

NORTH DAKOTA LEGISLATIVE COUNCIL

Minutes of the

BUDGET SECTION

Tuesday, October 9, 2001
Senate Chamber, State Capitol
Bismarck, North Dakota

Representative Ken Svedjan, Chairman, called the meeting to order at 9:10 a.m.

Members present: Representatives Ken Svedjan, Ole Aarsvold, Wesley R. Belter, LeRoy G. Bernstein, James Boehm, Merle Boucher, Ron Carlisle, Jeff Delzer, Eliot Glassheim, Robert Huether, Keith Kempenich, James Kerzman, Amy Warnke, Bob Martinson, David Monson, Bob Skarphol, Blair Thoreson, Mike Timm, Francis J. Wald, John M. Warner; Senators John M. Andrist, Bill Bowman, Randel Christmann, Tony Grindberg, Joel C. Heitkamp, Ray Holmberg, Aaron Krauter, Ed Kringstad, Elroy N. Lindaas, Dave Nething, Larry J. Robinson, Randy A. Schobinger, Ken Solberg, Bob Stenehjem, Harvey Tallackson, Steven W. Tomac

Members absent: Representatives Rex R. Byerly, Pam Guleson, Kim Koppelman, Janet Wentz; Senator Russell T. Thane

Others present: See Appendix A

It was moved by Representative Wald, seconded by Senator Tallackson, and carried on a voice vote that the minutes of the June 14, 2001, meeting of the Budget Section be approved as distributed.

STATUS OF THE STATE GENERAL FUND

At the request of Chairman Svedjan, Mr. Rod A. Backman, Director, Office of Management and Budget, presented a report on the status of the state general fund. A copy of the information presented is on file in the Legislative Council office. Mr. Backman said as a result of the September 11, 2001, terrorist attacks on America, economic indicators are showing that, nationally, sales are declining and the unemployment rate is anticipated to grow from 4.9 percent to 6 percent. He said *economy.com* is expecting the recession conditions to turn around in 2002. He said North Dakota is economically somewhat insulated from the national economy. He said, however, the business services industry will be affected by the national slowdown.

Mr. Backman said 2001-03 biennium general fund preliminary revenues through September 30, 2001, are 1.3 percent, or \$2.2 million less than estimated in the 2001 legislative revenue forecast and 1.2 percent or \$2.1 million less than the revenues for the first three months of the 1999-2001 biennium. He said the

Office of Management and Budget has reserved the first few months of corporate income tax collections in a refund account for the 2001-03 biennium. He said this is a new procedure started to recognize the collections that will end up being paid as refunds. The Office of Management and Budget decided to set aside the funds right away rather than later in the biennium. He said if the same procedure used in the past biennium was used this biennium, tax collections would actually be \$10.4 million ahead of the amounts reported. He presented the following information on the status of the state general fund, based on revenue collections through the month of September 2001:

Unobligated general fund balance - July 1, 2001	\$62,240,652
Add	
General fund collections through September 30, 2001	168,492,846
Forecasted general fund revenue for the remainder of the 2001-03 biennium (based on the 2001 legislative forecast)	1,535,597,198
Total estimated general fund revenue for the 2001-03 biennium	\$1,766,330,696
Less	
2001-03 biennium general fund appropriations	1,746,983,713
Estimated general fund balance - June 30, 2003 (\$7,352,289 more than the 2001 legislative estimate of \$11,994,694)	\$19,346,983

In response to a question from Representative Wald, Mr. Backman said the national economic stimulus package may not result in immediate improvements to the economy. He said even though North Dakota's estimated gross domestic product is projected to be below previous forecasts until the third quarter of 2002, there is an economic benefit of the stimulus package and conditions could be worse without the stimulus package.

In response to a question from Senator Heitkamp, Mr. Backman said the most recent figures show 400 manufacturing jobs have been lost in North Dakota as a result of the economic slowdown.

In response to a question from Senator Grindberg, Mr. Backman said the insurance premium tax

collections tend to be very volatile and hard to track in the early part of the biennium, making it difficult to estimate if there is a trend of increased collections.

In response to a question from Representative Delzer, Ms. Pam Sharp, Deputy Director, Office of Management and Budget, said departmental collections through September 2001 are \$10.8 million or \$6.9 million ahead of 1999-2001 biennium collections due to \$6 million of intergovernmental trust fund transfer money that was collected in July 2001.

In response to a question from Senator Tallackson, Mr. Backman said there are two options to address any revenue shortfall. The first option would be for the Governor to call a special session. The second option would be the allotments process, when every agency is required to reduce general fund spending by the same percentage.

In response to a question from Senator Krauter, Mr. Backman said when the 2001 legislative session ended, the June 30, 2003, projected ending balance was approximately \$12 million. He said higher than anticipated agency turnback and increased 1999-2001 revenue collections after the 2001 session ended added approximately \$9 million to that projected balance. He said since June 30, 2001, revenue collections are \$2.2 million behind forecast, which results in the new projected June 30, 2003, balance of \$19.3 million.

Mr. Backman said new estimates are projecting the tax loss from Internet sales is more than previously estimated. He said North Dakota may be losing as much as \$26 million a year to Internet, catalog, and telephone sales. He said Congress may reach an agreement in the next 8 to 12 months regarding a simplified method of collecting sales tax on Internet, catalog, and telephone sales.

In response to a question from Representative Boucher, Mr. Backman said the projected June 30, 2003, balance in the health care trust fund is \$35.6 million.

In response to a question from Representative Aarsvold, Mr. Backman said the federal stimulus package is a major factor in projecting North Dakota's gross domestic product; however, all economic factors are included in making this estimate.

Representative Carlisle distributed a handout on regional demographics in Nebraska, North Dakota, South Dakota, and Wyoming. A copy of the information distributed is on file in the Legislative Council office.

