of North Dakota - SUNRISE BioProducts: A Center of Excellence for Chemicals, Polymers, and Composites From Crop Oils

Mr. Nisbet presented information on the University of North Dakota SUNRISE BioProducts: A Center of Excellence for Chemicals, Polymers, and Composites From Crop Oils. He said the Centers of Excellence Commission recommends $2,950,000 for the center. He said the private sector partners are SUNRISE Renewables, Bayer CropScience, Northwood Mills, Kadrmas, Lee and Jackson, Global Agricultural Solutions, LM Glasfiber, Integrity/Marvin Windows, Tecton Products, Composite Innovations, PPG Industries, Ashland, and Rohm and Haas. He said the purpose of the project is to invent, develop, and commercialize green industrial chemicals, polymers, and fiber composites utilizing crop oils as the primary raw material feedstock. He said the project is anticipated to create 15 new technology-related private sector jobs with the potential of 50 jobs within four years.

Dr. Wayne Seames, Associate Professor, Department of Chemical Engineering, University of North Dakota, and Director of North Dakota SUNRISE, said the chemicals and polymers produced from petroleum products can be produced from crop oils which will result in a higher profit potential.

Mr. Clarence Leschied, General Manager, Northwood Mills, said his facility anticipates using the research conducted by the University of North Dakota to convert the crude oil feedstock it produces into high-value bio-based products.

Mr. Dave Blair, Business Development and Community Relations, Kadrmas, Lee and Jackson, said a 10 million gallon operation could generate 35 to 50 new jobs in a community.

University of North Dakota - Center of Excellence in Space Technology and Operations

Mr. Nisbet presented information on the University of North Dakota Center of Excellence in Space Technology and Operations. He said the Centers of Excellence Commission recommends $1,000,000 for the center. He said the private sector partners are GeoOptics LLC and Broad Reach Engineering, Inc. He said the project, if approved, will bring GeoOptics LLC's CICERO Mission Operations and Analysis Center to Grand Forks, with the University of North Dakota as its academic partner. The CICERO project is a constellation of earth-orbiting spacecraft that will commence operation in 2011 and which will continually take atmospheric measurements in hundreds of locations simultaneously around the globe. He said the aerospace company will create 25 new jobs in the first five years and up to 40 jobs in eight years.

Mr. Doug Olsen, Project Manager, Upper Midwest Aerospace Consortium, said the project would allow GeoOptics LLC to locate the mission control center for its fleet of satellites in North Dakota. He said the satellites will measure temperature and pressure profiles. He said GeoOptics LLC will sell the information to subscribers such as the National Oceanic and Atmospheric Administration and the National Weather Service.

Mr. Tom Yunck, President, GeoOptics LLC, said the center will provide an ideal source of trained scientific talent, experienced in climate research, and a source of students to be employed. He said the project is comprised of two parts. He said the first part of the project, a space operations center funded by GeoOptics LLC, will operate the spacecraft, receive the data, and process and distribute the data. He said the second part of the project will be the potential for data research that will attract federal research funds from agencies such as the National Aeronautics and Space Administration, the National Oceanic and Atmospheric Administration, the National Science Foundation, the Department of Energy, and others.

University of North Dakota - Petroleum Research, Education, and Entrepreneurship Center of Excellence

Mr. Nisbet presented information on the University of North Dakota Petroleum Research, Education, and Entrepreneurship Center of Excellence. He said the Centers of Excellence Commission recommends $3,000,000 for the center. He said the private sector partners are Schlumberger Information Solutions, IHS, Inc., American Petroleum Institute, Encore Acquisition Company, Hess Corporation, Marathon Oil Corporation, St. Mary Land and Exploration Company, and Whiting Petroleum Corporation. He said the project seeks to improve understanding of the geology, geophysics, and petroleum engineering characteristics of the Williston Basin, especially the Bakken formation; develop enhanced oil recovery techniques; develop techniques for carbon dioxide sequestration; develop engineering enhanced geothermal systems; address environmental and policy issues; and help entrepreneurs develop new businesses and industry.

