

NORTH DAKOTA LEGISLATIVE COUNCIL

Minutes of the

BUDGET SECTION

Thursday, December 9, 1999
Senate Chamber, State Capitol
Bismarck, North Dakota

Representative Jack Dalrymple, Chairman, called the meeting to order at 9:05 a.m.

Members present: Representatives Jack Dalrymple, Ole Aarsvold, LeRoy G. Bernstein, James Boehm, Ron Carlisle, Jeff Delzer, Pam Gullerson, Serenus Hoffner, Robert Huether, James Kerzman, Ed Lloyd, Jim Poolman, Mike Timm, Francis J. Wald; Senators John Andrist, Bill L. Bowman, Joel C. Heitkamp, Ray Holmberg, Aaron Krauter, Ed Kringstad, Elroy N. Lindaas, Pete Naaden, Gary J. Nelson, David E. Nething, Larry J. Robinson, Rod St. Aubyn, Steve Tomac

Members absent: Representatives Merle Boucher, Rex R. Byerly, Al Carlson, John Dorso, David Monson, Ronald Nichols, Ken Svedjan, Ben Tollefson, Janet Wentz; Senators Tony Grindberg, Ken Solberg, Harvey D. Tallackson

Others present: See Appendix A

Mr. Chester E. Nelson, Jr., Legislative Budget Analyst and Auditor, Legislative Council, announced his retirement plans. He said he plans to retire March 31, 2000, after more than 34 years as the North Dakota Legislative Budget Analyst and Auditor. He said since his employment with the Legislative Council on September 14, 1965, he has been involved in 17 legislative sessions. He said it is rewarding to have been of assistance to 17 Legislative Assemblies as they have undertaken the difficult task of developing the biennial budget and to Legislative Council committees and individual members of the Legislative Assembly as they have fulfilled their responsibilities serving the people of North Dakota.

Senators Nelson, Krauter, and Nething and Representative Dalrymple commended Mr. Nelson for his exemplary performance as the Legislative Budget Analyst and Auditor, thanked him for his years of service to the Legislative Assembly, and wished him well with his retirement plans.

It was moved by Senator Robinson, seconded by Senator St. Aubyn, and carried on a voice vote that the minutes of the October 27, 1999, meeting of the Budget Section be approved as distributed.

STATUS OF THE STATE GENERAL FUND

Chairman Dalrymple called on Mr. Rod A. Backman, Director, Office of Management and Budget, who presented information on the status of

the state general fund. A copy of the information is on file in the Legislative Council office. Mr. Backman said 1999-2001 biennium general fund revenues, based on preliminary information through November 30, 1999, are one percent or \$2.9 million more than estimated in the 1999 legislative revenue forecast. Mr. Backman presented the following information on the status of the state general fund based on preliminary revenue collections through the month of November 1999:

Unobligated general fund balance - July 1, 1999	\$61,114,425
Add	
Estimated general fund collections through November 30, 1999	288,891,524
Forecasted general fund revenue for the remainder of the 1999-2001 biennium (based on the 1999 legislative forecast)	1,267,600,074
Total estimated general fund revenue for the 1999-2001 biennium	\$1,617,606,023
Less	
1999-2001 biennium adjusted general fund appropriations (legislative appropriations of \$1,594,038,538 less 1999-2001 emergency appropriations of \$4,452,065 spent during the 1997-99 biennium and a contingent 1999-2001 appropriation of \$4,262,410, which is not anticipated to be spent)	1,585,324,063
Estimated general fund balance - June 30, 2001 (\$20,963,104 more than the 1999 legislative estimate of \$11,318,856)	\$32,281,960

Senator Krauter asked if when developing the sales tax revenue projection for the 1999-2001 biennium, the Office of Management and Budget considered the impact of Internet commerce. Mr. Backman said although Internet sales have a negative impact on state sales tax collections, it is impossible to quantify the amount of lost revenue. He said Internet commerce has been growing, but the economy has also been growing, which has resulted in increased sales tax collections despite the impact of Internet commerce. He said at some point, if the growth in Internet commerce continues at its present rate and economic growth slows, Internet commerce will have a noticeable impact on state revenue.

