

# BUDGET SECTION

The Legislative Council's Budget Section is referred to in various sections of the North Dakota Century Code (NDCC) and the Session Laws of North Dakota. Although there are statutory references to the Budget Section, it is not created by statute. The Budget Section is an interim committee appointed by the Legislative Council. By tradition, the membership of the Budget Section consists of the members of the Senate and House Appropriations Committees, the majority and minority leaders and their assistants, and the Speaker of the House.

Budget Section members were Senators Ray Holmberg (Chairman), Bill Bowman, Randel Christmann, Tom Fischer, Tony Grindberg, Ralph L. Kilzer, Aaron Krauter, Karen K. Krebsbach, Elroy N. Lindaas, Tim Mathern, Carolyn Nelson, David O'Connell, Larry J. Robinson, Tom Seymour, Bob Stenehjem, Harvey D. Tallackson, and Rich Wardner and Representatives Ole Aarsvold, Larry Bellew, Rick Berg, Merle Boucher, Ron Carlisle, Al Carlson, Jeff Delzer, Mary Ekstrom, Eliot Glasheim, Pam Gulleeson, Kathy Hawken, Keith Kempenich, James Kerzman, Matthew M. Klein, 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, and Clark Williams.

The committee submitted this report to the Legislative Council at the biennial meeting of the Council in November 2008. The Council accepted the report for submission to the 61<sup>st</sup> Legislative Assembly.

The following duties, assigned to the Budget Section by law, were acted on during the 2007-08 interim:

1. **Tobacco settlement funds (Section 54-44-04(23))** - This section provides that the director of the Office of Management and Budget report to the Budget Section on the status of tobacco settlement funds and related information.
2. **Irregularities in the fiscal practices of the state (Section 54-14-03.1)** - This section requires the Office of the Budget to submit a written report to the Budget Section documenting:
  - a. Any irregularities in the fiscal practices of the state.
  - b. Areas where more uniform and improved fiscal procedures are desirable.
  - c. Any expenditures or governmental activities contrary to law or legislative intent.
  - d. The use of state funds to provide bonuses, cash incentive awards, or temporary salary adjustments for state employees.
3. **Form of budget data (Section 54-44.1-07)** - This section requires the director of the budget to prepare budget data in the form prescribed by the Legislative Council and to present it to the Legislative Assembly at a time and place set by the Legislative Council. Drafts of proposed general and special appropriations acts embodying

the budget data and recommendations of the Governor for appropriations for the next biennium and drafts of such revenues and other acts recommended by the Governor for putting into effect the proposed financial plan must be submitted to the Legislative Council within seven days after the day of adjournment of the organizational session. The Legislative Council assigned this responsibility to the Budget Section.

4. **Status of the risk management workers' compensation program (Section 65-04-03.1(5))** - This section requires Workforce Safety and Insurance and the Risk Management Division of the Office of Management and Budget to periodically report to the Budget Section on the success of the risk management workers' compensation program.
5. **Designation of a center of excellence (Section 15-69-02, Section 14 of House Bill No. 1018 (2007), and Section 4 of Senate Bill No. 2032 (2005))** - These sections provide that designation of a center of excellence occurs upon State Board of Higher Education, North Dakota Economic Development Foundation, Emergency Commission, and Budget Section approval of a Centers of Excellence Commission funding award recommendation; in considering whether to designate a center of excellence, the board, the foundation, and the Budget Section may not modify the commission recommendation; and the Budget Section may not take action on a commission funding award recommendation until the Emergency Commission reviews the commission recommendation and makes a recommendation to the Budget Section (Section 4 of Senate Bill No. 2032 - effective July 1, 2005, through July 31, 2011). In addition, Section 14 of House Bill No. 1018 provides that up to \$10 million is available for Budget Section approval at its first meeting after September 1, 2007, and up to \$5 million and any unawarded funds remaining from the \$10 million allocation are available for Budget Section approval at its first meeting after September 1, 2008, for providing funding to centers of excellence (Section 14 of House Bill No. 1018 - effective July 1, 2007).
6. **Office of Management and Budget borrowing \$5 million from the Bank of North Dakota for centers of excellence (Section 15 of House Bill No. 1018 (2007))** - This section provides that, as requested by the Centers of Excellence Commission and subject to Emergency Commission and Budget Section approval, the Office of Management and Budget borrow up to \$5 million from the Bank of North Dakota for providing funding to centers of excellence (effective July 1, 2007).

