NORTH DAKOTA LEGISLATIVE COUNCIL

Minutes of the

BUDGET SECTION

Wednesday, June 18, 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, Tom Fischer, Tony Grindberg, Ralph L. Kilzer, Aaron Krauter, Karen K. Krebsbach, Elroy N. Lindaas, Carolyn Nelson, David O'Connell, Larry J. Robinson, Tom Seymour, Bob Stenehjem, Rich Wardner; Representatives Ole Aarsvold, Larry Bellew, Rick Berg, Merle Boucher, Ron Carlisle, Al Carlson, Jeff Delzer, Eliot Glassheim, Pam Gulleson, Kathy Hawken, James Kerzman, Gary Kreidt, Joe Kroeber, Bob Martinson, Ralph Metcalf, David Monson, Jon Nelson, Kenton Onstad, Chet Pollert, Bob Skarphol, Ken Svedjan, Blair Thoreson, Francis J. Wald, Alon Wieland, Clark Williams

Members absent: Senators Tim Mathern, Harvey D. Tallackson; Representatives Mary Ekstrom, Keith Kempenich; Matthew M. Klein

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

See Appendix A for additional persons present.

It was moved by Senator O'Connell, seconded by Representative Carlson, and carried on a voice vote that the minutes of the March 19, 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 3.6 percent during 2008. She said North Dakota's unemployment rate for April 2008 was 3.3 percent, considerably lower than the national rate of 5.2 percent in May 2008. She said North Dakota oil production increased to 150,600 barrels per day in April 2008, surpassing North Dakota's previous record set in 1984. She said the average price for North Dakota crude oil was $86 per barrel in February 2008, $97 per barrel in March 2008, and $104 per barrel in April 2008. She said the current oil price is over $125 per barrel and the rig count is 74, 33 more rigs than were operating in the state one year ago.

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

General fund balance - July 1, 2007		$295,541,176
Add		
General fund collections through May 2008	$1,243,951,952	
Forecasted general fund revenue for the remainder of the 2007-09 biennium (based on the 2007 legislative forecast)	1,193,541,163	
Total estimated general fund revenue for the 2007-09 biennium		$2,437,493,115
Total available		$2,733,034,291
Less		
2007-09 biennium general fund appropriations	2,456,973,956	
Contingent appropriation - Department of Public Instruction (Section 50 of 2007 Senate Bill No. 2200)	5,000,000	
Total appropriations		$2,461,973,956
Estimated general fund balance - June 30, 2009 ($252,404,156 more than the 2007 legislative estimate of $18,656,179)		$271,060,335

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

In response to a question from Senator Holmberg, Ms. Sharp said agencies are reporting the need for additional funding for the 2009-11 biennium to address employee salaries and wages and increasing energy costs.

In response to a question from Senator Krauter, Ms. Sharp said the Office of Management and Budget will finalize the preliminary 2009-11 biennium revenue forecast in July 2008. She said additional forecasts will be prepared in November 2008 and during the 2009 legislative session.

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 May 2008	158,955,411
Forecasted revenues for the remainder of the 2007-09 biennium (based on 2007 legislative forecast assumptions for oil price and production)	112,383,291
Total estimated funds available for the 2007-09 biennium	$414,609,364
Less expenditures and transfers	145,716,541
Estimated permanent oil tax trust fund balance - June 30, 2009	$268,892,823

Ms. Sharp presented information on general fund revenue collections for May 2008 and the 2007-09 biennium to date. She said revenues collected for the biennium to date are 16.9 percent more than the legislative forecast. She said the increase is primarily due to increases in sales tax and individual and corporate income tax collections. She said while sales tax and individual income tax collections were less than estimated for the month, they exceed the forecast for the biennium to date by 9.4 percent and 25.8 percent respectively. She said the variance for the month was due to timing issues. She said corporate income tax collections exceed the biennium to date forecast by $54.5 million or approximately 87 percent. 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 state received its annual tobacco settlement payment in April 2008. She said the state received $36.5 million. She anticipates this amount to remain stable for the next 10 years; thereafter, the payment will return to the pre-2008 annual payment amount. She said to date the state has received $233 million in tobacco settlement proceeds, of which $105 million has been deposited in each of the common schools trust fund and the water development trust fund, and $23 million in the community health trust fund. A copy of the information presented is on file in the Legislative Council office.