In response to a question from Senator Tomac, Mr. Backman said the revenue forecast for the

1999-2001 biennium anticipated slower economic growth than had occurred during the 1997-99 biennium. He said some of the slowdown in economic growth can be attributed to the current agricultural economy.

PRELIMINARY PLANNING REVOLVING FUND

Chairman Dalrymple called on Mr. Backman, who presented recommendations for the use of moneys in the preliminary planning revolving fund, pursuant to North Dakota Century Code (NDCC) Section 54-27-22. A copy of the information is on file in the Legislative Council office. Mr. Backman said agency requests for moneys from the preliminary planning revolving fund were evaluated based on the following criteria:

- External mandates, such as a court order or health, life safety, and building code concerns.
- Program needs, such as the impact of the facility on achieving departmental goals or program requirements.
- State policy direction, including gubernatorial and legislative priorities.
- Funding for the project, including the amount available from non-general fund sources.
- Scope of the project, including the estimated cost and the need to complete the project in multiple phases.

Mr. Backman said seven state agency requests for preliminary planning money have been submitted to the Office of Management and Budget, and the following five projects are recommended to receive funding, pursuant to NDCC Section 54-27-22:

Agency	Project Description	Recommended Funding From the Preliminary Planning Fund
Minot State University	Main Hall/McFarland Auditorium renovation	\$65,000
Department of Corrections and Rehabilitation	Multipurpose/food service building at the Missouri River Correctional Center	19,500
Dickinson State University	Murphy Hall renovation	45,000
North Dakota State University	Minard Hall renovation	62,000
Department of Corrections and Rehabilitation	Penitentiary parking lot	6,000
Total		\$197,500

Representative Delzer asked if the projects recommended by the Office of Management and Budget will be presented to the 2001 Legislative Assembly. Mr. Backman said the proposed projects will probably be presented either to the 2001 or 2003 Legislative Assembly. He said the recommended projects were

priorities that were not funded in the past and are likely to be priorities in the future. He said the projects which will be included in the executive budget and presented to the Legislative Assembly will depend upon the Governor's priorities and revenue projections for the 2001-03 biennium.

In response to a question from Representative Delzer, Mr. Backman said the preliminary planning revolving fund received funding through a \$200,000 general fund appropriation by the 1997 Legislative Assembly.

Senator Tomac said the Dickinson State University Murphy Hall renovation project was the number eight priority for the University System during the 1999 legislative session. He said there were higher priority projects that were not funded for the 1999-2001 biennium and asked why those projects were not submitted to the Office of Management and Budget as requests to receive preliminary planning moneys. Chairman Dalrymple called on Ms. Laura Glatt, Vice Chancellor for Administrative Affairs, North Dakota University System, to respond to the question. Ms. Glatt said the projects for which preliminary planning moneys were requested were determined by the individual institutions of higher education. She said the requests were approved by the University System office but have not been submitted to the State Board of Higher Education.

In response to a question from Representative Dalrymple, Ms. Glatt said the expenditure of planning moneys for the proposed projects should make it easier for the State Board of Higher Education and the Legislative Assembly to make informed decisions regarding the projects because better plans will have been developed before the projects are presented for consideration. She said the projects submitted by the University System were on the board's priority list for the 1999 legislative session but did not receive funding. She said it is likely the proposed projects will be on the board's priority list for the 2001 legislative session, but other projects could be on the priority list as well.

In response to a question from Representative Aarsvold, Mr. Backman said NDCC Section 54-27-22 provides that funds advanced from the preliminary planning revolving fund must be repaid as moneys become available through legislative appropriation or other sources for the commencement of the project for which funds were advanced.

In response to a question from Representative Kerzman, Mr. Backman said the preliminary planning moneys will be used by the requesting agencies for architectural and engineering fees related to the development of schematic designs.

Senator Bowman said the moneys spent to develop detailed plans for the projects will not be wasted even if the projects are not presented to the Legislative Assembly until the 2003 legislative

session. He said the plans can be updated easily through inflationary adjustments to cost estimates.

Representative Carlisle said the proposed projects for the Department of Corrections and Rehabilitation were submitted to the 1999 Legislative Assembly but were not funded. He said plans should have been developed for those projects at that time.