7. **Higher education campus improvements and building construction (Section 15-10-12.1)** - This section requires the approval of the Budget Section or the Legislative Assembly for the construction of any building financed by donations, gifts, grants, and bequests on land under the control of the board. Campus improvements and building maintenance of more than \$385,000 also require the approval of the Budget Section or Legislative Assembly. Budget Section approval can only be provided when the Legislative Assembly is not in session, excluding the six months prior to a regular legislative session. The Budget Section approval regarding the construction of buildings and campus improvements must include a specific dollar limit for each building, campus improvement, or maintenance project. If a request is to be considered by the Budget Section, the Legislative Council must notify each member of the Legislative Assembly and allow any member to present testimony to the Budget Section regarding the request. Campus improvements and building maintenance of \$385,000 or less and the sale of real property received by gift or bequest may be authorized by the State Board of Higher Education.
8. **Change or expand state building construction projects (Section 48-01.2-25)** - This section provides that a state agency or institution may not significantly change or expand a building construction project approved by the Legislative Assembly unless the change, expansion, or additional expenditure is approved by the Legislative Assembly, or the Budget Section if the Legislative Assembly is not in session.
9. **Sources of funds received for construction projects of entities under the State Board of Higher Education (Section 15-10-12.3)** - This section requires each institution under the State Board of Higher Education undertaking a capital construction project, that was approved by the Legislative Assembly and for which local funds are to be used, to present a biennial report to the Budget Section detailing the source of all funds used in the project.
10. **Status of the State Board of Agricultural Research and Education (Section 4-05.1-19(10))** - This section requires the State Board of Agricultural Research and Education to present a status report on its activities to the Budget Section.
11. **Report from the Information Technology Department (Section 54-59-19)** - This section requires the Information Technology Department to prepare and present an annual report to the Information Technology Committee and to present a summary of the report to the Budget Section.
12. **Department of Human Services transfers between line items and between subdivisions in excess of \$50,000 (Section 4 of Senate Bill No. 2012 (2007))** - This section requires the Department of Human Services to report to the Budget Section after June 30, 2008, on any transfers in excess of \$50,000 made during the 2007-09 biennium between line items within each subdivision and between subdivisions (effective July 1, 2007).
13. **Annual audits of renaissance fund organizations (Section 40-63-07(9))** - This section requires the Department of Commerce Division of Community Services to provide annual reports to the Budget Section on the results of audits of renaissance fund organizations.
14. **Game and Fish Department land acquisitions (Section 20.1-02-05.1)** - This section provides that Budget Section approval is required for Game and Fish Department land acquisitions of more than 10 acres or \$10,000.
15. **Job insurance trust fund (Section 52-02-17)** - This section requires that Job Service North Dakota report to the Legislative Council before March 1 of each year the actual job insurance trust fund balance and the targeted modified average high-cost multiplier, as of December 31 of the previous year, and a projected trust fund balance for the next three years. The Legislative Council assigned this responsibility to the Budget Section.
16. **Statement from ethanol plants in operation before July 1, 1995, that received production incentives (Section 17-02-01)** - This section requires any North Dakota ethanol plant in operation before July 1, 1995, receiving production incentives from the state to file with the Budget Section, within 90 days after the conclusion of the plant's fiscal year, a statement by a certified public accountant indicating whether the plant produced a profit during the preceding fiscal year, after deducting incentive payments received from the state (effective July 1, 2005).
17. **Report identifying every state agency that has not submitted a claim for property belonging to that agency (Section 47-30.1-24.1)** - This section requires the commissioner of University and School Lands to present a report to the Budget Section identifying every state agency that has not submitted a claim for unclaimed property belonging to that agency within one year of receipt of the certified mail notification.
18. **Relinquishment of agency rights to recover property (Section 47-30.1-24.1)** - This section provides that each state agency that does not submit a claim for unclaimed property belonging to that agency within one year of receipt of the certified mail notification relinquishes its right to recover the property upon approval of the Budget Section.
19. **Transfers exceeding \$50,000 (Section 54-16-04(2))** - This section provides that, subject to Budget Section approval, the Emergency