CORPORATE INCOME TAX COLLECTIONS

Ms. Sharp provided information regarding corporate income tax collections to date for the 2007-09 biennium. She said collections have ranged from $40 million to $63 million each year from fiscal year 1999 through fiscal year 2005. She said collections increased significantly to $112 million in 2006 and currently total $117 million for fiscal year 2008 to date. She noted the 25 corporations with the highest net tax liability for 2006 had a combined net tax liability of $21 million in 2005 and $48 million in 2006, a 126 percent increase. She said the majority of the top 25 corporations are manufacturing companies, holding companies, mining and utilities companies, and retail enterprises. A copy of the information presented 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
Veterans Home	$3,544	Settlement agreement
Workforce Safety and Insurance	$23,569	Severance package
Workforce Safety and Insurance	$15,920	Severance package
Parks and Recreation Department	$8,512	Settlement agreement
Department of Transportation	$2,460	Settlement agreement
Attorney General	$44,432	Payout of accumulated annual pay

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

In response to a question from Senator Robinson regarding the Attorney General's payout of accumulated annual leave for Mr. Chuck Keller, Ms. Sharp said Office of Management and Budget policies allow classified employees 240 hours of annual leave on April 30 of each fiscal year. Ms. Kathy Roll, Attorney General's office, said the directive to complete lottery implementation made it an extraordinary circumstance and Mr. Keller was unable to take annual leave. She said he also received compensatory time for overtime, but the Attorney General does not pay for compensatory time for exempt employees.

In response to a question from Senator Holmberg, Ms. Roll said because a business need existed, the Attorney General's office paid the excess annual leave accumulated by Mr. Keller.

In response to a question from Representative Carlisle, Ms. Roll said the funds to pay Mr. Keller's accumulated annual leave when he retired were included in its 2007-09 biennium budget.

Representative Skarphol asked that the Legislative Assembly be made aware of upcoming items similar to this in the future, either during the appropriations process or in a report to the Budget Section.

MEMORANDUM REGARDING THE STATUS OF CONTINGENCY APPROPRIATIONS

Ms. Roxanne Woeste, Assistant Legislative Budget Analyst and Auditor, Legislative Council, presented a memorandum regarding the status of contingency appropriations for the 2007-09 biennium. She said the 2007-09 contingency appropriations totaled approximately $114.5 million, of which approximately $6 million is from the general fund. She said contingency expenditures totaled $738,804 through

March 2008 and contingency expenditures are estimated to be $15.1 million for the 2007-09 biennium. She said currently, agencies estimate contingent appropriation requests for the 2009-11 biennium will total approximately $44.6 million. She noted, of the total anticipated contingent appropriation requests for the 2009-11 biennium, $41 million relates to an appropriation to address correctional facility needs and is not expected to be appropriated as a contingency. A copy of the report is on file in the Legislative Council office.

2007-09 BIENNIUM REPORT ON COMPLIANCE WITH LEGISLATIVE INTENT

Mr. Allen H. Knudson, Legislative Budget Analyst and Auditor, Legislative Council, presented the Legislative Council's *2007-09 Biennium Report on Compliance With Legislative Intent*. He said the report provides the current status of major budget changes and initiatives approved by the 2007 Legislative Assembly for various agencies. He said the report is presented by agency and includes information on appropriations, comparisons to the previous biennium, full-time equivalent (FTE) positions, one-time funding, and the agency's share of the $10 million salary equity pool appropriated to the Office of Management and Budget. He said the report contains information regarding the status of major special funds as of March 2009. He said the fund analysis includes estimates of fund revenues and expenditures through June 2009 and an analysis of the fund's variances from estimates made at the end of the 2007 legislative session. A copy of the report is on file in the Legislative Council office.

STATE AGENCY UNCLAIMED PROPERTY

Chairman Holmberg called on Ms. Linda Fisher, Administrator, Unclaimed Property Division, Land Department, to present a report regarding state agencies that have not submitted a claim for unclaimed property belonging to that agency, pursuant to NDCC Section 47-30.1-24.1.

Ms. Fisher said the 2003 Legislative Assembly enacted NDCC Section 47-30.1-24.1 in an effort to resolve the issue of state agency unclaimed property. She said this section provides that within one year of receipt of state agency property, the administrator of unclaimed property is to notify the agency by certified mail; the commissioner of university and school lands is to present a report to the Budget Section identifying every state agency that has not submitted a claim for property belonging to that agency within one year of the receipt of the date of the certified mail receipt; and upon approval of the Budget Section, the agency relinquishes its right to recover its property. She presented the Budget Section a list of the seven state agencies that did not respond to the certified mailing, which is attached as Appendix B. A copy of the information presented is on file in the Legislative Council office.