TOBACCO SETTLEMENT PROCEEDS

Mr. Backman presented information on the status of tobacco settlement proceeds received by North Dakota. A copy of the information presented is on file in the Legislative Council office. He said \$52.9 million has been received by the state as a result of the tobacco settlement and deposited in the tobacco settlement trust fund. He said the \$52.9 million was

allocated among the community health trust fund, common schools trust fund, and water development trust fund, pursuant to North Dakota Century Code (NDCC) Section 54-27-25, as follows:

Tobacco Settlement Trust Fund	
Community health trust fund (10%)	\$5,290,079
Common schools trust fund (45%)	23,805,353
Water development trust fund (45%)	23,805,353
Total transfers from the tobacco settlement trust fund	\$52,900,785

Community health trust fund	
Deposits	\$5,290,079
Expenditures	235,006
September 30, 2001, balance	\$5,055,073
Water development trust fund	
Deposits	\$23,805,353
Expenditures	1,746,671
September 30, 2001, balance	\$22,058,682

In response to a question from Representative Timm, Mr. Backman said the tobacco settlement moneys are deposited in a national escrow account before it is distributed to the states. He said the interest earned on that escrow account is later distributed to the states as partial payments. He said the partial payments also result from timing differences, because the final sales figures are not determined by the cigarette companies until after the settlement payment due dates.

FARGO FAMILY HEALTHCARE CENTER

Chairman Svedjan called on Dr. H. David Wilson, Dean, University of North Dakota School of Medicine and Health Sciences, who presented background information on the Fargo Family HealthCare Center request of debt forgiveness owed the University of North Dakota School of Medicine and Health Sciences. Section 21 of 2001 House Bill No. 1015 provides for the Fargo Family HealthCare Center to present a plan addressing the sustainability of programs and services at the center to the Budget Section for approval. The section also provides that, upon approval of the plan by the Budget Section, adoption by the city of Fargo of a plan to provide support to the center, and forgiveness by the city of Fargo of at least \$100,000 in center debt relating to rental expenses, the Budget Section may approve the debt forgiveness. A copy of the information presented is on file in the Legislative Council office. Dr. Wilson said he wishes the Fargo Family HealthCare Center no "ill will." He said he believes the fundamental question to be answered is should state taxpayer dollars appropriated to educate medical students and family doctors be used to support a federally funded community health center for a needy population in one city of our state. He said in November 1993, when the residency program and the Fargo Family HealthCare Center were merged, the University of North Dakota School of Medicine and Health

Sciences turned over a patient population, records, and accounts receivable of \$200,000, which should have netted the center approximately \$140,000. He said by agreement the Fargo Family HealthCare Center was to pay \$90,000 a year to the University of North Dakota School of Medicine and Health Sciences for faculty positions. He said 15 residents were located at the Fargo Family HealthCare Center, at an approximate value of \$600,000 per year, or \$40,000 per resident. He said after five years of increasing debt owed by the center to the University of North Dakota School of Medicine and Health Sciences, he determined it would be irresponsible to continue the partnership. He said in November 1999 the Fargo Family Community Health Center requested to take over the computerized bill handling system. He said the center had no plan for handling the accounts receivable and as a result during a four-month period bills were not issued, creating a cash flow problem.

Dr. Wilson said if the debt is not forgiven, the money received from the Fargo Family HealthCare Center would be used for the rural opportunities for medical education (ROME) project. He said the University of North Dakota School of Medicine and Health Sciences currently has federal funding for this program but within a few years will lose that funding.

Dr. Wilson said the debt repayment agreement was for approximately \$40,000 a year over a 10-year period and was interest-free. He said the medical school will abide by any decision made by the Budget Section.

In response to a question from Representative Svedjan, Dr. Wilson said the debt owed to the University of North Dakota School of Medicine and Health Sciences accumulated during the time of the residency program partnership with the center and would have continued to accumulate if the partnership had continued.

In response to a question from Senator Christmann, Dr. Wilson said the number of United States medical students seeking positions in family medicine is decreasing. He said he determined there is not enough demand for four family residency programs in the state of North Dakota.

In response to a question from Representative Skarphol, Dr. Wilson said the family residency programs in Bismarck, Minot, and Grand Forks are doing a better job of locating doctors in rural hospitals.

In response to a question from Senator Bowman, Dr. Wilson said the Fargo Family HealthCare Center is a federally subsidized program.

In response to a question from Representative Wald, Dr. Wilson said the Fargo Family HealthCare Center does provide significant services to the immigrant population of Fargo. He said if the Fargo Family HealthCare Center does not continue, those services will have to be provided by the city health department and Fargo physicians.

In response to a question from Senator Grindberg, Dr. William Mann, Chairman, Department of Family Medicine, University of North Dakota School of Medicine and Health Sciences, said there is competition with family physicians for patients in the Fargo area, which does not work well for a residency program. He said the patient shortage led to the partnership with the Fargo Family HealthCare Center. He said the Fargo Family HealthCare Center was able to supply additional patients for the residency program by providing services to the indigent population. He said the partnership with the center, however, was undercapitalized from the start. He said a goal of the residency program is to produce well-trained doctors who choose to serve smaller communities. He said there is not a shortage of doctors, but a lack of distribution of the doctors. He said because Fargo is well-represented with hospitals and doctors, the decision was made to make the best use of available funding and close the residency program in Fargo.

In response to a question from Representative Boucher, Dr. Mann said the University of North Dakota School of Medicine and Health Sciences has taken steps to revise the curriculum so that third-year medical students are exposed to rural medical situations. He said relationships need to be formed with high schools in small towns in order to reach potential medical students at an early age to assist them so that they may eventually return to serve the smaller communities.