Mr. Joel Leapaldt, State Facility Planner, Office of Management and Budget, said the plans to be developed by the requesting agencies through the use of moneys from the preliminary planning revolving fund will be more detailed and accurate than previous plans.

Senator Nething said it was the intent of the 1997 Legislative Assembly to provide an appropriation for the preliminary planning revolving fund so that more accurate estimates can be developed for proposed construction projects.

It was moved by Senator Nething, seconded by Senator Kringstad, and carried on a roll call vote that pursuant to NDCC Section 54-27-22, the Budget Section approve the distribution of \$197,500 from the preliminary planning revolving fund, as recommended by the Office of Management and Budget. Representatives Aarsvold, Bernstein, Carlisle, Gulleeson, Huether, Kerzman, Poolman, and Timm and Senators Andrist, Bowman, Heitkamp, Holmberg, Krauter, Kringstad, Lindaas, Naaden, Nelson, Nething, Robinson, St. Aubyn, and Tomac voted "aye." Representatives Dalrymple, Boehm, Delzer, Hoffner, and Lloyd voted "nay."

2001-03 BIENNIUM BUDGET FORM CHANGES

Chairman Dalrymple called on Mr. Backman, who pursuant to NDCC Section 54-44.1-07, reported on the form of budget data to be presented to the 2001 Legislative Assembly. He said the Office of Management and Budget has no proposed changes to the budget forms for the 2001-03 biennium.

Senator Krauter said the Budget Committee on Government Services, of which he is chairman, is studying state agency office space needs to determine the feasibility and desirability of transferring state agencies or state employees to rural areas, pursuant to 1999 Senate Concurrent Resolution No. 4006. He said state agencies should consider locating any new positions, new programs, or new capital construction away from the agency's central office. He said businesses have challenged themselves to make use of new technologies and to operate more efficiently, and state agencies need to do the same.

It was moved by Senator Krauter and seconded by Senator Heitkamp that pursuant to NDCC Section 54-44.1-07, the budget data prepared by the Office of Management and Budget include an analysis to be completed by each agency of the feasibility and desirability, including the costs and

benefits, of locating any new positions, new programs, or new capital construction away from a central office setting.

Senator Nething said information on the costs and benefits of locating new positions, programs, and construction away from an agency's central office will be useful for Appropriations Committees. He noted that the motion deals only with new positions, programs, or projects, not with relocating existing positions or programs.

In response to a question from Representative Delzer, Senator Krauter said if the motion passes, the Budget Committee on Government Services will work with the Office of Management and Budget to develop criteria to be included in the analysis. He said it is the appropriate time for the development of the proposed budget form if it is to be included in the 2001-03 biennium budget process.

The motion carried on a voice vote.

Chairman Dalrymple called on Ms. Carol K. Olson, Executive Director, Department of Human Services, who presented information on proposed changes to the form in which the department's budget will be presented to the 2001 Legislative Assembly. A copy of the information is on file in the Legislative Council office. Ms. Olson said the Department of Human Services has developed three options for the department's budget. Examples of the three options were included in the information distributed to the committee and are attached as Appendix B. She said the Budget Committee on Human Services will be reviewing the options as the department works with that committee to develop a budget organized by the type of service provided rather than by location. She said the department is also requesting input from the Budget Section.

Ms. Olson introduced Ms. Brenda Weisz, Director of Fiscal Administration, Department of Human Services, who discussed the three options and how they differ from the department's 1999-2001 biennium appropriations bill.

Chairman Dalrymple referred to Section 20 of 1999 Senate Bill No. 2015, which provides that budget documents for the 2001-03 biennium are to be based on the standard line items and are not to contain agency performance measures. He said any changes to the form of the department's budget for the 2001-03 biennium must comply with this section and must be based on the standard line items.

Representative Kerzman said if the form of the department's budget is changed for the 2001 legislative session, historical information should be prepared in the same form to facilitate comparisons. Ms. Weisz said the statewide integrated budget and reporting (SIBR) system will allow the department to present historical information in the same form as the 2001-03 biennium budget request.