Mr. William Gosnold, Chairman, Department of Geology and Geological Engineering, University of North Dakota, said the project seeks to improve oil

production, particularly from the Bakken formation through geomechanical analysis.

Mr. James Crohn, Chief Petroleum Engineer, Ward Williston Oil Company, said access to technical professionals such as those available through the center will help companies identify additional reserves and more effectively recover oil from existing reserves.

Minot State University - Bottineau - Entrepreneurial Center for Horticulture

Mr. Nisbet presented information on the Minot State University - Bottineau Entrepreneurial Center for Horticulture. He said the Centers of Excellence Commission recommends $400,000 for the center. He said the private sector partners are North Star Farms and the North Dakota Farmers Market and Growers Association. He said the center will provide research and demonstration of high-skill production methods, expand and provide new opportunities for product commercialization and distribution, and provide the technology transfer necessary to make business opportunities grow.

Ms. Holly Rose Mawby, Director, Entrepreneurial Center for Horticulture, Minot State University - Bottineau, said the project will result in over one hundred jobs, hundreds of entrepreneurs, and valuable spinoff companies.

Ms. Pattie Patrie, Chair, North Dakota Farmers Market and Growers Association, said the association supports the Entrepreneurial Center for Horticulture and is providing center participants with the North Dakota Farmers Market and Growers Association logo. She said growers have had marketing help in the past, but the center will provide much needed research regarding production. She said the association will be surveying markets and encouraging organizations such as hospitals and schools to purchase local foods.

Ms. Ilene Baker, Owner, North Star Farms, said commercialization of the local fruit and vegetable industry is a goal North Star Farms shares with the Entrepreneurial Center for Horticulture. She said North Star Farms will provide research, education, and assistance to establish a distribution center.

In response to a question from Senator Christmann, Mr. Nisbet said the Centers of Excellence Commission rejected two proposals in this round of applicants.

Representative Berg expressed concern that many centers of excellence proposals contain a minimal amount of private sector cash.

It was moved by Representative Berg, seconded by Senator O'Connell, and carried on a roll call vote that pursuant to NDCC Section 15-69-02 and Section 14, 2007 House Bill No. 1018 the Budget Section approve the following center of excellence funding award requests, which have been recommended by the Centers of Excellence Commission and considered by the Emergency Commission:

- **Centers of Excellence Commission (Request #1669) - North Dakota State University - Center for Integrated Electronic Systems - $2,050,000.**
- **Centers of Excellence Commission (Request #1670) - North Dakota State University - Center for Biopharmaceutical Research and Production - $2,000,000.**
- **Centers of Excellence Commission (Request #1671) - University of North Dakota - Passive Therapeutics - $2,650,000.**
- **Centers of Excellence Commission (Request #1672) - University of North Dakota - SUNRISE BioProducts: A Center of Excellence for Chemicals, Polymers, and Composites From Crop Oils - $2,950,000.**
- **Centers of Excellence Commission (Request #1673) - University of North Dakota - Petroleum Research, Education, and Entrepreneurship Center of Excellence - $3,000,000.**
- **Centers of Excellence Commission (Request #1674) - University of North Dakota - Center of Excellence in Space Technology and Operations - $1,000,000.**
- **Centers of Excellence Commission (Request #1675) - Minot State University - Bottineau - Entrepreneurial Center for Horticulture - $400,000.**

Senators Holmberg, Bowman, Christmann, Grindberg, Kilzer, Krauter, Lindaas, Mathern, Nelson, O'Connell, Robinson, Seymour, and Tallackson and Representatives Aarsvold, Bellew, Berg, Carlisle, Ekstrom, Glassheim, Gulleson, Kerzman, Klein, Kreidt, Kroeber, Metcalf, Monson, Nelson, Onstad, Pollert, Thoreson, Wieland, and Williams voted "aye." No negative votes were cast.