Representative Svedjan said the accounts receivable at the Fargo Family HealthCare Center increased from \$506,000 in January 1999 to over \$1,000,000 in early 2000. He said in June 2000, \$200,000 of accounts receivable were written off, lowering the balance to \$843,000.

In response to a question from Representative Skarphol, Dr. Wilson said during the four months immediately after the Fargo Family HealthCare Center took over the collection of accounts receivable from the University of North Dakota, bills were not sent. Dr. Wilson said he feels the delay in sending out bills resulted in a significant revenue loss.

In response to a question from Representative Wald, Dr. Mann said the billing services used by the university were very basic and did not contain some of the demographic information the Fargo Family HealthCare Center needed.

In response to a question from Senator Christmann, Dr. Wilson said the Fargo Family HealthCare Center needs to become more efficient. He said they need to utilize physician assistants and nurse practitioners, as most community health centers in the country are doing.

In response to a question from Representative Huether, Dr. Wilson said Oakes is a model program for the use of "extenders," a system in which a small number of physicians are able to cover a large regional area.

In response to a question from Representative Delzer, Dr. Wilson said after much deliberation and efforts to negotiate with the Fargo Family HealthCare Center, he concluded prior to the preparation of the 2001-03 budget that the debt would have probably been written off.

Ms. Sherlyn Dahl, Executive Director, Fargo Family HealthCare Center, presented information on the center's plan for debt forgiveness. A copy of the information presented is on file in the Legislative Council office. Ms. Dahl said the Fargo Family HealthCare Center serves over 9,500 low-income, uninsured, and ethnically diverse patients. She said both the number of uninsured and the refugee population in Fargo are increasing. She said there are four full-time interpreters on staff. She said there is a pharmacy on site to assist patients with prescriptions. She said a sliding fee scale and discounts based on family size and income are offered to patients.

Ms. Dahl said the Fargo Family HealthCare Center is representative of other health care centers nationally as far as sources of revenue. She said by virtue of being a federally funded health care center, the center is eligible for enhanced Medicaid reimbursement for its patients. She said the center is paid on a cost-based reimbursement rather than on a discounted fee for service. She said this allows the center to provide supportive services such as interpreters, case management, and transportation.

Ms. Dahl said a consulting firm will be working with the center to identify fundraising strategies that will benefit the center over the long term. She said the goal is to be able to implement the fundraising strategies by February 2002.

Ms. Dahl said that although the Fargo Family HealthCare Center is the only federally funded center in the state, the center is not the only health care provider faced with the problem of decreasing reimbursements. She said the request for debt forgiveness is a response to the impact of the University of North Dakota School of Medicine and Health Sciences decision to end the family residency program in Fargo.

Ms. Dahl said the partnership with the University of North Dakota School of Medicine and Health Sciences provided the center with not only the benefit of using the residents but a savings by not having to purchase additional medical equipment. She said the center also agreed to use the school's computer system. She said there are reporting and statistical requirements for a family health care center that required the University of North Dakota system to be modified, which took several months to implement during 1994 and 1995. She said this created cash flow problems and debt accumulated. She said the contract payments to the University of North Dakota were not paid for a 15- to 16-month period during the computer startup period because of the center's cash flow problem. She said this resulted in the center's

debt. She said there was not a transfer of accounts receivable to the Fargo Family HealthCare Center at the startup date of March 14, 1994. She said all accounts receivable remained with the University of North Dakota.

Ms. Dahl said the Fargo Family HealthCare Center has been paying \$40,000 a year toward the total debt of \$600,000 since 1997. She said the balance of the debt is \$395,000.

Ms. Dahl said during 2000 when the Fargo Family HealthCare Center was converting to its own computer system, the monthly contract payments to the University of North Dakota were delayed. She said by the end of 2000, all the monthly payments and the \$40,000 payment on the original debt were paid.

Ms. Dahl said the center decided it needed to establish its own billing system after the University of North Dakota announced it was going to close the residency program in Fargo. She said in early 2000 the center began a system conversion and did experience some difficulties; however, access to the billing accounts was maintained at all times and no information was lost.

Ms. Dahl said the center has received significant community support in the last six months. She said the support has included both funding and program collaboration. She said Fargo has assisted in generating community support by debt forgiveness on rent of \$117,720 and by reducing future rent payments by 50 percent. She said the center has received additional support from local government, foundations, and state government. She said the center has been active in searching for volunteers and looking for partnerships that would provide ways to increase services or decrease cost.

In response to a question from Representative Timm, Ms. Dahl said a fund drive to pay off the debt owed to the University of North Dakota School of Medicine and Health Sciences is not planned.

In response to a question from Senator Solberg, Ms. Dahl said if federal funds were eliminated, it would impact the center; however, only about 20 percent of the budget is provided from federal funds. She said federal funding of community health centers is projected to increase over the next five years. She said it is unlikely the Fargo Family HealthCare Center would come to the 2003 Legislative Assembly for additional funding; however, it is possible the center may support other organizations such as the Primary Care Association in requesting funding for uncompensated care. She said the center is meeting cash flow needs but is unable to build reserves.

In response to a question from Senator Schobinger, Ms. Dahl said if the Budget Section forgave the debt owed to the University of North Dakota School of Medicine and Health Sciences, it would not set a precedent because this is a unique set of circumstances. She said the Fargo Family HealthCare

Center is the only family health care center in North Dakota and the termination of the relationship with the University of North Dakota School of Medicine and Health Sciences residency program is what led to the request.

In response to a question from Senator Christmann, Ms. Dahl said there was a four-month delay in sending out bills because the information needed to send out the bills had to be entered into the new computer system. She said all the bills were sent out after the computer conversion was completed.