In response to a question from Representative Wald, Ms. Fisher said total unclaimed property is approximately $22 million to $23 million. She said the Unclaimed Property Division uses several methods of notification, including newspaper advertising, state fair exposure, public service announcements, radio advertising, some direct mailing and two websites, one of which is a national database.

It was moved by Senator Robinson, seconded by Representative Carlisle, and carried on a roll call vote that, pursuant to NDCC Section 47-30.1-24.1, the Budget Section approve the list provided by the Land Department of state agencies relinquishing their rights to recover unclaimed property. Senators Holmberg, Christmann, Grindberg, Kilzer, Krauter, Krebsbach, Lindaas, Nelson, O'Connell, Robinson, Seymour, Stenehjem, and Wardner and Representatives Bellew, Carlisle, Carlson, Delzer, Glassheim, Hawken, Kerzman, Kreidt, Kroeber, Martinson, Metcalf, Nelson, Onstad, Pollert, Skarphol, Svedjan, Thoreson, Wald, and Wieland voted "aye." No negative votes were cast.

DEPARTMENT OF CORRECTIONS AND REHABILITATION - SPACE, OPERATIONAL, AND STAFFING PLAN

Mr. Don Redmann, Deputy Director of Medium Security Facilities/Warden, James River Correctional Center, presented information regarding a space, operational, and staffing plan for the State Penitentiary and James River Correctional Center, pursuant to Section 17 of 2007 House Bill No. 1015. He provided information regarding minimum number of staff at the State Penitentiary, the James River Correctional Center, and the Missouri River Correctional Center. He said the minimum staffing level is based on the number of posts requiring a security presence to provide for the safety of the inmates, staff, and general public. He said to staff one post 24 hours a day 7 days a week requires 5.1 officers, which includes the relief factor needed to fill the schedule for the times when an officer is on annual leave, sick leave, military leave, or training.

Mr. Redmann said the recent report from the Criminal Justice Institute included a comparison of the current staffing plan for security officers to what would be required under the proposed plan to remodel and expand the State Penitentiary to accommodate 1,000 inmates. He said the report estimates the remodel/expansion plan would require an increase of 67 FTE to 73.5 FTE correctional officers. He noted that although the estimates are useful, the actual number of staff cannot be determined until the plans are complete. He said because the construction of the facility will extend beyond the 2009-11 biennium, the department will have time to plan. He anticipates requesting additional staffing for the next biennium.

Mr. Redmann said in regard to the James River Correctional Center, a review and analysis of staffing needs reveal an inadequate relief factor and the department anticipates requesting additional officers.

He said the Missouri River Correctional Center also does not have adequate staff to cover absences, resulting in overtime or managing the facility below the minimum staffing levels.

Mr. Redmann said issues of space to be addressed during the 2009 legislative session include room for a clinic and infirmary, additional segregation cells, more reception, orientation cells, and additional general housing cells. He said the James River Correctional Center and the Missouri River Correctional Center both operate at capacity. In addition, he said, inmates housed at the Missouri River Correctional Center are preparing for transition back to the community and participate in a number of programs that require classroom and/or training space. He said if the Missouri River Correctional Center remains at its existing site, there will be a need to repair the kitchen/dining area and to provide for a multipurpose space to be used for programming and activities. A copy of the report is on file in the Legislative Council office.

DEPARTMENT OF CORRECTIONS AND REHABILITATION - INMATE MEDICAL SYSTEM

Mr. Dave Krabbenhoft, Director of Administration, Department of Corrections and Rehabilitation, presented information regarding a plan for implementation of an inmate medical system, pursuant to Section 12 of 2007 House Bill No. 1015. He said populations are constantly moving within the correctional system and an American Correctional Association standard states that the medical file must follow the offender. When, due to overcrowding, an inmate is housed at a county jail, he said, the department must copy and transport large medical files. He said an electronic medical record system would allow medical staff to focus on more clinical duties, assist in compliance with health record laws, and provide more accountability relating to the cost of inmate and youth offender health care. He said the department has been collaborating with the Information Technology Department to develop a plan for implementation. He said Budget Section approval is required for the department to proceed with the project and sign a vendor contract. He provided a milestone schedule and project risks. He said the project is anticipated to take 11 months and cost $1 million. A copy of the report is on file in the Legislative Council office.