Senator Krauter said the Senate Appropriations Committee had difficulty analyzing the department's

budget during the 1999 legislative session due to the fact that the department's objectives were not organized in the same form as the department's budget. He said he supports developing the department's 2001-03 biennium budget in a form similar to "Option 1," which includes line item detail for each of the department's objectives.

In response to a question from Senator St. Aubyn, Ms. Weisz said any transfers between objectives in any of the three budget options presented by the department will still require the approval of the Emergency Commission and in some cases the Budget Section.

Chairman Dalrymple suggested that the department contact Representative Svedjan, who chaired the Human Resources Division of the House Appropriations Committee during the 1999 legislative session, to receive his input on the department's proposals.

Senator Nething asked if the department has received input from the State Hospital, Developmental Center, and human service centers regarding the proposed change in the form of the department's budget. Ms. Weisz said meetings have been held with the various divisions of the department and most comments have been positive. She said one concern raised has been the need to provide information on expenditures by region, which resulted in the development of a schedule to show expenditures by region and objective. A copy of the proposed schedule is attached as Appendix C.

Senator St. Aubyn asked if the proposals presented by the Department of Human Services would shift authority to the central office from the State Hospital, Developmental Center, and human service centers. She said the options presented would only change the form of the appropriations bill for the department; the administration of the department's appropriation would not be changed.

INFORMATION TECHNOLOGY DEPARTMENT

Chairman Dalrymple called on Mr. Curtis L. Wolfe, Chief Information Officer, Information Technology Department, who discussed the initiatives of the Information Technology Department. Mr. Wolfe said 1999 Senate Bill No. 2043 directed the Information Technology Department to develop and maintain a business plan. He said the business plan was recently completed and includes four major goals for the department:

1. To provide statewide leadership and direction for technology use.
2. To align technology with customers' business needs.
3. To provide value to the department's customers.

4. To address human resource issues, including the retention and recruitment of key technical staff.

Mr. Wolfe said in addition to the goals included in the business plan, goals for the department include the following:

1. To maintain a statewide perspective on information technology use so that individual agency decisions can be evaluated with a broad perspective.
2. To promote partnerships with higher education, the private sector, and state agencies.
3. To establish trust relationships with the Legislative Assembly and the department's customers.

Mr. Wolfe said pursuant to 1999 Senate Bill No. 2043, the department has initiated a request for proposals process for wide area network services to establish a statewide information technology backbone to serve elementary and secondary education, state government, higher education, and political subdivisions. He said he is uncertain what the cost will be of establishing the statewide information technology backbone, but state appropriations may be required to provide connectivity to all users.

STATUS OF WATER PROJECTS

Vice Chairman Naaden called on Mr. David Sprynczynatyk, State Engineer, State Water Commission, who presented information on the status of the state water management plan and various water projects, pursuant to Section 9 of 1999 Senate Bill No. 2188. A copy of the information is on file in the Legislative Council office. Mr. Sprynczynatyk said the United States Army Corps of Engineers has decided to pursue the construction of a westend outlet from Devils Lake to the Sheyenne River under emergency authority. He said the United States Army Corps of Engineers original plan was to begin construction of the outlet by October 2000, but because emergency funding is currently not available, the project may be delayed. He said the State Water Commission is continuing to explore nonfederal options for a Devils Lake outlet including a channel to Stump Lake and a temporary emergency outlet to the Sheyenne River near Twin Lakes. He said the State Water Commission anticipates a February bond sale that will provide \$25 million for Grand Forks, \$4.5 million for the Southwest Pipeline Project, and possibly \$500,000 for Wahpeton. He said the total bond issue may be up to \$36 million to cover the costs of the various projects, as well as bond issuance and capitalized interest costs.

REGIONAL TECHNOLOGY CENTER AT VALLEY CITY STATE UNIVERSITY

Vice Chairman Naaden called on Dr. Ellen Chaffee, President, Valley City State University, who presented information on the construction of a

regional technology center by the Valley City-Barnes County Development Corporation on property owned by Valley City State University. A copy of the information is on file in the Legislative Council office. She said the proposed regional technology center will consist of a 20,000-square-foot building to be used for business incubation and related support activities. She said Valley City State University has received permission from the State Board of Higher Education to enter into a lease agreement with the Development Corporation for the use of Valley City State University land. She said the lease will be for either 1.5 or 3.5 acres, for a term of 75 years, at a cost of \$1 per year. She said the Development Corporation will build and own the building and will be responsible for all related debt. She said Valley City State University will be a tenant in the building. The true market value of the Valley City State University's land will be used to calculate a fair price for the land lease, and the lease value of the land will be deducted from Valley City State University's lease cost each year.

