NORTH DAKOTA LEGISLATIVE COUNCIL

Minutes of the

# BUDGET COMMITTEE ON HUMAN SERVICES

Wednesday, December 14, 2005
Roughrider Room, State Capitol
Bismarck, North Dakota

Senator Dick Dever, Chairman, called the meeting to order at 9:00 a.m.

**Members present:** Senators Dick Dever, Tom Fischer, Aaron Krauter, Judy Lee, John M. Warner; Representatives Jeff Delzer, William R. Devlin, James Kerzman, Gary Kreidt, Ralph Metcalf, Jon O. Nelson, Chet Pollert, Todd Porter, Louise Potter, Clara Sue Price, Ken Svedjan, Gerald Uglem, Alon C. Wieland

**Members absent:** Senators Richard L. Brown, Russell T. Thane; Representatives Lee Kaldor, Vonnie Pietsch, Sally M. Sandvig

**Others present:** Merle Boucher, State Representative, Rolette

See attached appendix for additional persons present.

## PUBLIC HEALTH UNIT STUDY

Ms. Kelly Nagel, local public health liaison, State Department of Health, presented information on the status of the department's assessment of the state's public health system. Ms. Nagel said in 2003 the department began the process of assessing public health performance across the state in an effort to ensure the delivery of essential public health services. She said the department used the assessment tools from the National Performance Standards Program, led by the United States Centers for Disease Control and Prevention.

Ms. Nagel said the department has completed a state-level system assessment and the four priority areas identified are:

1. Diagnose and investigate health problems and health hazards.
2. Monitor health status to identify health problems.
3. Enforce laws and regulations that protect health and safety.
4. Inform, educate, and empower people about health issues.

Ms. Nagel said at the local level, 12 of the 28 health units have completed the voluntary assessment. She said according to the assessments done to date, the following essential services and activities have been identified as needing improvement:

1. Monitor health status to identify community health problems:
   a. Population-based community health profile.
   b. Access to and utilization of current technology.
2. Research for new insights and innovative solutions to health problems:
   a. Capacity for epidemiological, policy, and service research.
   b. Fostering innovation.
   c. Linkage with institutions of higher learning and research.
3. Develop policies and plans that support individual and community health efforts:
   a. Community health improvement process.
   b. Public health policy development.
   c. Strategic planning and alignment with the community health improvement process.
4. Evaluate effectiveness, accessibility, and quality of personal and population-based health services:
   a. Evaluation of population-based services.
   b. Evaluation of local public health systems.
5. Mobilize community partnerships to identify and solve health problems:
   a. Constituency development.
   b. Community partnerships.

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

Senator Lee asked what is the medical school's involvement with local health units. Ms. Lisa Clute, First District Health Unit, Minot, said residents from the medical school spend some time at local health units.

Mr. Howard C. Anderson, Jr., State Health Council member, Turtle Lake, commented regarding the council's consideration of creating definitions of core functions for North Dakota public health units. Mr. Anderson said North Dakota Century Code (NDCC) Section 23-35-02 provides the council authority to issue rules defining the core functions of a public health unit. Mr. Anderson said the council has begun a process of gathering information through public meetings and other sources regarding the core functions of health units.

Mr. Anderson said the identification of core services needs to be developed through a partnership with local health units. He said some states have developed an accreditation process for public health units in order to entice them to provide the core services identified.

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

Ms. Beverly Voller, Nurse Administrator, Emmons County District Health Unit, Linton, provided information on the services and funding of the unit. Ms. Voller said the unit is a single-county health district and employs 4 part-time registered nurses comprising 1.9 full-time equivalent (FTE) positions and a .8 FTE administrative assistant position.

Ms. Voller said the unit collaborates with the local hospital home health agency and medical clinic to meet the medical needs of the residents and to avoid duplication of services. She said the unit provides health and medical services for residents that are not reimbursed by third-party payers and for residents who are unable to receive care from private providers. She said many families rely on the unit to provide well child care and immunizations as well as rapid inspection or assessment services.