AGENCY REQUEST AUTHORIZED BY THE EMERGENCY COMMISSION

Ms. Sharp presented information regarding a request by the Office of Management and Budget to borrow $5 million from the Bank of North Dakota for centers of excellence grants pursuant to 2007 House Bill No. 1018 (Request #1685).

It was moved by Senator Robinson, seconded by Senator Grindberg, and carried on a roll call vote that pursuant to Section 15 of 2007 House Bill No. 1018 the Budget Section approve the request which has been approved by the Emergency Commission for the Office of Management and Budget to borrow $5 million from the Bank of North Dakota for centers of excellence grants pursuant to 2007 House Bill No. 1018 (Request #1685). Senators Holmberg, Bowman, Christmann, Grindberg, Kilzer, Lindaas, Mathern, Nelson, Robinson, and Seymour and Representatives Aarsvold, Bellew, Berg, Ekstrom, Glassheim, Gulleson, Klein, Kreidt, Kroeber, Metcalf, Monson,

Onstad, Pollert, Skarphol, Wieland, and Williams voted "aye." No negative votes were cast.

RECOMMENDATION FROM THE BUDGET AND FINANCE COMMITTEE RELATING TO THE FORM OF THE APPROPRIATION BILLS FOR THE 2009 LEGISLATIVE SESSION

Mr. Allen H. Knudson, Legislative Budget Analyst and Auditor, Legislative Council, presented a memorandum entitled *Authorized Number of Full-Time Equivalent Positions - Consideration of Inclusion in Appropriation Bills* (Appendix C) which provides information regarding the current process of authorizing the number of full-time equivalent (FTE) positions and proposed changes to the appropriation bill format for the 2009 legislative session as recommended by the Budget and Finance Committee. He said, if adopted, the proposed changes would identify the number of authorized FTE positions for each agency in appropriation bills and provide for the use a three-column format identifying base level of funding, adjustments or enhancements, and the appropriation for each agency within one section of the bill. He said the Emergency Commission may currently authorize additional FTE positions during the interim, but these positions are only authorized for the current biennium. He said to continue the position, the agency must request the position as a new FTE from the next Legislative Assembly. He said if the Legislative Assembly includes the number of authorized FTE positions for an agency in the appropriation bill, the Emergency Commission would need specific authority to approve additional FTE positions.

It was moved by Representative Thoreson, seconded by Representative Aarsvold, and carried on a roll call vote that pursuant to NDCC Section 54-44.1-07 the Budget Section approve changes to the budget data as recommended by the Budget and Finance Committee to provide that the Office of Management and Budget prepare the appropriation bills for introduction to the Legislative Assembly in a format that provides:

- **Base level funding, adjustments or enhancements, and the appropriation for each agency in a single section using a three-column format; and**
- **The number of full-time equivalent positions in total for each agency shown for the base level, adjustments or enhancements, and the authorized (appropriation) level.**

Senators Holmberg, Bowman, Christmann, Grindberg, Kilzer, Krauter, Lindaas, Mathern, Nelson, Robinson, and Seymour and Representatives Aarsvold, Bellew, Berg, Carlisle, Delzer, Ekstrom, Glassheim, Gulleson, Kerzman, Klein, Kreidt, Metcalf, Monson, Nelson, Onstad, Pollert, Skarphol, Thoreson, Wieland, and Williams voted "aye." No negative votes were cast.

Representative Skarphol suggested agencies monitor and report on expenditures made for deferred maintenance and extraordinary repairs projects to assist the Legislative Assembly in identifying outstanding deferred maintenance.

Representative Aarsvold said special assessments should be included in the definition of extraordinary repairs.

In response to a question from Representative Skarphol, Ms. Sharp said it would be important to provide agencies a definition of deferred maintenance and extraordinary repairs.