Commission may authorize a transfer of more than \$50,000 from one fund or line item to another. Budget Section approval is not required if the transfer is necessary to comply with a court order, to avoid an imminent threat to the safety of people or property due to a natural disaster or war crisis, or to avoid an imminent financial loss to the state.

20. **Acceptance and expenditure of more than \$50,000 of federal funds which were not appropriated (Section 54-16-04.1).**

a. **Acceptance of federal funds** - This section provides that Budget Section approval is required for any Emergency Commission action authorizing a state officer to accept more than \$50,000 of federal funds which were not appropriated and the Legislative Assembly has not indicated an intent to reject the money. Budget Section approval is not required if the acceptance is necessary to avoid an imminent threat to the safety of people or property due to a natural disaster or war crisis or to avoid an imminent financial loss to the state.

b. **Expenditure of federal funds** - This section provides that Budget Section approval is required for any Emergency Commission action authorizing a state officer to spend more than \$50,000 of federal funds which were not appropriated and the Legislative Assembly has not indicated an intent to reject the money.

21. **Acceptance and expenditure of more than \$50,000 of other funds which were not appropriated (Section 54-16-04.2).**

a. **Acceptance of other funds** - This section provides that Budget Section approval is required for any Emergency Commission action authorizing a state officer to accept more than \$50,000 from gifts, grants, donations, or other sources which were not appropriated and the Legislative Assembly has not indicated an intent to reject money or programs. Budget Section approval is not required if the acceptance is necessary to avoid an imminent threat to the safety of people or property due to a natural disaster or war crisis or to avoid an imminent financial loss to the state.

b. **Expenditure of other funds** - This section provides that Budget Section approval is required for any Emergency Commission action authorizing a state officer to spend more than \$50,000 from gifts, grants, donations, or other sources which were not appropriated and the Legislative Assembly has not indicated an intent to reject the money or programs.

22. **Transfers of spending authority from the state contingencies appropriation exceeding \$50,000 (Section 54-16-09)** - This section provides that, subject to Budget Section

approval, the Emergency Commission may authorize a transfer of more than \$50,000 from the state contingencies line item to the appropriate line item in the appropriation of the state officer who requested the transfer. Budget Section approval is not required if the transfer is necessary to avoid an imminent threat to the safety of people or property due to a natural disaster or war crisis or to avoid an imminent financial loss to the state.

23. **Report on the status of the Medicaid management information system (Section 3 of Senate Bill No. 2024 (2007))** - This section requires the Department of Human Services to report to the Budget Section on the status of the Medicaid management information system computer project (effective February 14, 2007).

24. **Requests by the Information Technology Department to finance the purchase of software, equipment, or implementation of services (Section 54-59-05(4))** - This section requires the Information Technology Department to receive Budget Section or Legislative Assembly approval before executing any proposed agreement to finance the purchase of software, equipment, or implementation of services in excess of \$1 million. The department may finance the purchase of software, equipment, or implementation of services only to the extent the purchase amount does not exceed 7.5 percent of the amount appropriated to the department during that biennium.

25. **Periodic reports on the status of the construction of a new Crime Laboratory (Section 13 of Senate Bill No. 2003 (2007))** - This section requires the Attorney General to periodically report to the Budget Section on the status of the construction of a new Crime Laboratory during the 2007-09 biennium (effective July 1, 2007).