Ms. Voller said the unit collaborates with schools to develop school policies for tobacco, school improvement, and health curriculums. Although the unit does not have adequate funding to meet all the needs of the schools, she said, the unit provides nursing services at no charge to the schools in the area.

Ms. Voller said through collaborative arrangements, the unit provides other environmental health services, including swimming pool and septic system inspections, education, school air quality issues, public nuisances response, and technical assistance for environmental health issues, such as unsafe buildings and interpretation of public health laws to citizens and residents.

Ms. Voller said the unit works with the county disaster coordinator to develop a comprehensive emergency response plan for the county as well as other prevention services, including worksite wellness, farm safety, car safety seat awareness and installation, diabetes screening, and Women's Way program.

Ms. Voller expressed support for the provision of public health services through the single-county health district model. She said the unit is able to provide employment for local community members, keep funds locally, maintain high visibility, and maintain positive working relationships with local health care providers. However, she said, the unit does lack the workforce necessary to respond to large-scale disasters or to address every core public health function. She said gaps in services are difficult to fill due to limited resources and staff. She said the unit relies on the State Department of Health and larger public health departments for technical assistance, leadership, and guidance for many of its programs.

Ms. Voller provided information on the unit's 2005 budget to date which totals approximately $130,000. She said 53 percent of the unit's funding is provided from the local mill levy, 11 percent from a bioterrorism grant, 10 percent from federal grants, 9 percent from state aid, and the remainder from other sources.

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

Senator Warner asked that the committee receive information on the major revenue sources available to each public health unit, the number of residents within the area covered by each unit, and, to the extent possible, to identify the revenue per resident by major type, including state aid, local mill levy, federal funds, etc. Chairman Dever asked the Legislative Council staff to coordinate the gathering of this information.

In response to a question from Representative Delzer, Ms. Voller said the reasons the Emmons County District Health Unit has chosen not to combine with another health unit include:

1. Funds remain within the community.
2. The board controls its own program.
3. The unit meets the health needs of the county.

Senator Lee asked that for the next meeting, representatives of the University of North Dakota School of Medicine and Health Sciences report to the committee on the school's role and involvement with public health units across the state. Chairman Dever asked the Legislative Council staff to arrange for this presentation.

Senator Lee asked whether the State Department of Health provides any grant writing assistance to local health units. Ms. Arvy Smith, Deputy Director, State Department of Health, said the state distributes a number of federal grants to local health units but does not provide direct grant writing assistance to the units. She said the State Department of Health does not have an employee dedicated to grant writing.

Representative Metcalf suggested the committee receive information on the assessment level of counties in relation to uniform assessments across the state. Chairman Dever said the North Dakota Association of Counties will be asked to provide this information at the next committee meeting.

Ms. Karen Volk, Nurse Administrator, Wells County District Health Unit, Fessenden, presented information on its services and funding. Ms. Volk said the Wells County District Health Unit is a single-county district health unit which began operations in December 1991. She said the county levies five mills for public health services. Ms. Volk said the unit's 2005 annual budget totals $175,000, 48 percent of which is provided by the county mill levy, 33 percent from federal grants, 7 percent from state aid, and the remainder from fee collections and other income. Ms. Volk reviewed the services provided by the unit that include immunizations, blood pressure checks, home visits, Health Tracks screening, newborn visits, Women's Way, car seat inspections, immunization clinics, foot care, flu shot clinics, and school nursing activities. Ms. Volk expressed support for the unit providing services as a single-county health district.

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

Senator Krauter asked for the formula for state aid distribution to public health units. Ms. Nagel said each of the state's 28 units receives a $6,000 base allotment per biennium and the remainder of the

$1.1 million appropriation is distributed on a per capita formula.

Legislative Council staff presented a memorandum entitled *Public Health Units – Statutory Authority to Share Services*. The Legislative Council staff said NDCC Chapter 23-25 includes provisions related to establishing public health units, including the establishment of multicounty or city-county health districts, and authority for health districts to merge into a single health district.