It was moved by Senator Krauter, seconded by Senator Seymour, and carried on a roll call vote that, pursuant to Section 12 of 2007 House Bill No. 1015, the Budget Section approve the Department of Corrections and Rehabilitation plan for implementation of an inmate medical system. Senators Holmberg, Bowman, Christmann, Grindberg, Kilzer, Krauter, Krebsbach, Lindaas, Nelson, O'Connell, Robinson, Seymour, Stenehjem, and Wardner and Representatives Bellew, Boucher, Glassheim, Gulleson, Hawken, Kerzman, Kreidt, Kroeber, Martinson, Metcalf, Nelson, Onstad, Pollert, Skarphol, Svedjan, Thoreson, Wald, Wieland, and Williams voted "aye." No negative votes were cast.

CORRECTIONAL FACILITY REVIEW COMMITTEE RECOMMENDATION TO THE EMERGENCY COMMISSION

Pursuant to Section 10 of 2007 House Bill No. 1015 and a Legislative Council directive that the Correctional Facility Review Committee recommendation be received for informational purposes only by the Budget Section, correspondence from the chairman of the Correctional Facility Review Committee to the chairman of the Emergency Commission was distributed to the Budget Section members. The correspondence served to forward the three correctional facility concepts contained in the Criminal Justice Institute's final report and recommend the remodel/expansion of the existing State Penitentiary facility concept to the Emergency Commission. A copy of the correspondence is on file in the Legislative Council office.

NORTHERN TIER NETWORK

Ms. Bonnie Neas, Vice President for Information Technology, North Dakota State University, presented information regarding the status of the Northern Tier Network project. She outlined the Northern Tier Network-North Dakota (NTN-ND) organization's purpose and objective and provided an update on accomplishments and expenditures to date and an overview of future opportunities. The purpose of NTN-ND, she said, is to aid in recruiting top researchers, information technology professionals, and technology-based companies as well as students who aspire to become teachers, researchers, and entrepreneurs in science, technology, engineering, and mathematics fields. She said NTN-ND is near completing all agreements to acquire dark fiber segments from Montana to Minneapolis and from Grand Forks to Fargo. She said less than $100,000 of the $2.8 million appropriation from the permanent oil tax trust fund has been spent to date, but expenditures will increase over the next few months as agreements and installation are completed. She said the Department of Defense has purchased $3 million worth of equipment, which will be transferred to NTN-ND when the acquisitions are complete. She said planning is underway for the north-south segments. She anticipates $1 million per year, beginning in the second year of the 2009-11 biennium, will be needed for the ongoing costs of NTN-ND maintenance fees. Additionally, she said, legislation may be required to clarify the use of NTN-ND by the North Dakota University System. A copy of the report is on file in the Legislative Council office.

In response to a question from Senator Christmann, Ms. Neas said the $1 million of annual ongoing funding is needed for equipment maintenance, software upgrades, and fees necessary to manage the network on NTN-ND's behalf.

NORTH DAKOTA EXPERIMENTAL PROGRAM TO STIMULATE COMPETITIVE RESEARCH

Dr. Philip Boudjouk, Cochairman, North Dakota Experimental Program to Stimulate Competitive Research (EPSCoR), presented an update on the North Dakota EPSCoR program. He said EPSCoR is an experimental program to stimulate competitive research. Since 2001, he said, North Dakota has received the greatest increase in federal research funds of all 50 states and is a model state for EPSCoR. He said North Dakota researchers compete with researchers in Division 1 schools for research funds and are doing well. He said when money is brought into the state for research, 75 percent of the funds stay in the state. He said in addition to receiving funds for infrastructure, advanced science, and technical support, the state also benefits from the intellectual property that may be used to attract new companies to the state. He said the state match provided by the Legislative Assembly has made it possible for North Dakota to be the only state of the 26 EPSCoR states to have competed successfully and continually since 1985. A copy of the report is on file in the Legislative Council office.

DICKINSON STATE UNIVERSITY - CHANGE IN FINANCING OF THE BADLANDS ACTIVITIES CENTER PROJECT

Dr. Richard McCallum, President, Dickinson State University, provided information on a change in financing of the Dickinson State University Badlands Activities Center project (formerly known as Whitney Stadium) at Dickinson State University. He said in September 2007 a joint powers agreement, effective until July 1, 2017, was completed between the State Board of Higher Education (representing Dickinson State University), the Dickinson Public School District, the Dickinson Parks and Recreation Board, and the city of Dickinson. He said the Budget Section, at its October 2007 meeting, approved the increase in scope of the project from $8 million to $16 million, with additional funds provided by contributions. He said to date the Dickinson State University Foundation has obtained $7.8 million in pledges and $2.1 million has been collected. He said the university will continue aggressive fundraising until it reaches its minimum goal of $10 million and he anticipates an additional $6 million will be provided by the city of Dickinson over a five- to seven-year period. He said that between the foundation initiative and the city of Dickinson funds, he anticipates $4.5 million will be available in December 2008. He said at that time the foundation will provide for funding through either the issuance of bonds or a private loan. He said security for the bonds or the loan will consist of the assignment of capital campaign pledges and Dickinson State University Foundation's credit and the repayment will be the responsibility of the foundation.