In response to a question from Representative Wald, Ms. Dahl said the community recognizes the need for the services provided by the center and the center will continue because of community support. She said the Fargo Family HealthCare Center did not accept a plan to pay a portion of the remaining debt to the University of North Dakota because the proposed plan resulted in a more aggressive payment plan than the current \$40,000 per year over the 10-year plan. She said the center's best chance for long-term viability is to start debt-free.

Representative Warnke said the proposed agreement was for the Fargo Family HealthCare Center to pay the present value of the \$400,000 remaining debt, or \$120,000, over a three-year period. She said the payments would have remained at \$40,000 per year for three years.

In response to a question from Representative Svedjan, Ms. Dahl said cost-based reimbursement is only available to family health care centers. She said a cost report is prepared on an annual basis and filed with Medicaid. She said the center is reimbursed on a fee per visit based on the center's cost of providing care. She said to be eligible for a sliding fee scale the patient cannot be eligible for any other funding source. She said 12.5 percent of patients are private pay and 4.8 percent are Medicare-covered. She said the center does not market to insured patients and the majority of the center's insured patients have been with the center since 1994 when the center took over the residency program. She said other insured patients include friends, families, and supporters of the center.

Senator Bowman said the Fargo Family HealthCare Center is experiencing the same difficulties in generating revenues as rural health care providers throughout North Dakota. Ms. Dahl said a large number of people are in need of the services provided by the center. She said the center will be considering fundraising activities, but the debt forgiveness would allow the center to begin its new program, without the residency component, debt-free.

Ms. Dahl said the patients served often have not had health examinations for many years and have health problems that require more visits than the healthy population. Also, she said, children require more visits because of well child examinations. She said three faculty members from the University of

North Dakota School of Medicine and Health Sciences plan to stay with the Fargo Family HealthCare Center and the staff will be supplemented with nurse practitioners.

In response to a question from Senator Schobinger, Ms. Dahl said there has not been a contract with the University of North Dakota School of Medicine and Health Sciences for payments for services for the last three or four years.

In response to a question from Representative Delzer, Ms. Dahl said the rent reduction from the city of Fargo can be reviewed on an annual basis, but she believes the city of Fargo's commitment is long term.

In response to a question from Representative Bernstein, Ms. Dahl said about 35 to 40 percent of the center's patient population are refugees. She said it costs more to serve the refugees because of the interpretive, case management, and time requirements.

In response to a question from Representative Svedjan, Ms. Dahl said the Episcopal Diocese and Lutheran Social Services who are primarily responsible for the resettlement activities in the Fargo area are experiencing their own financial difficulties and have significantly reduced resettlement activities.

In response to a question from Representative Timm, Ms. Dahl said the Fargo Family HealthCare Center will repay the debt if the Budget Section does not approve the debt forgiveness. She said the center is asking for the committee's assistance to allow the center to provide services to the Fargo community.

In response to a question from Representative Warnke, Ms. Dahl said there was a contract during the first year of the partnership with the University of North Dakota School of Medicine and Health Sciences residency program. She said the contract was not fulfilled by either party. She said the center was unable to make the payments and the residency program did not provide the number of visits required. She said a consensus could not be reached to renegotiate the original contract. She said the debt forgiveness will assist the center in meeting its goal to have 30 days' cash reserves, but the center also has other strategies.

In response to a question from Representative Wald, Ms. Dahl said there have been many meetings with the University of North Dakota School of Medicine and Health Sciences to attempt to resolve this problem. She said if the committee wishes the center to meet with the University of North Dakota School of Medicine and Health Sciences again to negotiate a settlement, the center will honor the action of the committee. Chairman Svedjan said there is nothing that requires the committee to take action on this request at this meeting.

In response to a question from Representative Skarphol, Ms. Dahl said she does not know if the percentage of uninsured is greater in Fargo than the rest of the state.

Mr. Shane Waslaski, Director of Operations, Fargo Family HealthCare Center, detailed the steps the center is taking to increase its efficiency and production. Mr. Waslaski said the center is partnering with other organizations in order to reduce expenditures and increase revenues. He said the Fargo Family HealthCare Center has been actively implementing the consultant's recommendations to strengthen operations. He said the center is continually evaluating the services provided and is very diligent in containing expenses. He said the center's accounts receivable have grown correspondingly with the growth in revenue. He said the accounts receivable are higher than the center would like but he has taken every effort to make collections and minimize writeoffs. He said the center converted to the Health Pro Computer System for accounts receivable because the University of North Dakota system did not collect the data that the center needed to receive federal grants.

In response to a question from Representative Svedjan, Mr. Waslaski said Medicaid requires bills to be submitted within one year of the provision of services. He said the center has access to the information that was contained on the accounts receivable system maintained by the university. He said some of the accounts prior to the conversion have been turned over to a collection agency.

In response to a question from Senator Krauter, Mr. Waslaski said Concordia College has an onsite clinic and the Fargo Family HealthCare Center provides services at that clinic, which has been profitable to the center. He said the city of Moorhead has provided financial support, but the center would like to see a larger contribution from the city.

In response to a question from Senator Nething, Mr. Waslaski said the reduction in lease payments by the city of Fargo amounts to annual savings of \$86,000. He said Fargo has also provided the center with computer technical support.

Representative Belter said the \$234,000 identified as ongoing support from local governments indicates a strong local commitment to the center.

In response to a question from Senator Nething, Ms. Dahl said payments owed by the center to the University of North Dakota Pharmacy for pharmaceutical supplies was in arrears but has been current as of June 2001.