The Legislative Council staff said the joint powers agreement statute--NDCC Chapter 54-40.3--allows public health units to enter into joint powers agreements with other public health units upon approval of their governing bodies.

Chairman Dever distributed a letter from representatives of Barnes County Public Health relating to the need for providing adequate funding for core public health services in North Dakota and the need for the State Department of Health to take a strong leadership role to effectively address health issues in the state. A copy of the letter is on file in the Legislative Council office.

Representative Price suggested the possibility of providing financial incentives for public health units to provide core services. Ms. Smith said once core services are identified for the state, additional funding could be an incentive for units to provide these core services.

Representative Price asked for additional information on action by the Public Employees Retirement System Board affecting the health insurance rates for public health units. Ms. Smith said the health districts have been paying the blended single/family health insurance rate to the Public Employees Retirement System. She said the blended rate is a standard rate for either a single or family plan that is paid by state agencies. She said political subdivisions generally pay a specified rate for a single plan and a separate specified rate for a family plan. She said the Public Employees Retirement System Board is currently considering whether the blended rate is appropriate for the health districts. She said if a health district has an employee that is choosing a family plan, the health insurance premium would increase approximately $148 per month if a change is made. Ms. Smith said the Public Employees Retirement System Board is considering action on this issue that would be effective January 2007.

Representative Devlin believes this issue should be addressed by the Legislative Assembly, not by the Public Employees Retirement System Board.

Mr. Sparb Collins, Executive Director, Public Employees Retirement System, said the Public Employees Retirement System Board is currently reviewing this rate category. He said the rate was established for state agencies for budgeting purposes. Mr. Collins said the board intends to invite representatives of health districts to comment on this issue before taking any action.

Senator Lee suggested delaying the effective date of any change until July 1, 2007, so the 2007 Legislative Assembly could consider the issue, if necessary.

Senator Krauter asked for demographic information on the residents of each public health unit area. In addition, Senator Krauter asked for the history of state aid funding distributed to public health units and on the history of the maximum allowed assessment of five mills for public health services for each county.

Senator Krauter said public health units need assistance in applying for grant funds. He suggested the State Department of Health prepare a proposal for presentation to the committee at its next meeting for providing assistance to public health units to prepare grant applications.

Representative Price asked for additional information on other states' systems of accrediting health units that provide core services.

Chairman Dever said these items would be included on the next meeting's agenda.

Representative Delzer expressed concern regarding the amount of administration that is necessary for local public health units to manage their various programs, contracts, and federal grants. He suggested the committee receive information on the percentage of staff time and expenses that relate to administrative duties of public health units. He suggested the committee consider options to reduce the administrative responsibilities of the local public health units to allow them to spend more time providing direct services.

Representative Price suggested the committee receive information on the amount of local funds that are used to match federal or other grants.

## HEALTHY NORTH DAKOTA STUDY

Ms. Kathleen Mangskau, Director, Division of Tobacco Prevention and Control, State Department of Health, provided an update on the tobacco cessation efforts across the state and the outcomes of those programs.

Ms. Mangskau said the North Dakota tobacco quit line began in September 2004 and served 2,342 individuals for the remainder of the 2003-05 biennium at a cost of $529,869. She said the average cost per individual served was $226. She said the tobacco quit line provides counseling, nicotine replacement therapy (a 28-day supply of the patch or gum) to individuals whose income is less than 200 percent of the federal poverty level, relapse prevention, and followup services. She said the 6-month "quit rate" was 39 percent for individuals under the program and the 12-month "quit rate" was 33 percent.

Ms. Mangskau said local public health units have established cessation programs in 69 locations in 42 counties. For the 2003-05 biennium, she said, these programs served 1,662 tobacco users. She said the department is still working on collecting statistical data from the local programs.

For the 2003-05 biennium, Ms. Mangskau said city-county cessation programs served 85 clients at a cost of $29,205. She said five counties currently offer these programs. Under these programs, she said, the average cost per client is $344 and the six-month "quit rate" ranges from 36 to 46 percent.