UNIVERSITY OF NORTH DAKOTA - ACCEPTANCE OF DONATED FUNDS

Chairman Holmberg called on Dr. Nicholas Neumann, Campus Dean, Southwest Campus, University of North Dakota School of Medicine and Health Sciences, to present information regarding a request for Budget Section approval to accept a gift of a $1.5 million human simulator laboratory facility on the University of North Dakota campus, pursuant to NDCC Section 15-10-12.1. He said the human patient simulation center is a computerized system that will allow the university the opportunity to provide state-of-the-art training and skills assessment for medical students, nursing students, allied health professionals, practicing clinicians, and emergency workers from around the state. Mr. Rick Tonder, Associate Director of Facilities Planning, Facilities Department, University of North Dakota, presented information regarding the financial structure of the project. He said the University of North Dakota Alumni Association and Foundation will receive a gift of funds from Blue Cross Blue Shield over a period of five years and plans to issue bonds to build the facility. He said the facility will be leased to the University of North Dakota for a period of five years and the lease payments will equal the finance cost of the construction. He said upon termination of the lease, ownership of the facility will transfer to the University of North Dakota with the debt retired. A copy of the report is on file in the Legislative Council office.

In response to a question from Senator Christmann, Mr. Tonder said the human patient simulation center will provide for better-trained health care professionals and result in rate reduction in the future.

Representative Skarphol asked that a motion and vote on the request for approval to accept the gift be withheld until later in the meeting.

Later in the meeting, Chairman Holmberg called for continued discussion regarding the request for Budget Section approval to accept a gift of a $1.5 million human simulator laboratory facility on the University of North Dakota campus, pursuant to NDCC Section 15-10-12.1.

Representative Delzer expressed concern regarding the acceptance of donated funds to complete a project that will require future maintenance costs without the approval of the Legislative Assembly.

In response to a question from Senator Kilzer, Mr. Tonder said increased utility costs would be minor since the building is small and it will be attached to an existing facility. He said he is unable to predict future software and maintenance costs. Although simulators are technologically advanced pieces of equipment and subsequent advances in technology may affect the future use of the simulator, he said, a number of simulators continue to be usable beyond five years.

In response to a question from Senator Kilzer, Mr. Tonder said the simulators will be used by all practicing health care professionals in the state,

including emergency medical technician (EMT) crews requiring continuing education. Dr. Neumann said students in their first and second years of medical school will also use the simulators. He said students in their third year located across the state will continue to use the equipment when they return to Grand Forks for clinical skills assessments.

Senator Christmann expressed concern regarding accepting a large capital donation from Blue Cross Blue Shield at a time when health care premiums are increasing for Blue Cross Blue Shield policyholders.

Representative Skarphol suggested the Budget Section receive information from Blue Cross Blue Shield regarding the source of the funds being donated and any related requirements associated with the funds.

Representative Svedjan said he believes the contribution is from the Blue Cross Blue Shield Foundation, which is a separate organization from the insurance company. He said he does not believe any significant portion of foundation revenue is derived from the operations of the insurance company.

It was moved by Representative Skarphol, seconded by Representative Svedjan, and carried on a roll call vote that the Budget Section, pursuant to NDCC Section 15-10-12.1, approve the University of North Dakota request to accept from the University of North Dakota Alumni Foundation a human simulator laboratory facility at a construction cost of $1.5 million. Senators Holmberg, Grindberg, Kilzer, Krebsbach, Lindaas, Nelson, O'Connell, Robinson, Seymour, and Wardner and Representatives Aarsvold, Boucher, Carlisle, Carlson, Glassheim, Hawken, Kerzman, Kroeber, Martinson, Metcalf, Monson, Nelson, Onstad, Skarphol, Svedjan, Thoreson, Wald, Wieland, and Williams voted "aye." Senators Bowman, Christmann, and Fischer and Representatives Bellew, Delzer, Kreidt, and Pollert voted "nay."