STATE GRANT PREAPPROVAL PROCESS STUDY

At the request of Vice Chairman Naaden, Legislative Council staff presented a bill draft relating to the review of state agency applications for grants from the federal government and private entities. The bill draft includes the following provisions:

- State agencies, except institutions of higher education, will be required to receive approval before submitting an application to the federal government or private entity for a grant that has not been approved or appropriated by the Legislative Assembly.
- To receive approval to submit an application for such a grant, a state agency will be required to forward a copy of the application, along with a report summarizing the grant, to the Emergency Commission, which will have 30 days to consider the application.
- If the Emergency Commission denies the grant application, the state agency will be allowed to submit the request to the Budget Section for consideration at its next meeting.

Vice Chairman Naaden called on Mr. Sprynczynatyk, who presented information on federal grants received by the State Water Commission, the feasibility of implementing a grant preapproval process, and measures currently taken by the commission to determine that proposed grants do not violate state law or policy. A copy of the information is on file in the Legislative Council office. Mr. Sprynczynatyk said all grants received by the State Water Commission require an agreement between the commission and the federal government, which is reviewed and approved by the Attorney General's office and the commission's administration and accounting section to ensure that the proposed grant is within the

agency's appropriation authority. He said the commission's grants procedures are audited each biennium by the State Auditor's office and periodically by federal agencies. Mr. Sprynczynatyk said rather than implementing a grant preapproval process, he would prefer to see guidelines established for state agencies to use in applying for grants.

Vice Chairman Naaden called on Dr. Wayne G. Sanstead, Superintendent, Department of Public Instruction, who presented information on federal grants received by the Department of Public Instruction, the feasibility of implementing a grant preapproval process, and measures currently taken by the department to determine that proposed grants do not violate state law or policy. A copy of the information is on file in the Legislative Council office. Dr. Sanstead said the department has the following concerns regarding the implementation of a grant preapproval process:

1. Grant proposals are typically lengthy and complex. He said the department typically has 45 to 60 days to submit a grant application. He said any reduction in that amount of time to allow for review and approval of the application could place the grant application at risk.
2. Authorization to increase or transfer the department's appropriation authority must be obtained from the Emergency Commission and in certain circumstances from the Budget Section. Any additional approval requirement would be redundant.
3. The cost of implementing the grant preapproval process may exceed the potential benefit.

Dr. Sanstead said before an application for federal assistance is submitted, the department determines if there is sufficient legal authority to perform the contemplated grant activity and develops internal policies to ensure effective management and compliance with public policy requirements.

Vice Chairman Naaden called on Mr. Marshall W. Moore, Director, Department of Transportation, who presented information on the types of federal grants received by the Department of Transportation, the feasibility of implementing a grant preapproval process, and measures currently taken by the department to ensure that proposed grants do not violate state law or policy. A copy of the information is on file in the Legislative Council office. Mr. Moore said there is no need for the implementation of a grant preapproval process. He said most of the grants received by the Department of Transportation are included in the agency's biennial budget and are therefore authorized by the Legislative Assembly. He said that when applying for grants not included in the agency's budget, the department consults with an assistant attorney general.

Vice Chairman Naaden called on Mr. Bill Broer, Director, Bureau of Criminal Investigation, Attorney General's office, who presented information on the types of federal grants received by the Attorney General's office and concerns regarding the implementation of the grant preapproval process. A copy of the information is on file in the Legislative Council office. Mr. Broer said one of the concerns the agency has regarding the implementation of a grant preapproval process is that at times the agency has a very short time period in which to prepare and submit a grant application.

The committee recessed for lunch from 12:10 to 1:15 p.m.