For the 2003-05 biennium, Ms. Mangskau said the state employee cessation program served 169 clients at a cost of $35,301, for an average cost per client of $209. She said nine programs are offered throughout the state and report a 6-month "quit rate" of 24 percent and a 12-month "quit rate" of 10 percent.

Ms. Mangskau said while these programs are reducing the number of smokers in the state, there are still over 5,000 youth and 93,000 adults who smoke in North Dakota.

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

In response to a question from Senator Lee, Ms. Mangskau said the 12-month "quit rate" under the tobacco quit line may be higher than the city-county or state employee programs, possibly because followup is not as extensive with city-county or state employee programs.

Mr. Collins provided information on the state employee tobacco cessation program. He said the Public Employees Retirement System Board applied to the State Department of Health in 2003 for a smoking cessation grant. He said the board was awarded the grant and chose to contract with Blue Cross Blue Shield of North Dakota to administer the program. He said the program began in February 2004. For the 2003-05 biennium, Mr. Collins said the program had 169 participants and resulted in a 6-month "quit rate" for these participants of 24 percent and a 12-month "quit rate" of 10 percent. He said the cost for the program in the 2003-05 biennium was approximately $35,000.

Mr. Collins said the board has again received a grant from the State Department of Health to operate the program for the 2005-07 biennium.

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

Mr. Collins provided information regarding the development of the Public Employees Retirement System workplace wellness program. Mr. Collins said NDCC Section 54-52.1-14 authorizes the board to develop a program. For the 2005-07 biennium, he said, agencies not participating are charged 1 percent more for their employee health insurance premiums.

In order to qualify for the wellness program, he said, each agency's representative must sign a commitment agreement, appoint a wellness coordinator, develop an annual wellness program, distribute educational materials on a monthly basis, and promote the smoking cessation program.

Mr. Collins said 102 state agencies are participating in the program, while 2 are not.

Mr. Collins said the board is also implementing a pilot program for an integrated worksite wellness program in four agencies. He said two agencies--the Tax Department and the Department of Commerce--will participate in a high-level program, which involves conducting a personal behavioral health profile and providing health coaching, onsite screening, and additional services related to stopping smoking, healthy weight, and stress reduction. He said two agencies--the Office of Management and Budget and the State Historical Society--will participate in a medium-level program that will involve a personal behavioral health profile.

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

The committee recessed for lunch at 11:45 a.m. and reconvened at 1:00 p.m.

## MEDICAID STUDY AND REPORTS

The Legislative Council staff distributed a memorandum entitled *Medicare Prescription Drug Coverage - North Dakota's "Clawback"*. The Legislative Council staff said the memorandum provides information on the federal government's calculation of North Dakota's clawback, now anticipated to total $16,350,921, which is $499,212 more than the department's original estimate. The Legislative Council staff said the department attributes the increase to the federal government using a higher inflation factor than the department had estimated in calculating North Dakota's per capita prescription drug spending for individuals eligible for both Medicare and Medicaid.

Ms. Carol K. Olson, Executive Director, Department of Human Services, commented on the department's organizational restructuring. Effective January 2006, Ms. Olson said the department will implement a six-member human services cabinet under the executive director. She said the new structure will reduce the span of control of the executive director and allow the executive director and cabinet to devote more time for strategic planning, visionary thinking, better communications, and the development of new initiatives. A copy of the report is on file in the Legislative Council office.

Ms. Maggie Anderson, Director, Medical Services, Department of Human Services, reported on the status of implementation of the Medicare Part D prescription drug plan. Effective January 1, 2006, Ms. Anderson said approximately 10,500 North Dakota Medicare/Medicaid recipients (dual-eligibles) will be transitioned from Medicaid drug coverage to Medicare Part D drug coverage. She said the department is prepared to address issues that occur after January 1, 2006. She said the dual-eligibles have experienced very good drug coverage under the Medicaid program. She said it is unlikely these dual-eligibles will be able to choose a prescription drug plan with a formulary to match the Medicaid program. She said the department has authority, pursuant to House Bill No. 1465, to provide prescription drugs in an emergency to dual-eligibles during the first 45 days of 2006. She said the department does not anticipate a significant use of the authority; however, she

expects some requests for medications will result due to a recipient's pharmacy not being enrolled with the prescription drug plan for which the recipient has enrolled. A copy of the report is on file in the Legislative Council office.