WORKFORCE SAFETY AND INSURANCE - STATUS OF PERFORMANCE AUDIT RECOMMENDATIONS

State Auditor's Office

Mr. Gordy Smith, Audit Manager, State Auditor's office, presented information regarding the status of recommendations Workforce Safety and Insurance did not concur with at the time the Workforce Safety and Insurance performance audit was presented. He said the Workforce Safety and Insurance performance audit issued by the State Auditor's office in October 2006 contained 60 formal recommendations. He presented a list of eight performance audit recommendations Workforce Safety and Insurance did not concur with, partially concurred with, or could not respond to. He said the State Auditor's office will conduct an audit followup to the 2006 performance audit starting in July 2008 and has asked Workforce Safety and Insurance to provide a written description of corrective actions taken for each of the 60 formal recommendations and to include a statement of the status of each recommendation. He said Workforce Safety and Insurance's response to the State Auditor's office request indicates the agency has not implemented the three recommendations it did not agree with, nor has it implemented the recommendation it could not respond to. He said Workforce Safety and Insurance has indicated it will have fully implemented the four recommendations it partially disagreed with. A copy of the report is on file in the Legislative Council office.

Workforce Safety and Insurance

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 followed by 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.

Ms. Blumhagen presented information regarding the status of recommendations Workforce Safety and Insurance did not concur with at the time the audit was presented. She said the agency did not concur with four recommendations the time the audit was presented. Since the agency's last report to the Budget Section in March 2008, she said, the agency has made progress on two of the recommendations. She said the Workforce Safety and Insurance Board of Directors has completed training, has drafted policies, reviewed its first monitoring report, and established an ad hoc committee to review board pay. She said the third recommendation the agency did not concur with related to organizing the Quality Assurance Division under the control of the Internal Audit Division. She said the agency continues to disagree with this recommendation and believes the Quality Assurance Division exists to assist management in coordinating and monitoring the implementation of recommendations and the function of the Internal Audit Division is to test the recommendations after the Quality Assurance director has established that they have been implemented. She said the agency continues to disagree with the recommendation related to the travel and moving expense of the executive director. She said the Workforce Safety and Insurance Board of Directors believes the recommendation no longer is applicable. She said the agency is continuing to address the recommendations not yet completed, including establishing and implementing a strategic plan, succession planning, internal audit staffing levels, and the premium dividend credits. A copy of the report is on file in the Legislative Council office.

PUBLIC SERVICE COMMISSION

Mr. Alan Moch, Director, Testing and Safety Division, Public Service Commission, presented information regarding the status of a facility use agreement between the Public Service Commission and the Facility Management Division and the future of the metrology laboratory, pursuant to Section 11 of 2007 Senate Bill No. 2008. He said Public Service Commission staff currently obtains advance approval for all renovations to the metrology laboratory and will continue to do so. He said agency staff has met with the Facility Management grounds supervisor regarding joint use of the division's truck bay/metrology staging area and has implemented a system in which the state metrologist provides three days' notice to grounds maintenance to remove its equipment to allow the area to be cleaned for scheduled metrology work. He said the agency has received a proposed joint use agreement from the director of Facility Management and will continue to meet with Facility Management staff to develop an agreement that will allow the agency to maintain National Institute of Standards and Technology (NIST) recognition through the current biennium. He said the Legislative Assembly appropriated $74,600 from the general fund for the renovation of the metrology laboratory to avoid certain issues of noncompliance with NIST standards. He provided a list of improvements made to date totaling $18,757 and indicated renovations planned for the remainder of the biennium include a new heating, ventilating, and air-conditioning system with an estimated cost of $30,000. He said the agency continues to work to maintain NIST conditional recognition of the state metrology laboratory by making progress to mitigate NIST noncompliance issues. A copy of the report is on file in the Legislative Council office.

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

STATE FAIR ASSOCIATION

Mr. Bob Wagoner, Manager, State Fair Association, presented information regarding the status of planning for a new grandstand on the state fairgrounds, including the development of a business plan and the progress of fundraising efforts, pursuant to Section 4 of 2007 House Bill No. 1009. He presented a video developed by the State Fair Association to aid in its fundraising efforts and distributed information, including, a 2008 North Dakota State Fair brochure; a 2008 North Dakota State Fair newspaper tab; a fundraising brochure; a grandstand factsheet with the history, needs, and economic impact of the State Fair; a conceptual design of the proposed new grandstand facility; and a list of expenditures to date to begin the project. Following the presentation, he said, the video illustrated some of the concerns with the existing grandstand. He said the North Dakota State Fair is the largest annual event held in the state and the economic impact of the State Fair and related activities throughout the year is over $62 million annually. He said the Legislative Assembly provided $250,000 of startup funding from the general fund for the construction of a new State Fair grandstand to include planning, fundraising, and preliminary architectural fees. He said the agency has spent $85,974 to date on fundraising counsel, a DVD and brochure, a television documentary, and architect fees. A copy of the report is on file in the Legislative Council office.