It was moved by Representative Skarphol, seconded by Representative Klein, and carried on a roll call vote that pursuant to NDCC Section 54-44.1-07 the Budget Section request the Office of Management and Budget to prepare the appropriation bills for introduction to the 2009 Legislative Assembly by including a separate line item for deferred maintenance funding, and that each agency maintain detailed records of amounts spent from this line item for deferred maintenance and for any extraordinary repairs or other purposes. Senators Holmberg, Bowman, Christmann, Grindberg, Krauter, Lindaas, Mathern, Nelson, O'Connell, Robinson, Seymour, and Tallackson and Representatives Aarsvold, Bellew, Berg, Carlisle, Delzer, Ekstrom, Glassheim, Gulleson, Kerzman, Klein, Kreidt, Metcalf, Monson, Nelson, Onstad, Pollert, Skarphol, Thoreson, Wieland, and Williams voted "aye." No negative votes were cast.

MEMORANDUM ON OTHER STATES' METHODS OF EVALUATING THE FUTURE COSTS OF DONATED FACILITIES AND ANY SUBSEQUENT MONITORING OF ACTUAL COSTS

The Legislative Council staff presented a memorandum entitled *Approval and Evaluation of Donated Assets - Other States* (Appendix D) which provides information on other states' methods of evaluating the future costs of donated facilities and any subsequent monitoring of actual costs. The Legislative Council staff said of the 12 states reviewed, 5 did not require legislative approval of donated assets and 7 states require varying levels of approval to accept donated assets. The Legislative Council staff said most legislatures that require legislative approval to accept donated assets meet annually.

WORKFORCE SAFETY AND INSURANCE - STATUS OF PERFORMANCE AUDIT RECOMMENDATIONS

Ms. Michele Blumhagen, Director, Quality Assurance Division, Workforce Safety and Insurance, presented information regarding the status of the State Auditor's office performance audit

recommendations pursuant to Section 5 of 2007 Senate Bill No. 2021. She provided information regarding the audit recommendation implementation and validation process of Workforce Safety and Insurance. She said the performance audit contained 56 formal recommendations on which the department concurred or partially concurred. She said the department has implemented 48 recommendations and partially implemented 8 recommendations for an implementation rate of 86 percent. She said the State Auditor's office is currently performing followup analysis with regard to the implementation of the audit recommendations. A copy of the report is on file in the Legislative Council office.

REPORT ON FEDERAL FUNDS

The Legislative Council staff presented a memorandum entitled *Analysis of Federal Funds for Bienniums Ending June 30, 2009, and June 30, 2011* (Appendix E) which provides information regarding federal funds to be received by state agencies during the 2007-09 and 2009-11 bienniums. The Legislative Council staff said agencies estimate $2.5 billion of federal funds will be received during the 2007-09 biennium, $11.6 million less than appropriated. The Legislative Council staff said agencies estimate $2.6 billion of federal funds will be received for the 2009-11 biennium, $187.1 million more than is estimated to be received during the 2007-09 biennium. The Legislative Council staff said the estimated 2009-11 federal funds will require $497 million in general fund matching funds, $42 million more than the 2007-09 biennium.

The Legislative Council staff presented a memorandum entitled *Ten Largest Variances by Agency - 2007-09 Biennium - Federal Funds Appropriated and Federal Funds Estimated To Be Received and Ten Largest Variances by Agency - Federal Funds Estimated To Be Received for the 2007-09 and 2009-11 Bienniums* (Appendix F). The memorandum provides information regarding the major variances experienced by agencies during the 2007-09 biennium relating to federal funds appropriated and federal funds estimated to be received and by the agencies with major variances in federal funds estimated to be received for the 2009-11 biennium compared to the 2007-09 biennium.

LEGISLATIVE HEARING FOR FEDERAL BLOCK GRANTS

The Legislative Council staff distributed a memorandum entitled *Federal Block Grants - Legislative Hearings* (Appendix G) which provides information regarding block grant hearings required during the 2009 legislative session. The Legislative Council staff distributed a resolution draft [93009.0100] (Appendix H) authorizing the Budget Section to hold any legislative block grant hearings required during the 2009-10 interim. The Legislative Council staff contacted state agencies receiving federal funds to determine which agencies receive block grants that require legislative hearings. The survey revealed only one block grant with that requirement, 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 2009 legislative session.