Mr. Don Muse, President, Muse and Associates, commented on the implementation of the Medicare Part D prescription drug plan. Mr. Muse commented on the "clawback" payment that North Dakota will need to make to the federal government beginning January 2006. Based on federal formulas, he said, the monthly per capita payment for North Dakota dual-eligibles will be $76.43 for the period January through September 2006 and $78.96 for the period October through December 2006.

Mr. Muse said based on trend data for North Dakota prescription drug expenditures for dual-eligibles from calendar year 1999 through December 2005, North Dakota would spend an estimated $110 million on prescription drugs for dual-eligible beneficiaries between calendar year 2006 and calendar year 2015 prior to Medicare Part D. He said under Medicare Part D, North Dakota's drug payments plus the "clawback" payments will total approximately $123 million. As a result, he anticipates the cost of Medicare Part D to North Dakota to be $13 million over this 10-year period.

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

In response to a question from Senator Krauter, Ms. Anderson said Medicaid processes approximately six million claims per biennium and over 50 percent of the claims submitted are from providers not required to use a diagnosis code.

Representative Delzer asked the Department of Human Services to provide information to the committee on drug expenditure trends since 1999.

Ms. Anderson presented a report on the status of the development of management initiatives for the medical assistance program as provided in House Bill No. 1459 and on the biennial medical assistance report as provided in House Bill No. 1460. Ms. Anderson said regarding the targeted case management/disease management initiative, the department has reviewed the top 2,000 high-cost Medicaid recipients and their respective disease conditions. Based on this review, she said, the department plans to target disease case management efforts on those recipients with asthma, diabetes, congestive heart failure, chronic obstructive pulmonary disease, and depression. She said by assisting recipients in managing their conditions, the Medicaid program will potentially allow recipients to experience a healthier life.

Ms. Anderson said the department is planning to hire a consultant with expertise in implementing disease case management programs in other states in order to determine a model program for implementation, to draft a request for proposal to identify service providers, and to assist the state in calculating a return on investment. Ms. Anderson said the department anticipates implementing the program by July 2006.

Regarding diagnosis and reason codes, Ms. Anderson said the following providers are not required to use a diagnosis code:

- Dental providers;
- Pharmacy providers;
- Developmental disabilities service providers;
- Qualified service providers;
- Basic care providers;
- Nursing homes;
- Intermediate care facilities; and
- Nonemergency transportation providers.

Representative Devlin asked Mr. Muse for experiences of other states regarding the cost of the Medicare Part D program compared to continuing prescription drug coverage within Medicaid. Mr. Muse said that he is familiar with four other states and although initial costs under Medicare Part D are more for each state, eventually over the 10-year period these other states realize cost-savings.

Regarding out-of-state nursing home usage, Ms. Anderson said there are currently 55 North Dakota residents in Minnesota nursing facilities who are North Dakota Medicaid-eligible and 35 Minnesota residents who are Minnesota Medicaid-eligible residing in North Dakota nursing facilities. Since 1993, Ms. Anderson said, North Dakota has had a reciprocity agreement with Minnesota for determining the state of residence for individuals entering nursing facilities in both states. Ms. Anderson said currently the average cost to North Dakota Medicaid for all nursing facility residents is $130 per day. She said the average cost to North Dakota Medicaid for residents in Minnesota facilities is $126 per day. On an annual basis, she said, the total funds North Dakota Medicaid pays Minnesota facilities is approximately $800,000 more than what Minnesota Medicaid pays North Dakota facilities.