In response to a question from Representative Berg, Mr. Wagoner said the agency expects to receive the final report on a feasibility study in a few weeks and the fundraising and construction timetable will be established based on the results of the study.

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 March 2008, the cultural resource study has been completed and groundbreaking for the new facility occurred on June 7, 2008. He said the National Guard has been onsite for nearly three weeks removing trees, building ditches, and preparing the seven-acre building site. He said the Veterans Home is currently completing the necessary Department of Veterans Affairs paperwork due July 1, 2008.

DEPARTMENT OF HUMAN SERVICES

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 ACS State Healthcare, LLC (ACS) has been developing the "Enterprise" Medicaid management information system for the state of New Hampshire and, as North Dakota would be using the same Enterprise model, the North Dakota project has been dependent on ACS's progress in New Hampshire. She said the department met with ACS in April 2008 to discuss how best to "delink" North Dakota's project from the project in New Hampshire to ensure North Dakota would not be negatively impacted by a delay that has occurred in the New Hampshire project. She said the department is in the process of determining the impact of the delays on North Dakota's implementation. She said the department does not intend to compromise the quality of the solution or the budget of the project if the project does not meet its time schedule. She said the project is continuing with detailed system design, intended to be complete this fall. She provided the following project funding summary:

Description	Budget	Spent Through April 2008	Remaining
General fund	$3,643,133	$360,302	$3,282,831
Federal funds	55,218,418	10,531,805	44,686,613
Other funds	3,667,820	1,007,597	2,660,223
Total project	$62,529,371	$11,899,704	$50,629,667

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

In response to a question from Representative Delzer, Ms. Witham said the department is meeting with ACS next week to define the impact of the delay to the schedule. She said ACS is still optimistic that with its resources, it can meet the July 2009 implementation date. She said the department is concerned that if the schedule becomes condensed, the department may not have the resources available to provide input and review and test the system.

In response to a question from Senator Christmann, Ms. Witham said there are no specific penalties included in the contract if it is not delivered on time; however, because it is a fixed-price contract, the department would not pay the vendor for additional time spent on the project as a result of the delay.

In response to a question from Representative Boucher, Ms. Witham said if ACS does not meet the scheduled completion date, it is responsible for paying any additional costs incurred by the department resulting from the project delay. She said she believes ACS poses minimal risk because it is a Fortune 500 company and has sold this product to both Alaska and New Hampshire. She said the contract includes a performance bond.

In response to a question from Representative Nelson, Ms. Witham said the number of Medicaid claims in the process of being paid is currently approximately 30,000 claims, which is near average. She said the number of outstanding Medicaid claims should not be affected by the delay in the project.

Representative Nelson suggested the department provide a report at the next Budget Section meeting on the status of the project and on the number of outstanding Medicaid claims.

Representative Skarphol said a number of information technology projects have experienced time delays and have been completed successfully and oftentimes result in a better final product. He noted if ACS accelerates the project, adequate time may not be available for review and input by the department.

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.

Representative Aarsvold requested Adjutant General Request #1663 be discussed separately.

It was moved by Representative Carlisle, seconded by Senator Robinson, and carried on a roll call vote that, pursuant to NDCC Sections 54-16-04.1 and 54-16-04.2, the Budget Section approve the following requests which have been approved by the Emergency Commission:

- **Game and Fish Department (Request #1664) - To increase federal funds spending authority by $630,000 for capital assets ($630,000). The federal funds are from the Federal Aid in Wildlife Restoration Act and will be used to construct a wildlife laboratory building in Bismarck.**
- **Department of Transportation (Request #1665) - To increase spending authority by $41,500,000 for capital assets ($31,650,000) and grants ($9,850,000). Additional federal highway funding of $36,800,000 will be used for highway construction and grant purposes. Other political subdivisions will provide matching funds of $4,700,000 to the department.**
- **Department of Transportation (Request #1666) - To increase federal funds spending authority by $2,205,354 for grants ($2,205,354). The federal funds are from the National Highway Traffic Safety Administration to be used for transportation safety grant purposes. No additional matching funds are required.**
- **Department of Agriculture (Request #1667) - To increase special funds spending authority by $120,825 for operating expenses ($120,825). The additional special funds are from increased revenue from Pride of Dakota events and will be used for Pride of Dakota activities.**
- **Council on the Arts (Request #1668) - To increase federal funds spending authority by $72,000 to accept federal funds from the National Endowment for the Arts for the salary line item ($25,000) for temporary part-time staff and grants line item ($47,000) to support existing grant programs.**