26. **Annual report on the state meat inspection program (Section 13 of Senate Bill No. 2009 (2007))** - This section requires the Agriculture Commissioner to report annually to the Budget Section regarding the revenues and expenditures of the state meat inspection program (effective July 1, 2007).

27. **Annual report on the endangered species program (Section 14 of Senate Bill No. 2009 (2007))** - This section requires the Agriculture Commissioner to report annually to the Budget Section regarding the status of the endangered species program (effective July 1, 2007).

28. **Quarterly reports on the status of performance audit recommendations (Section 5 of Senate Bill No. 2021 (2007))** - This section requires Workforce Safety and Insurance to report quarterly to the Budget Section regarding the agency's status of implementing the performance audit recommendations of the State Auditor (effective July 1, 2007).

29. **Annual audits from center of excellence-awarded funds under Chapter 15-69 (Section 15-69-05 and Section 4 of Senate Bill No. 2032 (2005))** - This section requires that a center of excellence that is awarded funds under Chapter 15-69 provide an annual audit to the Budget Section on the funds distributed to the center until the completion of four years following the final distribution of funds (effective July 1, 2005, through July 31, 2011).
30. **Periodic reports on the status of the Veterans Home construction project (Section 4 of Senate Bill No. 2418 (2007))** - This section requires the Veterans Home to report periodically to the Budget Section regarding the status of the Veterans Home construction project (effective July 1, 2007).
31. **Consider a correctional facility concept (Section 10 of House Bill No. 1015 (2007))** - This section provides that the Budget Section approve or reject the correctional facility concept authorized by the Emergency Commission from the three concepts forwarded to the commission by the Legislative Council's Correctional Facility Review Committee. (The Legislative Council at its June 6, 2007, meeting directed, as a result of the Attorney General's opinion on June 6, 2007, that any recommendation from the Emergency Commission regarding facility concepts be received by the Budget Section for informational purposes only rather than for approval or rejection.)
32. **Report regarding the status of the grandstand construction on the state fairgrounds (Section 4 of House Bill No. 1009 (2007))** - This section requires the State Fair Association to report to the Budget Section before July 1, 2008, regarding construction of a new grandstand on the state fairgrounds, including the status of developing a business plan and the progress of fundraising efforts (effective July 1, 2007).
33. **Space, operational, and staffing plan (Section 17 of House Bill No. 1015 (2007))** - This section requires the Department of Corrections and Rehabilitation to provide a space, operational, and staffing plan at the first Budget Section meeting after March 1, 2008, regarding the State Penitentiary and the James River Correctional Center (effective July 1, 2007).
34. **Project startup report and consideration of inmate medical system (Section 12 of House Bill No. 1015 (2007))** - This section requires the Department of Corrections and Rehabilitation to provide a project startup report and receive Budget Section approval prior to implementing the inmate medical system. The report is to identify benefits to be achieved, estimated implementation costs, a milestone schedule, and project risks (effective July 1, 2007).
35. **Report on facility agreement governing metrology services (Section 11 of Senate Bill No. 2008 (2007))** - This section requires the Public Service Commission and the Facility Management Division of the Office of Management and Budget to report to the Budget Section by July 1, 2008, on the facility use agreement governing metrology services conducted within the current metrology facility and the future of the metrology laboratory (effective July 1, 2007).
36. **Federal funds report** - Receive a report from the Legislative Council staff in the fall of 2008 on the status of the state's federal funds receipts for the current biennium and estimated federal funds receipts for the subsequent biennium.

The following duties, assigned to the Budget Section by law or by Legislative Council directive, are scheduled to be addressed by the Budget Section at its December 2008 meeting:

  1. **Receive report on specified commodities and services exempted from the procurement requirements of Chapter 54-44.4** - This section requires the director of the Office of Management and Budget to report to the Budget Section in December of even-numbered years on specified commodities and services exempted by written directive of the director from the procurement requirements of Chapter 54-44.4.
  2. **Review and report on budget data (Legislative Council directive)** - Pursuant to Legislative Council directive, the Budget Section is to review and report on the budget data prepared by the director of the budget and presented to the Legislative Assembly during the organizational session (December 2008).
  3. **Report on revenues and expenditures of the abandoned oil and gas well plugging and site reclamation fund; the geophysical, geothermal, subsurface minerals, and coal exploration fund; and the geologic data preservation fund (Section 7 of House Bill No. 1060 (2007))** - This section provides that the Industrial Commission report to the Budget Section on the revenues and expenditures of the abandoned oil and gas well plugging and site reclamation fund; the geophysical, geothermal, subsurface minerals, and coal exploration fund; and the geologic data preservation fund for the 2007-09 biennium (effective April 13, 2007).
  4. **Report on recruitment and retention of hunters (Section 7 of Senate Bill No. 2017 (2007))** - This section requires the Game and Fish Department to report to the Budget Section by December 31, 2008, regarding the department's findings as a result of its study of the recruitment and retention of hunters in North Dakota (effective July 1, 2007).

The following duties, assigned to the Budget Section by law or by Legislative Council directive, did not require action by the Budget Section during the 2007-08 interim:

  1. **Capital improvements preliminary planning revolving fund (Section 54-27-22)** - This section provides that before any funds can be

- distributed from the preliminary planning revolving fund to a state agency, institution, or department, the Budget Section must approve the request (approximately \$114,545 was available for the 2007-09 biennium).
2. **Investment in real property by the Board of University and School Lands (Section 15-03-04)** - This section provides that Budget Section approval is required prior to the Board of University and School Lands purchasing, as sole owner, commercial or residential real property in North Dakota.
  3. **Reduction of the game and fish fund balance below \$15 million (Section 20.1-02-16.1)** - This section provides that the Game and Fish Department can spend money in the game and fish fund within the limits of legislative appropriations, only to the extent the balance of the fund is not reduced below \$15 million, unless otherwise authorized by the Budget Section.
  4. **Provision of contract services by the Developmental Center (Section 25-04-02.2)** - This section provides that, subject to Budget Section approval, the Developmental Center at Westwood Park may provide services under contract with a governmental or nongovernmental person.
  5. **Waiver of exemption of special assessments levied for flood control purposes on state property (Section 40-23-22.1)** - This section provides that state property in a city is exempt from special assessments levied for flood control purposes unless the governing body of the city requests waiver of the exemption and the exemption is completely or partially waived by the Budget Section. The exemption does not apply to any privately owned structure, fixture, or improvement located on state-owned land if the structure, fixture, or improvement is used for commercial purposes unless the structure, fixture, or improvement is primarily used for athletic or educational purposes at a state institution of higher education.
  6. **Termination of food stamp program (Section 50-06-05.1(17))** - This section provides that, subject to Budget Section approval, the Department of Human Services may terminate the food stamp program if the rate of federal financial participation in administrative costs is decreased or if the state or counties become financially responsible for the coupon bonus payments.
  7. **Termination of energy assistance program (Section 50-06-05.1(19))** - This section provides that, subject to Budget Section approval, the Department of Human Services may terminate the energy assistance program if the rate of federal financial participation in administrative costs is decreased or if the state or counties become financially responsible for the energy assistance program payments.
  8. **Transfers resulting in program elimination (Section 54-16-04(1))** - This section provides that, subject to Budget Section approval, the Emergency Commission may authorize a transfer which would eliminate or make impossible the accomplishment of a program or objective funded by the Legislative Assembly.
  9. **New correctional programs which exceed \$100,000 of cost during a biennium (Section 54-23.3-09)** - This section requires the director of the Department of Corrections and Rehabilitation to report to the Legislative Assembly or, if the Legislative Assembly is not in session, the Budget Section, prior to the implementation of any new program that serves adult or juvenile offenders, including alternatives to conventional incarceration and programs operated on a contract basis if the program is anticipated to cost in excess of \$100,000 during the biennium.
  10. **Cashflow financing (Section 54-27-23)** - This section provides that in order to meet the cashflow needs of the state, the Office of Management and Budget may borrow, subject to Emergency Commission approval, from special funds on deposit in the state treasury. However, the proceeds of any such indebtedness cannot be used to offset projected deficits in state finances unless first approved by the Budget Section. Additional cashflow financing, subject to certain limitations, must be approved by the Budget Section.
  11. **Budget stabilization fund (Section 54-27.2-03)** - This section provides that any transfers from the budget stabilization fund must be reported to the Budget Section.
  12. **Purchases of "put" options (Section 54-44-16)** - This section requires the Office of Management and Budget to report any purchases of "put" options to the Budget Section (effective July 1, 2003, through June 30, 2005).
  13. **Objection to budget allotments or expenditures (Section 54-44.1-12.1)** - This section allows the Budget Section to object to a budget allotment, an expenditure, or the failure to make an allotment or expenditure if such action is contrary to legislative intent.
  14. **Budget reduction due to initiative or referendum action (Section 54-44.1-13.1)** - This section provides that, subject to Budget Section approval, the director of the budget may reduce state agency budgets by a percentage sufficient to cover estimated revenue reductions caused by initiative or referendum action.
  15. **Children's Services Coordinating Committee grants (Section 54-56-03)** - This section provides that Budget Section approval is required prior to the distribution by the Children's Services Coordinating Committee of any grants not specifically authorized by the Legislative Assembly.
  16. **Extraterritorial workers' compensation insurance (Section 65-08.1-02)** - This section