Regarding post-office or street addresses, Ms. Anderson said addresses reported by Medicaid clients, whether a street location or post-office box, are entered into the eligibility system by staff at the time of enrollment. She said the department is not aware of any problems encountered in the current system and recommends that no action be taken to require certain types of addresses to be used.

Representative Devlin said that the Legislative Assembly intended that all Medicaid recipients give a street address even if a post-office box mailing address is given. He said even small towns have street addresses for their residents.

Representative Price said the department should also be verifying that all Medicaid recipients' zip codes are within North Dakota so North Dakota is not paying medical expenses for out-of-state residents.

Regarding prior authorization of high-cost medical procedures, Ms. Anderson said the department has reviewed procedures to consider for prior authorization, including magnetic resonance imaging

(MRI), positron emission tomography (PET) scans, and computed tomography (CT) scans.

Regarding photo identification on Medicaid ID cards, Ms. Anderson said the department estimates the cost to add a photo ID to the card at $80,000. Ms. Anderson asked for committee suggestions regarding how long the picture should be valid.

Regarding tamper-resistant prescription pads, Ms. Anderson said the department recommends that the Legislative Assembly, if it wishes to pursue the use of tamper-resistant prescription pads, consider assigning the responsibility to an entity with statewide all-prescriber capabilities, such as the State Board of Pharmacy and the State Board of Medical Examiners.

Regarding information efforts for the Medicare Part D program, Ms. Anderson said the department is collaborating with the State Library to use their public information programs to provide Medicare Part D information to the public.

Regarding risk-sharing agreements, Ms. Anderson said the department has met with representatives of the North Dakota Healthcare Association and plans to move forward with efforts to expand managed care options in North Dakota.

Representative Price said Texas is involved in an effective Medicaid fraud system that North Dakota may wish to receive more information on.

Ms. Anderson commented on the department's efforts to secure a vendor to provide actuarial information, pursuant to House Bill No. 1460. Ms. Anderson said the department received responses to a request for proposal; however, costs were more than anticipated. Therefore, she said, the department amended the request for proposal and requested alternate proposals. She said the department is in the process of negotiating with two vendors to provide the actuarial services.

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

Representative Price asked if it is important for pharmacists to have the diagnosis and reason codes available when filling prescriptions. Mr. Howard C. Anderson, Jr., Executive Director, State Board of Pharmacy, said that pharmacies would prefer to have diagnosis codes available when filling prescriptions. He said this information would be useful; however, it may be difficult, in certain situations, for physicians to provide this information when prescribing the medication.

Ms. Anderson reported on the status of activities of the prescription drug monitoring workgroup and implementation of a prescription drug monitoring program. Ms. Anderson said the working group continues to meet and submitted its federal grant proposal in early December. She said the department anticipates a grant announcement to be made after July 2006.

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

Ms. Anderson updated the committee on the status of the Medicaid management information system (MMIS) replacement project. Ms. Anderson said the department received a $29.2 million appropriation from the 2005 Legislative Assembly to design, develop, and implement the replacement Medicaid system, which includes MMIS, decision support system, and the pharmacy point-of-sale system. She said the department received one proposal for the MMIS portion of the project, three proposals for point of sale, and two proposals for decision support. Based on the best and final offers received from the vendors, she said, the department anticipates the total project cost to be $57.3 million, of which $5.7 million is from the general fund. Based on this estimate, she said, an additional $2 million of general fund matching dollars is needed to complete the project.

Ms. Anderson said the department is proposing to proceed with the project even though the cost is substantially more than anticipated because:

1. The current federal matching percentage is 90 percent - She said proposals have been considered by Congress to reduce this matching percentage to 75 percent;
2. The current system does not meet current business needs or the needs of providers;
3. Costs of replacing the system are likely to continue increasing; and
4. The department is expecting to realize $32.2 million in savings over the first seven years of operations of the new system which will reduce state costs by approximately $10.4 million.