It was moved by Senator Robinson, seconded by Representative Berg, 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 61st Legislative Assembly through September 30, 2011, be approved and recommended to the Legislative Council. Senators Holmberg, Bowman, Christmann, Grindberg, Mathern, Nelson, O'Connell, Robinson, Seymour, and Tallackson and Representatives Aarsvold, Bellew, Berg, Carlisle, Delzer, Ekstrom, Glassheim, Kerzman, Klein, Kreidt, Metcalf, Monson, Nelson, Onstad, Pollert, Skarphol, Thoreson, Wieland, and Williams voted "aye." No negative votes were cast.

RISK MANAGEMENT WORKERS' COMPENSATION PROGRAM

Mr. Tag Anderson, Risk Management Director, Office of Management and Budget, presented information regarding the status of the risk management workers' compensation program pursuant to NDCC Section 65-04-03.1(5). He said the 2001 Legislative Assembly established a single workers' compensation account for all state entities. He said the Risk Management Division of the Office of Management and Budget administers the program. He said for coverage periods beginning July 1, 2001, the Risk Management Division entered into deductible contracts with Workforce Safety and Insurance for 143 consolidated accounts. He said the deductible amount selected was $100,000 per claim with a $5 million aggregate stop. He provided the following results for the seven coverage years beginning July 1, 2001, through September 15, 2008:

Nonconsolidated guaranteed cost program premium and assessments		$29,782,116
Risk Management Division deductible premium paid to Workforce Safety and Insurance	$10,872,313	
Risk Management Division-paid losses through September 15, 2008	8,973,278	
Risk Management Division pending losses (reserves)	1,723,469	
Risk Management Division combined deductible premium and losses		$21,569,060
Estimated savings for a seven-year period		$8,213,056

Mr. Anderson said the Risk Management Division has implemented programs to pass the savings on to agencies with effective risk management strategies. He said the discount dollars returned to agencies as a result of the implementation of safety programs totaled $2 million and the dividend dollar program, which returns money to agencies based on their loss history, has returned $684,000 to agencies. A copy of the report is on file in the Legislative Council office.

In response to a question from Representative Berg, Mr. Anderson said the savings not returned to agencies remain in the risk management workers' compensation fund to be used, if necessary, to offset any future deficits.

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

DEPARTMENT OF HUMAN SERVICES

Appropriation Transfers

Ms. Brenda Wiesz, Chief Financial Officer, Department of Human Services, provided information regarding transfers between line items and between subdivisions in excess of $50,000 pursuant to 2007 Senate Bill No. 2012. She said the department has made four line item transfers through June 30, 2008. She said the transfers were to:

- Realign the distribution of the social service block grant funding to provide more efficient reporting to the grantor agency;
- Move Projects for Assistance in Transition from Homelessness grant funding from the Northwest Human Service Center to the Southeast Human Service Center to address changes in need;
- Realign information technology staff to ensure technology remains centralized; and
- Realign the records management function within the technology division because the work performed supported the entire department.

A copy of the report is on file in the Legislative Council office.

In response to a question from Senator Bowman, Ms. Wiesz said the transfers are determined by the department's management team and the human service center directors are involved in the decision.

Status of Medicaid Management Information System

Ms. Jennifer Witham, Director, Information Technology Services, Department of Human Services, presented information regarding the status of the Medicaid management information system project pursuant to Section 3 of 2007 Senate Bill No. 2024. She said the department has expressed its concern regarding delays in the product development to the developer, ACS State Healthcare, LLC (ACS). She said while the department has been negotiating a revised schedule with ACS, the project team has continued to move forward on system design specifications. She said negotiations with ACS are primarily focused on the postdesign phases of the project which are highly dependent on the timely delivery of an ACS product that meets North Dakota requirements. She provided the following project funding summary:

Description	Budget	Spent Through August 2008	Remaining
General fund	$3,643,133	$1,055,855	$2,587,278
Federal funds	55,218,418	15,897,673	39,320,745
Other funds	3,667,820	1,007,597	2,660,223
Total project	$62,529,371	$17,961,125	$44,568,246

A copy of the report is on file in the Legislative Council office.