Senators Holmberg, Bowman, Christmann, Fischer, Grindberg, Kilzer, Krebsbach, Lindaas, Nelson, O'Connell, Robinson, Seymour, and Wardner and Representatives Aarsvold, Bellew, Berg, Boucher, Carlisle, Carlson, Delzer, Glassheim, Hawken, Kerzman, Kreidt, Kroeber, Martinson, Metcalf, Monson, Nelson, Onstad, Pollert, Skarphol, Svedjan, Thoreson, Wald, and Wieland voted "aye." No negative votes were cast.

Chairman Holmberg called on Ms. Sharp to present details of the charges included in Adjutant General Request #1663. She said the charges included payroll, travel, and federal equipment rental, including the rental of two Blackhawk helicopters.

In response to a question from Representative Aarsvold, Ms. Sharp said the payroll portion of the

charges was for time associated with the fires. She said the payroll charges would not have been incurred if the fires had not occurred.

It was moved by Representative Aarsvold, seconded by Representative Carlisle, and carried on a roll call vote that, pursuant to NDCC Section 54-16-09, the Budget Section approve the following request which has been approved by the Emergency Commission:

- **Adjutant General (Request #1663) - For $77,700 from the state contingencies appropriation for costs incurred by the National Guard for missions associated with land-based fires in the Minot area in April 2008.**

Senators Holmberg, Bowman, Christmann, Fischer, Grindberg, Kilzer, Krebsbach, Lindaas, Nelson, O'Connell, Robinson, Seymour, and Wardner and Representatives Aarsvold, Bellew, Berg, Boucher, Carlisle, Carlson, Delzer, Glassheim, Hawken, Kerzman, Kreidt, Kroeber, Martinson, Metcalf, Monson, Nelson, Onstad, Pollert, Skarphol, Svedjan, Thoreson, Wald, and Wieland voted "aye." No negative votes were cast.

ONGOING COSTS OF BUDGET SECTION APPROVALS

The Legislative Council staff presented a memorandum regarding a summary of approvals taken by the Budget Section during the 2007-08 interim to date that have an ongoing cost and the estimated future cost relating to those actions. The Legislative Council staff said 13 Budget Section approved actions to date were identified as having an ongoing cost. Affected agency personnel were contacted to determine the estimated future cost of these items. Two of the approvals included approval of a total of three FTE positions for the State Department of Health. These positions are federally funded for five years, at which time, if the positions are to continue, the agency will have to identify alternate funding. The Legislative Council staff said the Veterans Home construction project authorization was increased from $21.1 million to $25.6 million. The Veterans Home anticipates additional ongoing costs will result from the change in the facility plan, but is unable to determine the amount of those costs.

The Budget Section approved the Information Technology Department's request to accept federal funds to implement a statewide automated victim information and notification system. The anticipated ongoing general fund costs of operating the program will be $850,000 for the 2009-11 biennium. A copy of the report is on file in the Legislative Council office.

COMMITTEE DISCUSSION AND STAFF DIRECTIVES

Chairman Holmberg announced the next meeting of the Budget Section will be September 25, 2008.

Representative Delzer expressed concern over the future costs of property gifted to the state. He suggested the Legislative Assembly require agencies to provide subsequent reports on the actual additional costs to the state associated with the gift.

Chairman Holmberg asked the Legislative Council staff to review other states' methods of evaluating the future cost of donated facilities and monitoring these costs.

Representative Skarphol said that $45 million in oil and gas tax-related revenue has been distributed to political subdivisions through May 2008. He said, if this trend continues, cities, schools, and counties could receive approximately $90 million during this biennium. He said political subdivisions are receiving a substantial amount of funding from oil and gas related activities.

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

Chairman Holmberg adjourned the meeting at 2:06 p.m.

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Sheila M. Sandness
Fiscal Analyst

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Allen H. Knudson
Legislative Budget Analyst and Auditor

ATTACH:2