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

Mr. Curtis L. Wolfe, Chief Information Officer, Information Technology Department, expressed support for proceeding with the project. He said the Information Technology Department is authorized by law to borrow up to 7.5 percent of its biennial budget. He said the department has over $2 million of borrowing authority remaining. He said the department plans to request Budget Section approval to borrow funds for the additional state matching requirements for this project.

Mr. Wolfe said the company proposing to rewrite the MMIS portion of the project is Affiliated Computer Services, Inc. (ACS), Dallas, Texas. He said this company would like to partner with the state to complete this project and update its technology which will require the Information Technology Department to take on additional responsibilities; however, he said, this would allow the department to provide more maintenance on the system after it is completed.

Mr. Wolfe said to delay the project will cost the state additional funds because the state must comply with additional Health Insurance Portability and Accountability Act (HIPAA) requirements which will cost $3 million if these changes need to be made to the current MMIS system and the MMIS system should be migrated from the mainframe which is estimated to cost $4 million.

Mr. Wolfe believes that the project costs estimated at $57.3 million may be reduced through final negotiations with the companies.

Representative Svedjan asked whether the department has considered alternatives, such as making changes to the request for proposal that may attract more bidders or lower costs. Ms. Anderson said the request for proposal that was released is appropriate to meet the state's needs for the system. She said there are potentially two other vendors that could bid on the project; however, she said, they are already extremely busy developing other states' systems and are unlikely to bid on North Dakota's project.

Representative Svedjan asked whether the department has considered the use of potential savings within the department's current appropriation to provide for the additional matching requirements rather than borrowing through the Information Technology Department. Ms. Anderson said the department anticipates the $8.8 million of general fund savings resulting from the change in the federal medical assistance percentage will be needed to pay medical assistance expenditures resulting from increasing utilization trends within the Medicaid program.

Representative Boucher suggested the department consider entering into final negotiations with the vendors before seeking authorization from the Budget Section to obtain a loan. Ms. Anderson said the department does not believe it could enter into a contract without the funding being authorized for the project.

Representative Delzer expressed concern that the department will be substantially increasing the amount of spending on this project without approval of the Legislative Assembly. He questioned whether an interim committee, such as the Budget Section, is authorized to increase an agency's spending authority.

Representative Devlin expressed concern that the department is recommending proceeding with a major project receiving only one bid and that the estimated cost is almost twice the amount budgeted. He said the Legislative Assembly should be involved in this decision.

**It was moved by Representative Devlin and seconded by Representative Delzer that the committee encourage the Budget Section in regard to the MMIS replacement project to consider recommending that the Department of Human Services seek alternative solutions, including potentially rebidding the project with different specifications and that the Budget Section consider seeking an Attorney General's opinion regarding the Budget Section's authority to approve increasing spending authority of state agencies.**

Ms. Pam Sharp, Director, Office of Management and Budget, said the Information Technology Department will be seeking Budget Section approval to borrow $2 million under NDCC Section 54-59-05. She said the request is not to increase spending authority of the Department of Human Services. If necessary, she said, that request will be made later.

Representative Delzer stated the Budget Section, by approving a $2 million loan for the additional state matching requirements, is in effect allowing the department to spend a total of $57.3 million on the project, $28.1 million more than anticipated by the Legislative Assembly.

Representative Svedjan questioned whether the borrowing authority of the Information Technology Department was intended to allow the department to provide funds for projects of other agencies. He believes the intent of the section is to allow the Information Technology Department to borrow funds, if necessary, for its own projects.

Representative Porter suggested the department consider negotiating with the vendor to determine the amount necessary for the project, then seek Budget Section approval if additional funding or authorizations are needed.

The motion was withdrawn.

**It was moved by Representative Devlin, seconded by Representative Delzer, and failed on a roll call vote that the committee encourage the Budget Section in regard to the Medicaid management information system replacement project to consider recommending that the Department of Human Services seek alternative solutions, including potentially rebidding the project with different specifications.** Representatives Delzer, Devlin, Kerzman, Kreidt, Nelson, Pollert, Porter, Svedjan, and Wieland voted "aye." Senators Dever, Fischer, Krauter, Lee, and Warner and Representatives Metcalf, Potter, Price, and Uglem voted "nay."