In response to a question from Senator Mathern, Ms. Witham said any changes to the project must be approved by the federal Centers for Medicare and Medicaid Services.

State Hospital - Change in Scope of Project

Mr. Alex Schweitzer, Superintendent, State Hospital, provided information regarding the status of the State Hospital capital improvements budget and a request for Budget Section approval to change the scope of the State Hospital sexual offender unit addition project. He said the 2007 Legislative Assembly provided $3.1 million from the state's general fund for the construction of a high-security addition to the GM Building to expand the hospital's sexual offender unit. He said since the project was approved, the hospital has seen a decrease in the number of sexual offender admissions and additional capacity of the sexual offender unit is no longer needed. He said State Hospital administration, the Department of Human Services, and the Office of

Management and Budget is requesting to use the $3.1 million for other capital projects on the hospital campus. He provided the following list of capital improvements the State Hospital is planning to address with the funds:

Additional funds required to complete electrical distribution project	$1,211,504
New security fence	307,042
16 West Building repairs	326,420
Employee Building repairs	675,000
Architect and engineer fees	233,427
Total miscellaneous other items	136,206
Total project change	$2,889,599

A copy of the report is on file in the Legislative Council office.

In response to a question from Senator Krauter regarding the 16 West Building repairs, Mr. Schweitzer said the 16 West Building has not been used for a number of years and is currently used for maintenance storage. He said the repairs are needed to provide for future expansion of patient services.

In response to a question from Representative Pollert, Mr. Schweitzer said of the projects listed, the only one that has been considered by the Legislative Assembly is the electrical distribution system.

In response to a question from Representative Pollert, Mr. Schweitzer said the State Hospital has committed to pay for approximately $500,000 relating to these projects, including the architect and engineering fees and the new security fence.

In response to a question from Senator Mathern, Mr. Schweitzer said the improvements to the 16 West Building are to maintain the asset, but would allow the hospital to increase patient beds in the future, if needed.

In response to a question from Representative Skarphol, Mr. Schweitzer said the 2007 Legislative Assembly has previously approved $2.4 million for the electrical distribution project. He said costs are significantly more than anticipated. He said the amount requested of $1,211,504 represents the increased cost of the project.

In response to a question from Representative Skarphol, Mr. Schweitzer said the architect and engineering fees relate to charges from a private firm for work on various projects, including work on the State Hospital sexual offender unit addition they later decided was not needed.

It was moved by Senator Mathern and seconded by Senator Seymour that the Budget Section pursuant to NDCC Section 48-01.2-25 approve the State Hospital request to use $2,889,599 of the $3,100,000 authorized for the State Hospital sexual offender unit addition for other improvement projects, including the electrical distribution project, a security fence, 16 West Building repairs, Employee Building repairs, and architectural and engineering fees.

A substitute motion was moved by Representative Skarphol, seconded by Representative Delzer, and carried on a roll call vote that the Budget Section pursuant to NDCC Section 48-01.2-25 approve the State Hospital's request to use $1,751,973 of the $3,100,000 authorized by the 2007 Legislative Assembly for the State Hospital sexual offender unit addition for the electrical distribution project, a security fence, and architectural and engineering fees. Senators Holmberg, Bowman, and Christmann and Representatives Bellew, Berg, Carlisle, Carlson, Delzer, Klein, Kreidt, Monson, Nelson, Pollert, Skarphol, Thoreson, Wieland, and Williams voted "aye." Senators Krauter, Lindaas, Mathern, Nelson, O'Connell, Robinson, Seymour, and Tallackson and Representatives Aarsvold, Ekstrom, Glassheim, Kerzman, Metcalf, and Onstad voted "nay."