Chairman Svedjan recommended the committee delay action on both the Fargo Family HealthCare Center's request for the approval of a plan to address sustainability and for the approval of the forgiveness of the debt owed to the University of North Dakota School of Medicine and Health Sciences. He said if the debt can be repaid, it should be repaid. He said both parties have a responsibility and one party is not totally responsible. He said the committee needs more time to see the progress the center makes in raising funds locally. Senator Nething said the 2001

Legislative Assembly established the requirements to be met by the Fargo Family HealthCare Center for the debt forgiveness. He said the Fargo Family HealthCare Center has made efforts to resolve this issue and hopes the Budget Section's intent is not to make the center feel the assistance cannot be provided. Senator Grindberg said the two parties need direction from the Budget Section to avoid repeating the information presented at this meeting at future meetings. Chairman Svedjan said there is no urgency to resolve this matter. He said he would like to receive an update at the next Budget Section meeting and possibly resolve it at the following meeting. Senator Solberg said he would like the issue to be resolved at the next meeting or it may be an issue in the 2003 legislative session.

STATUS OF THE DEPARTMENT OF COMMERCE

Chairman Svedjan called on Mr. Lee Peterson, Commissioner, Department of Commerce, who reported on the status of the Department of Commerce, pursuant to Section 7 of 2001 Senate Bill No. 2019. Mr. Peterson said the Department of Commerce has completed its collocation and has found rental space in the Wells Fargo building in downtown Bismarck. He said the Commerce Foundation has been formed and the first meeting has been held. He said three committees have been formed within the foundation--the Policy Committee, Finance Committee, and Strategic Planning Committee. He said the Department of Commerce is working with the Office of Management and Budget in developing performance measures. He presented a 30-second marketing videotape used in a northern California campaign relating to the energy industry.

In response to a question from Senator Krauter, Mr. Peterson said the response to the northern California campaign has not been as successful as expected. He said when the campaign is completed on November 3, 2001, the department will have a better idea of the number of leads established in relationship to the cost of the campaign.

In response to a question from Senator Heitkamp, Mr. Peterson said the Division of Economic Development and Finance has determined 80 percent of the economic development programs within the department are for assistance to existing companies. He said the manufacturers extension partnership program works with over 90 manufacturing businesses to make them more efficient and help them stay in business. He said the recent economic slowdown has resulted in the loss of 400 manufacturing jobs in North Dakota; however, the impact to North Dakota has not been as great as that experienced in other states that have a higher percentage of manufacturing jobs.

STATUS OF ACTUAL MEDICAL ASSISTANCE EXPENDITURES

Chairman Svedjan called on Mr. David Zentner, Director of Medical Services, Department of Human Services, who reported, pursuant to Section 20 of 2001 House Bill No. 1012, on the status of actual medical assistance expenditures to date compared to projections and whether the actual expenditures for the biennium are anticipated to exceed funding appropriated. A copy of the information presented is on file in the Legislative Council office. Mr. Zentner said the 2001-03 biennium budget for the Medicaid program is \$586 million, \$152.1 million from the general fund and \$19.9 million from other funds, including funds available from the intergovernmental transfer trust fund. He said the budget for the Healthy Steps program is \$7.2 million, of which \$1.5 million is from the general fund. He said actual July 2001 expenditures for services provided in June 2001 exceeded the 1999-2001 appropriation and therefore it was necessary for the department to charge \$1,000,000 to the 2001-03 biennium, of which \$287,000 is from the general fund.

Mr. Zentner said overall medical assistance expenditures for the first two months of the 2001-03 biennium, excluding the intergovernmental transfer program, were \$51 million, of which \$13.7 million is from the general fund. He said the department had anticipated expenditures of about \$49.6 million, of which \$13.4 million is from the general fund. He said for the first two months of the 2001-03 biennium general fund expenditures were about \$353,000 more than anticipated. Mr. Zentner said hospital expenditures have exceeded the appropriated budget by about \$1,200,000, of which \$372,000 is from the general fund. He said nursing facility expenditures were approximately \$817,000 lower than anticipated. He said this is primarily a result of the cost per day being approximately 2.6 percent less than anticipated and also the number of days of service being less than budgeted.

In response to a question from Representative Svedjan, Mr. Zentner said he believes the Department of Human Services did have general fund turnback at the end of the 1999-2001 biennium.

In response to a question from Representative Delzer, Mr. Zentner said the \$353,000 of general fund expenditures in excess of estimates for the first two months of the biennium reflects the "carryover appropriation" of approximately \$487,000 and reduced nursing facility expenditures.

In response to a question from Senator Robinson, Mr. Zentner said during the 2001-03 biennium, there will need to be a reconciliation of the dollars appropriated for the 2001-03 biennium used to pay for expenditures incurred in the 1999-2001 biennium.

In response to a question from Senator Krauter, Mr. Zentner said the Department of Human Services does not know the number of claims or the total amount of payments until all claims are processed.

Senator Krauter said the number of families receiving funding under assistance programs such as temporary assistance for needy families, child care development, food stamps, and child support have been increasing dramatically, while the trend nationally has been decreasing. He said he would like an explanation from the Department of Human Services at the next Budget Section meeting.

In response to a question from Representative Svedjan, Mr. Zentner said utilization review is an ongoing process within the Department of Human Services. He said the department is working diligently to contain drug costs. He said the Department of Human Services tries to prevent people from overutilizing services.

In response to a question from Senator Krauter, Mr. Zentner said after the first two months of the 2001-03 biennium, general fund Medicaid expenditures are \$353,000 more than anticipated. He said he is reluctant to draw any conclusions after only two months of expenditures. He said by the next meeting of the Budget Section, the Department of Human Services will be able to provide more meaningful information.

Senator Solberg said it should not be a surprise that participation in assistance programs is increasing, because the Legislative Assembly removed the asset test for Medicaid eligibility. Mr. Zentner said the asset test will be removed on January 1, 2002, for children, families, and pregnant women.

Representative Delzer said the nursing facility expenditures are one of the largest items in this budget. He said it is \$817,000 below budget for the first two months of the biennium and if that trend continues, it will offset increases in the other areas.