## FOSTER CARE FACILITY PAYMENT SYSTEM STUDY

Mr. Paul Ronningen, Director, Children and Family Services Division, Department of Human Services, reported on the status of the change in payment procedures for foster care facilities as required by the federal government.

Regarding residential treatment centers, Mr. Ronningen said four of the six centers are currently accredited, allowing them to bill Medicaid for both rehabilitation and maintenance. He said the remaining two centers are seeking accreditation. He said the federal Centers for Medicare and Medicaid Services has notified the department that services provided by these facilities will not be allowed Medicaid reimbursement after June 2006.

Senator Krauter expressed concern regarding the two centers that are not accredited and how they will be able to continue operations if they are unable to receive service payments after June 2006. Ms. Olson said the department will request flexibility from the Centers for Medicare and Medicaid Services to allow

the centers to continue to receive reimbursement for their services beyond June, if necessary.

Regarding residential child care facilities, Mr. Ronningen said these facilities will begin billing Medicaid for rehabilitation and case management services on a 15-minute unit basis beginning January 2006 in compliance with federal regulations.

In response to a question from Representative Porter, Ms. Anderson said the additional funding provided by the Legislative Assembly for residential child care facilities is included in the calculation to determine the billing rate per 15-minute unit for these facilities.

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

## CHILDREN WITH SPECIAL HEALTH CARE NEEDS STUDY

Ms. Tamara Gallup-Millner, Director, Children's Special Health Services Unit, Department of Human Services, presented information on the costs of the program, including personnel, administrative, and diagnostic and treatment services costs. Ms. Gallup-Millner said the department's 2005-07 biennium appropriation totals $1.9 million, of which $793,000 is from the general fund and is authorized eight full-time equivalent positions. In addition, she said, the 2005 Legislative Assembly appropriated $150,000 from the general fund for providing Russell-Silver Syndrome services.

Ms. Gallup-Millner reported on the diagnostic and treatment services costs by major condition type. She said children with asthma, cleft lip and palate, diabetes, heart conditions, and handicapping malocclusion were those for which most funds were provided in federal fiscal year 2004. A copy of the report is on file in the Legislative Council office.

Senator Lee asked for the status of the Medicaid waiver request to provide in-home services to children with extraordinary medical needs who would otherwise require hospitalization or nursing facility care. Ms. Gallup-Millner said the department is currently gathering information to submit the waiver request to the federal government.

Mr. Bruce Murry, Protection and Advocacy Project, testified on behalf of several advocacy groups concerning children with extraordinary health care needs. He said these advocacy groups are encouraging the department and committee to speed up the process of requesting the waiver. Mr. Murry distributed suggested language for the waiver application that the department may use as a starting point for discussion and action. A copy of the report is on file in the Legislative Council office.

Senator Dever asked if the draft waiver application has been shared with the Department of Human Services. Mr. Murry said that it had and he hopes it will assist them in preparing the formal waiver application.

Mr. Mike Schwab, North Dakota Association for Retarded Citizens, Bismarck, distributed testimony on behalf of the Family Voices of North Dakota regarding the importance of providing quality coordinated services to children with special health care needs.

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

Chairman Dever announced the next committee meeting is tentatively scheduled for Thursday, March 9, 2006, in Bismarck. Chairman Dever said the tentative schedule for the remaining meetings of the committee includes conducting budget tours in Jamestown, Lisbon, Grand Forks, and Grafton in May 2006, conducting budget tours and holding a meeting in Williston and Dickinson in June 2006, and holding a final meeting in Bismarck in September 2006.

The committee adjourned subject to the call of the chair at 3:50 p.m.

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Allen H. Knudson
Assistant Legislative Budget Analyst and Auditor

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Jim W. Smith
Legislative Budget Analyst and Auditor

ATTACH:1