Representative Skarphol asked the Legislative Council to provide information to the Budget Section regarding possible Budget Section action that could be taken as a result of an agency's noncompliance with legislative intent.

VETERANS HOME

Mr. Mark B. Johnson, Administrator, Veterans Home, presented information regarding the status of the Veterans Home construction project pursuant to Section 4 of 2007 Senate Bill No. 2418. He said since his presentation to the Budget Section at its meeting in June 2008, the National Guard has finished the base of the building and a firm has been hired to prepare the site. He said the federal Department of Veterans Affairs has granted the Veterans Home project conditional approval for 180 days, through March 16, 2009, to allow the 2007 Legislative Assembly to address project financing. He said the Veterans Home will open bids next week and plans to begin construction in March 2009.

AGENCY REQUESTS AUTHORIZED BY THE EMERGENCY COMMISSION

Chairman Holmberg 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, 54-16-04.2, and 54-16-09. The information relating to the requests was provided to the Budget Section members prior to the meeting and is on file in the Legislative Council office.

It was moved by Representative Carlisle, seconded by Representative Skarphol, and carried on a roll call vote that pursuant to NDCC 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:

- **Industrial Commission (Request #1676) - To amend Request #1653, which was approved by the Emergency Commission on March 14, 2008, and to approve a line item transfer of $285,000 from the Oil and Gas Division contingency line item to the salaries line item ($254,750) and the operating line item ($30,250) for employee equity and retention adjustments and to hire two new FTE positions.**
- **Attorney General (Request #1679) - For $84,000 from the state contingencies appropriation for the operating line item ($84,000) to reimburse city and county governments for prosecution witness fees and expenses.**
- **Department of Public Instruction (Request #1680) - To increase federal funds spending authority by $1,921,812 for salaries and wages ($88,651), operating expenses ($313,545), and grants--other grants ($1,519,616).**
- **Office of Management and Budget (Request #1681) - To transfer $300,000 from the capital assets line item to the operating expenses line item to provide additional funding for utility expenses.**
- **Department of Transportation (Request #1684) - To increase special funds spending authority by $4,800,000 for the operating expenses line item ($2,800,000) and capital assets line item ($2,000,000) to receive additional funds from charges to state agencies for State Fleet Services usage.**

Senators Holmberg, Bowman, Christmann, Krauter, Lindaas, Mathern, Nelson, O'Connell, Robinson, and Seymour and Representatives Aarsvold, Bellew, Berg, Carlisle, Ekstrom, Glassheim, Kerzman, Klein, Kreidt, Metcalf, Nelson, Onstad, Pollert, Skarphol, Thoreson, Wieland, and Williams voted "aye." No negative votes were cast.

ATTORNEY GENERAL - STATUS OF NEW CRIME LABORATORY BUILDING

Chairman Holmberg called on Mr. Thomas L. Trenbeath, Chief Deputy Attorney General, to present information regarding the status of the new Crime Laboratory building pursuant to Section 13 of 2007 Senate Bill No. 2003. He said the project is anticipated to be completed in October 2008. He said the Attorney General has scheduled a "ribbon-cutting" ceremony for October 21, 2008. He said although the building is complete, a few items remain unfinished, including the relocation of the State Department of Health's garage elsewhere on the property and the extension of the State Water Commission's gravel surface lot. He said the garage will be demolished once the new garage is completed and, weather permitting, the relocation will be completed this fall. He said it is unlikely the parking lot extension will be completed before spring 2009.

Mr. Trenbeath said the Attorney General is confident the new Crime Laboratory will be completed within the $4,790,162 budget. He said $3,847,009 has been spent to date.