STATUS OF THE WORKERS COMPENSATION BUREAU BUILDING

Chairman Svedjan called on Mr. Brent Edison, Interim Executive Director and CEO, Workers Compensation Bureau, who reported, pursuant to Section 5 of 2001 House Bill No. 1024, on the progress of construction and proposed rental space of the Workers Compensation Bureau building. A copy of the information presented is on file in the Legislative Council office. Mr. Edison said excavation work has been completed for the building. He said it will be a four-story building located at 1600 East Century Avenue. He said the building will contain 111,900 square feet of office space, plus a 4,100-square-foot rooftop mechanical room. He said the total cost of the building project is estimated to be between \$12 million and \$14.5 million. He said the project is projected to be completed between May and June 2003 and occupancy is planned for July 1, 2003.

Mr. Edison said the North Dakota Workers Compensation Bureau will occupy the third and fourth floors and a small portion of the second floor. He said

the Department of Commerce will occupy a majority of the second floor. He said other agencies, yet to be determined, will occupy the remainder of the second floor and one-half of the first floor. He said half of the first floor is dedicated to storage, building maintenance, and mechanical rooms. He said initial rental fees are estimated at \$13 per square foot. He said the North Dakota Workers Compensation Bureau will no longer pay rent and related costs which amount to nearly \$500,000 per year.

AGENCY REQUESTS AUTHORIZED BY THE EMERGENCY COMMISSION

Chairman Svedjan directed the committee to consider agency requests which have been authorized by the Emergency Commission and forwarded to the Budget Section pursuant to NDCC Sections 54-16-04, 54-16-04.1, and 54-16-04.2. The information relating to the requests was sent to the Budget Section members prior to the meeting and is on file in the Legislative Council office. Chairman Svedjan said the committee would address the Emergency Commission requests individually.

Mr. Backman discussed Emergency Commission Request #1361 from the Department of Human Services. He said there is a 25 percent match requirement of \$376,200, which will come from the service payments for elderly and disabled program.

In response to a question from Representative Delzer, Ms. Brenda Weisz, Chief Financial Officer, Department of Human Services, said if federal funding for the program is discontinued the program will end.

In response to a question from Senator Bowman, Ms. Weisz said this program is intended to identify and provide support to informal caregivers who assist elderly and disabled people to remain in their homes. She said the program will not be expanded beyond the federal award.

It was moved by Representative Carlisle, seconded by Senator Robinson, and carried on a voice vote that pursuant to NDCC Section 54-16-04.1, the Budget Section approve the following request which has been authorized by the Emergency Commission:

- **Department of Human Services (Request #1361) - To increase federal funds spending authority by \$1,128,600 to accept Older Americans Act funds for operating expenses (\$497,784) and the grants line item (\$630,816) to analyze the needs of family caregivers in North Dakota and to develop a service delivery system to address identified needs.**

Mr. Backman said Emergency Commission Request #1362 relates to a line item transfer from the grants line item to the operating expenses line item within the Department of Transportation.

In response to a question from Representative Skarphol, Mr. Backman said he does not believe the transfer will affect road construction because the budget anticipated that this item would be paid from the grants line item and this request will allow it to be paid from the operating expenses line item.

It was moved by Senator Robinson, seconded by Representative Aarsvold, and carried on a voice vote that pursuant to NDCC Section 54-16-04, the Budget Section approve the following request which has been authorized by the Emergency Commission:

- **Department of Transportation (Request #1362) - To transfer \$392,000 of federal funds from the grants line item to the operating expenses line item relating to the development of an intelligent transportation system - commercial vehicles operations deployment.**

It was moved by Representative Timm, seconded by Representative Skarphol, and carried on a voice vote that pursuant to NDCC Section 54-16-04.1, the Budget Section approve the following request which has been authorized by the Emergency Commission:

- **Department of Transportation (Request #1363) - To increase federal funds spending authority and the equipment line item by \$104,100 to accept funds from the Federal Highway Administration to provide an anti-icing system for the Buxton overpass.**

Mr. Backman said Emergency Commission Request #1364 authorizes the Department of Transportation to receive and spend federal funds and to borrow from the Bank of North Dakota for state matching requirements. In response to a question from Representative Skarphol, Mr. Backman said the 2001 Legislative Assembly authorized the Department of Transportation to borrow funds for this project, with prior Budget Section approval.

It was moved by Representative Skarphol, seconded by Senator Kringstad, and carried on a voice vote that pursuant to NDCC Sections 54-16-04.1 and 54-16-04.2, the Budget Section approve the following request which has been authorized by the Emergency Commission:

- **Department of Transportation (Request #1364) - To increase federal funds (\$59 million from federal emergency relief funds) and special funds (\$12 million from a Bank of North Dakota loan for the state matching requirement) spending authority by \$71 million and the operating expenses line item (\$4 million), the capital improvements line item (\$50 million), and the grants line item (\$17 million) for emergency grade raises in the Devils Lake Basin.**

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

- **Department of Agriculture (Request #1366)** - To increase federal funds spending authority by \$180,000, the operating expenses line item (\$150,000), and the Board of Animal Health line item (\$30,000) to promote specialty crops and value-added agriculture projects.
- **Department of Commerce (Request #1367)** - To increase federal funds spending authority and the Agricultural Products Utilization Commission line item by \$700,000 to provide grants for value-added businesses, exploration of nontraditional crops and livestock, and foreign trade missions.

In response to a question from Representative Skarphol, Mr. Backman said Emergency Commission Request #1368 relates to funding that is in addition to the existing budget for the Department of Public Instruction that was approved by the 2001 Legislative Assembly. In response to a question from Senator Bowman, Mr. Tom Decker, Director of School Finance and Organization, Department of Public Instruction, said \$4 million of this request will go to renovation of existing school facilities. Mr. Decker said the remaining funding will be divided between special education and technology projects. He said the technology aspects of this program will be reviewed in comparison to the state technology plan.