BONUS PAYMENTS TO STATE EMPLOYEES

At the request of Vice Chairman Naaden, Legislative Council staff presented a memorandum entitled *Irregular Salary Payments to State Employees - Related Statutes and Budget Section Action*. The memorandum indicated that NDCC Section 54-06-24 establishes a state employee suggestion incentive program that allows one-time bonus payments to state employees for approved cost-saving ideas. Section 54-14-04.3 provides that severance pay or financial incentives to encourage retirement or resignation may be paid to state employees in certain circumstances. Section 54-14-03.1 provides that fiscal irregularities, including the use of state funds to provide bonuses, cash incentives awards, and temporary salary adjustments discovered by the Office of Management and Budget must be reported to the Budget Section.

Vice Chairman Naaden called on Mr. Dan LeRoy, Director, Central Personnel Division, who presented information on the establishment of guidelines to be used by state agencies when providing bonuses to state employees. A copy of the information is on file in the Legislative Council office. Mr. LeRoy said guidelines need to be established for state agencies to allow the limited use of state funds to provide bonuses to state employees. Mr. LeRoy said a plan to implement a state employee bonus program should include the following:

- Provisions to ensure uniform applicability.
- Provisions for the systematic distribution of nonbase building adjustments.
- Flexibility of administration based upon agency needs.
- The establishment of guidelines for use.
- Prohibition against impulse adjustments used in order to spend agency general fund turnback.

Senator St. Aubyn said in most cases state employees should be rewarded for performance through regular base pay adjustments. He said increases based on market conditions should also be adjustments to base pay. He said the Legislative

Assembly has given state agencies flexibility to address merit and equity issues through base pay increases. Senator St. Aubyn said he supports the idea of developing guidelines for the implementation of a bonus program for special circumstances such as the successful completion of nonrecurring tasks.

Mr. LeRoy said there are special cases where it is appropriate to provide a bonus to a state employee. He said in some cases in order to compete with the private sector, it may be necessary to pay a signon bonus in addition to a market adjustment to the base pay range. He said the Central Personnel Division will continue to address the issue through the development of a more complete proposal for presentation to the Budget Section. Vice Chairman Naaden requested that at the next meeting of the Budget Section, the Central Personnel Division present a complete proposal on the implementation of a bonus program for state employees.

Senator Nething suggested the Legislative Council staff be requested to prepare a memorandum identifying items to be included in a bill draft to establish guidelines for a state employee bonus program. Vice Chairman Naaden requested that the Legislative Council staff prepare the memorandum for presentation at the committee's next meeting.

AGENCY REQUEST AUTHORIZED BY THE EMERGENCY COMMISSION

Vice Chairman Naaden directed the committee to consider a request from State Radio Communications which was authorized by the Emergency Commission and forwarded to the Budget Section pursuant to NDCC Section 54-16-04.2. Information relating to the request was distributed to Budget Section members prior to the meeting and is on file in the Legislative Council office.

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

- **State Radio Communications (Request #1250) - To increase other funds spending authority by \$54,385 of federal funds from the Attorney General's office for operating expenses (\$17,885) and equipment (\$36,500) for a computerized identification system that will be integrated with the Federal Bureau of Investigation's national data base.**

Representatives Aarsvold, Bernstein, Boehm, Delzer, Guleson, Hoffner, Huether, Kerzman, Lloyd, Poolman, Timm, and Wald and Senators Andrist, Heitkamp, Krauter, Kringstad, Lindaas, Naaden, Nething, Robinson, St. Aubyn, and Tomac voted "aye." No negative votes were cast.

BUDGET TOUR REPORT

Vice Chairman Naaden called on Senator Nething to present a report on budget tours conducted by the Budget Committee on Institutional Services during its November 2-3, 1999, meeting. The committee conducted budget tours of the State Hospital, James River Correctional Center, and South Central Human Service Center in Jamestown.

It was moved by Senator Nething, seconded by Representative Timm, and carried on a voice vote that the Budget Section accept the report on budget tours conducted by the Budget Committee on Institutional Services during its November 2-3, 1999, meeting.

The meeting was adjourned subject to the call of the chair at 1:50 p.m.

Joe R. Morrissette
Senior Fiscal Analyst

Chester E. Nelson, Jr.
Legislative Budget Analyst and Auditor

ATTACH:3