INFORMATION TECHNOLOGY DEPARTMENT ANNUAL REPORT

Mr. Mike Ressler, Deputy Chief Information Officer, Information Technology Department, presented information regarding the annual report of the Information Technology Department pursuant to NDCC Section 54-59-19. He said the Information Technology Department has been concentrating on customer service for the last three years and the focus of this report is on measuring outcomes. He said based on customer surveys, the department is a trusted business partner 94.9 percent of the time and the preferred information technology provider 86.2 percent of the time. He said the Information Technology Department logged 53,738 incidents over the last year and users indicated that in 99.8 percent of these incidents, the department provided a positive customer experience. He said Information Technology Department billing for fiscal year 2008 totaled $41.8 million. He said the majority of revenue is generated from computer hosting and software development service fees. He said the Information Technology Department has experienced challenges in recruiting and retaining employees. He said department turnover rate is 6.8 percent. He said its goal is a 4 percent to 6 percent turnover rate. He said the majority of Information Technology Department service rates are competitive with surrounding states. A copy of the report is on file in the Legislative Council office.

AGRICULTURE COMMISSIONER

State Meat Inspection Program

Mr. Roger Johnson, Commissioner, Department of Agriculture, presented information regarding the status of the state meat inspection program pursuant to 2007 Senate Bill No. 2009. He said the 2007 Legislative Assembly approved four additional FTE positions. He said to date all but one of the positions have been filled and it is anticipated the vacant position, which will be filled based on demand for services, will be filled by the end of the biennium. He said the 2007 Legislative Assembly provided a deficiency appropriation of $58,130 for the 2005-07 biennium, of which the department spent $45,528. He said total state meat and poultry inspection program expenditures through August 2008 were $813,720, of which $414, 247 was from the general fund. He said reimbursements for grading services through June 2008 total $5,488. He said total revenue for the country of origin labeling program to date is $3,139 compared to total expenditures of $3,948. A copy of the report is on file in the Legislative Council office.

Endangered Species Program

Commissioner Johnson presented information regarding the status of the endangered species program pursuant to 2007 Senate Bill No. 2009. He said the 2007 Legislative Assembly provided one and one-half FTE positions and $250,000 for the Department of Agriculture to expand its endangered species program. He said the endangered species program provides the United States Environmental Protection Agency with data and recommendations to assist the agency in evaluating pesticides for potential effects that threaten and endanger species, as well as assistance with developing pesticide use restrictions. He said the major component of the Environmental Protection Agency's Endangered Species Protection Program is the use of Endangered Species Protection Bulletins, which add use restrictions above and beyond those on the pesticide label. The bulletins, issued on a county-by-county basis, are enforceable documents under both state and federal law. He said the program was established to help define more specific areas in which pesticides are restricted, resulting in smaller restricted areas rather than larger default restricted areas. He said the authorized positions have been filled and in June 2008 the department submitted to the Environmental Protection Agency, for its approval, a formal plan. He said the department has received Environmental Protection Agency comments on the plan and anticipates making the necessary changes and resubmitting the plan for final approval this fall. He said the program is also responsible for performing risk assessments for Section 18 emergency exemptions and Section 24(c) special local needs registrations under the Federal Insecticide, Fungicide, and Rodenticide Act, and providing education and outreach. A copy of the report is on file in the Legislative Council office.

In response to a question from Representative Nelson, Mr. Jim Gray, Pesticide Registration Coordinator, Department of Agriculture, said North Dakota is the second state to prepare a state plan.

COMMITTEE DISCUSSION AND STAFF DIRECTIVES

Chairman Holmberg announced the next meeting of the Budget Section will be Wednesday, December 3, 2008.

It was moved by Senator Robinson, seconded by Senator Seymour, and carried on a voice vote that the chairman and the staff of the Legislative Council be requested to prepare a report and the resolution draft recommended by the Budget Section and to present the report and recommended resolution draft to the Legislative Council.

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

The meeting adjourned subject to the call of the chair at 2:25 p.m.

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Sheila M. Sandness
Fiscal Analyst

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Allen H. Knudson
Legislative Budget Analyst and Auditor

ATTACH:8