It was moved by Senator Robinson, seconded by Senator Heitkamp, and carried on a voice vote that pursuant to NDCC Section 54-17-04.1, the Budget Section approve the following request which has been authorized by the Emergency Commission:

- **Department of Public Instruction (Request #1368)** - To increase federal funds spending authority by \$5,483,750 (\$49,350 for salaries and wages, \$5,488 for operating expenses, and \$5,428,912 for grants) for school repairs, renovations, and technology costs.

It was moved by Senator Kringstad, seconded by Senator Robinson, and carried on a voice vote that pursuant to NDCC Section 54-16-04, the Budget Section approve the following request which has been authorized by the Emergency Commission:

- **Parks and Recreation Department (Request #1369)** - To transfer \$715,000 from the grants line item to the equipment line item (\$215,000) to purchase snowmobile trail grooming equipment and to the capital

improvements line item (\$500,000) for flood damage repairs and reconstruction of Devils Lake and Turtle River State Parks.

Mr. Backman said Emergency Commission Request #1371 includes a request for authorization from the Department of Financial Institutions for an additional .5 FTE position for the licensing and regulating of payday loan operations. He said during the 2001 legislative session, the department asked for one FTE position, but because the program was new the Legislative Assembly authorized a .5 FTE position and instructed the Department of Financial Institutions to receive Emergency Commission and Budget Section approval for authorization of an additional .5 FTE position if it is determined necessary by the agency. He said the department has been licensing significantly more businesses than originally anticipated and believes the additional .5 FTE position is necessary.

Senator Solberg said this program has just begun and as a result there probably has been a large number of people requesting licensing. He says requests will slow down and he would like to wait an additional three to six months to consider this request.

Senator Nething said it is his understanding that the renewal process is identical to the original application. He said he supports waiting on this request until after the initial round of licensing requests is completed.

It was moved by Senator Nething, seconded by Senator Solberg, and carried on a voice vote that the Budget Section table until the next meeting the following request which has been authorized by the Emergency Commission:

- **Department of Financial Institutions (Request #1371)** - To increase special funds spending authority by \$52,627 relating to the licensing and regulation of deferred presentment service providers for salaries and wages (\$41,659), operating expenses (\$10,968), and authority for a .5 FTE position. (Section 2 of 2001 Senate Bill No. 2008 authorizes the agency to seek Emergency Commission and Budget Section authority for an additional .5 FTE position, if determined necessary by the agency.)

FISCAL IRREGULARITIES

Pursuant to NDCC Section 54-14-03.1, Mr. Backman presented information on state agencies that provided irregular salary payments. A copy of the information presented is attached as Appendix B. Mr. Backman said five individuals employed with the Parks and Recreation Department were provided bonuses for the work that was involved with the flooding at Turtle River State Park. He said all five individuals are salaried employees and the bonuses

were provided from Federal Emergency Management Agency funding.

Mr. Backman said the Department of Economic Development and Finance provided incentive pay to one individual involved with the manufacturers partnership program. He said, however, this employee was a salaried employee who in effect had his salary reduced and the maximum amount that he could be paid with incentives will not exceed his original salary.

Mr. Backman said the Department of Public Instruction provided bonuses to a number of employees for temporary workload increases during the 2001 legislative session. In addition to the names included in Appendix B, three additional employees also received the bonuses--Ms. Lynette Norbeck - \$1,200; Ms. Candice Tollefson - \$1,200; and Ms. Bonnie Miller - \$3,000.

In response to a question from Representative Wald, Ms. Bonnie Miller, Fiscal Director, Department of Public Instruction, said all the employees that received the bonuses are regular salaried employees. She said the duties performed were in addition to their regular duties.

In response to a question from Senator Bowman, Ms. Miller said the duties that were performed by the employees were in addition to their regular 40-hour workweek and included preparing information at the request of the Legislative Assembly.

In response to a question from Representative Warnke, Ms. Miller said the funding for the bonuses was available from savings from vacant positions and positions that were filled at a lesser salary than the person who vacated the position.

In response to a question from Representative Delzer, Ms. Miller said the Department of Public Instruction has a process in which the bonuses are provided based on the number of bills prepared, the testimony provided, research performed, and the amount of overtime hours incurred. She said the individual is awarded points for these services and bonuses are based on the points received. She said the bonuses for session work have been provided previously. She said this funding could have been used for pay increases and the Department of Public Instruction did have general fund turnback for the 1999-2001 biennium.

In response to a question from Senator Stenehjem, Mr. Backman said the Office of Management and Budget is not aware of any other agencies providing bonuses for extra workload during the 2001 Legislative Assembly. He said it is not unusual for an agency to have a temporary salary increase because of increased workload, but the Office of Management and Budget is not always aware of these increases. He said the payroll system identifies bonuses in excess of \$500.

In response to a question from Representative Skarphol, Ms. Miller said the payments are not added to the individual's base salary. She said she could

provide the committee information on the amounts of past bonuses.

In response to a question from Senator Christmann, Ms. Miller said there are 95 FTE positions at the Department of Public Instruction. She said all the employees who provided assistance during the Legislative Assembly were considered for bonuses.

In response to a question from Representative Wald, Mr. Backman said a fiscal irregularity is defined as the use of state funds to provide bonuses, cash incentive awards, and temporary salary adjustments for state employees. Representative Wald said this is a fairness issue because employees in many agencies have a substantial increase in workload during the session and only a few receive related bonuses.

Senator Robinson said it would be interesting to see the different types of compensation other agencies are providing employees for irregular work activities and extended hours incurred during the legislative session. In response to a question from Senator Robinson, Mr. Backman said the Office of Management and Budget payroll system detects one-time salary payments of more than \$500 and if the payments were spread out over a period of months at less than \$500, it would not necessarily be detected.

Senator Nething asked the Legislative Council staff to survey state agencies to determine what agencies are providing employee bonuses. Chairman Svedjan said the survey should include the amounts paid out by agencies related to the 1999 Legislative Assembly. Senator Robinson asked that the agencies also provide information on bonuses less than \$500.

Senator Solberg said some members of the Legislative Assembly were criticized during the 2001 legislative session for not finding sufficient funding for kindergarten through grade 12 education. He said the funds used by the Department of Public Instruction could have been used for kindergarten through grade 12 education.

Senator Stenehjem said he would like to know how the Department of Public Instruction determined the amount of the individual bonuses. Chairman Svedjan said that information would be asked for in the survey.

Senator Krauter said two interims ago the Office of Management and Budget reported to the Budget Section bonus payments by the Workers Compensation Bureau similar to the Department of Public Instruction payments. He said he supports the committee addressing the issue and would like the report to look back to previous bienniums and not just focus on one agency. Senator Solberg said the temporary salary adjustments by the Workers Compensation Bureau were a one-time event and were discontinued.

HIGHER EDUCATION

Chairman Svedjan called on Ms. Laura Glatt, Vice Chancellor, Administrative Affairs, North Dakota University System, who presented information regarding the reporting of fiscal irregularities and capital project and local fund tracking reports. A copy of the information presented is on file in the Legislative Council office. Ms. Glatt said previously the North Dakota University System only reported bonuses and not cash incentive awards and temporary salary adjustments. She said during the 2001 legislative session, a bill that would have removed the University System from reporting salary irregularities failed to pass. She said the findings from an audit report recommended that all three types of salary irregularities be reported and are included in the report presented to the committee. A copy of the report is attached as Appendix C.

In response to a question from Senator Krauter, Ms. Glatt said the \$92,000 payment to Mr. Garvin Stevens, former president of Williston State College, was presented at retirement in recognition of years of service to the college. She said retirement payments to college presidents have been historically negotiated between the retiring president, the chairman of the State Board of Higher Education, and the chancellor of the University System.

In response to a question from Senator Bowman, Ms. Glatt said the state does provide retirement benefits to the college presidents, but this represents a reward for 35 years of service to North Dakota. Senator Heitkamp said the \$92,000 payment to the former president of Williston State College is more than a typical retirement gift.

In response to a question from Senator Heitkamp, Ms. Glatt said the payment of \$7,800 to Mr. Carl Fox, who had acted as interim dean at the University of North Dakota, was for responsibilities completed before he left the university.

Senator Andrist said there ought to be a formula for determining the payments to retiring college presidents and not be the result of a negotiation process.

Senator Heitkamp said the University System has increased flexibility as a result of the Higher Education Roundtable. He said the University System needs to exercise self-discipline or risk losing that flexibility.

Representative Carlisle asked the North Dakota University System to provide the current related policy and the history of retirement awards to college presidents. Ms. Glatt said the State Board of Higher Education has recently enacted a new policy concerning executive compensation which standardizes the president retirement payments. She said she would provide the information to the Budget Section. Chairman Svedjan requested the information not only contain retirement payments but also when presidential contracts are bought out. Ms. Glatt said the executive compensation policy provides for payments

made upon resignation or retirement and is based on average monthly salary and years of service.

In response to a question from Representative Skarphol, Ms. Glatt said the new policy applies only to campus presidents.

In response to a question from Senator Heitkamp, Ms. Glatt said during 2000 the State Board of Higher Education reviewed issues regarding recruiting and retaining college presidents. She said there have been fewer qualified people applying for vacant college president positions. She said this policy is a result of that review and provides payments to the presidents based on years of service. She said the colleges are to set aside funding each year to make the payment when the president leaves. She said there is a maximum amount that can be paid. She said this policy only applies to college presidents, but the State Board of Higher Education will be looking at establishing some sort of retention award payment for the chancellor position. She said campuses have been able to provide salary increases to faculty and staff that are substantially more than the levels appropriated by the Legislative Assembly.

In response to a question from Representative Delzer, Ms. Glatt said the new policy does not require that a college president stay a certain number of years, but the longer the president stays the larger the payment. She said the policy does not require the president to remain until retirement age. She said nationally, the average stay of a college president is five to seven years.

In response to a question from Representative Martinson, Ms. Glatt said college presidents can establish bonus programs for faculty and staff. She said the faculty representative on the State Board of Higher Education was a supporter of this program.

Ms. Glatt presented the local fund and capital improvement tracking reports, a copy of which is on file in the Legislative Council office. She said the local funds tracking report provides projected and actual local funds revenue sources by campus for the fiscal years ended 2000 and 2001. She said the capital improvement tracking report presents the budgeted and actual expenditures for each capital improvement project and the revenue sources used for the projects. She said the capital improvement project list is by campus for the 1999-2001 biennium.

BUDGET TOUR REPORTS

Chairman Svedjan called on Senator Nething to present the report on budget tours conducted by the Higher Education Committee during its September 10-11, 2001, meeting. The committee conducted budget tours of Valley City State University and the State College of Science in Wahpeton. Senator Nething also presented a report on a budget tour conducted by the Budget Committee on Government Administration during its September 12, 2001, meeting at the Veterans Home in Lisbon.

It was moved by Senator Nething, seconded by Senator Solberg, and carried on a voice vote that the Budget Section accept the report on budget tours conducted by the Higher Education Committee and the Budget Committee on Government Administration.

It was moved by Senator Bowman, seconded by Representative Delzer, and carried on a voice vote that the Budget Section meeting be adjourned. Chairman Svedjan adjourned the meeting at 4:00 p.m.

Donald J. Wolf
Fiscal Analyst

Jim W. Smith
Legislative Budget Analyst and Auditor

ATTACH:3