authorizes Workforce Safety and Insurance to establish, subject to Budget Section approval, a casualty insurance organization to provide extraterritorial workers' compensation insurance.

17. **Federal block grant hearings (House Concurrent Resolution No. 3001 (2007))** - This resolution authorizes the Budget Section, through September 30, 2009, to hold any required legislative hearings for federal block grants.
18. **Acceptance of federal funds for a specific purpose or program which were not appropriated (Section 54-16-04.1(4) and Section 1 of House Bill No. 1278 (2005))** - This section provides that upon approval by the Emergency Commission and Budget Section, the state may accept any federal funds made available to the state which are not for a specific purpose or program and which are not required to be spent prior to the next regular legislative session for deposit into a special fund until the Legislative Assembly appropriates the funds (effective August 1, 2005).
19. **Report on reductions made in homestead property income tax credit (Section 57-38-01.29 and Section 6 of Senate Bill No. 2032 (2007))** - This section requires the Tax Commissioner to report to the Budget Section, for review, any adjustments in the homestead property income tax credit (effective August 1, 2007).
20. **Consider request to reduce the commercial property income tax credit (Section 57-38-01.30 and Section 7 of Senate Bill No. 2032 (2007))** - This section provides that Budget Section approval is required for any adjustments made by the Tax Commissioner to the commercial property income tax credit (effective August 1, 2007).
21. **Consider request for annual tuition increase of more than 5 percent (Section 18 of House Bill No. 1003 (2007))** - This section provides that the State Board of Higher Education may seek Budget Section approval to increase annual tuition by more than 5 percent for each year for students attending institutions under the control of the board for the 2007-08 and 2008-09 academic years (effective July 1, 2007).
22. **Consider request for Secretary of State to borrow \$2.92 million from the Bank of North Dakota for implementation of the North Dakota business development engine information technology project (Section 18 of House Bill No. 1018 (2007))** - This section provides that upon Budget Section approval, the Secretary of State may borrow up to \$2.92 million from the Bank of North Dakota to implement the North Dakota business development engine information technology project (effective July 1, 2007).
23. **Consider request for Department of Human Services to borrow \$3.5 million from the**

**Bank of North Dakota for medical assistance grants (Section 5 of Senate Bill No. 2012 (2007))** - This section provides that, upon Budget Section approval, the Department of Human Services may borrow up to \$3.5 million from the Bank of North Dakota for providing the state matching share of additional medical assistance grants for developmental disabilities services for the 2007-09 biennium (effective July 1, 2007).

24. **Consider request for Department of Human Services to use state contingency funds (Section 4 of Senate Bill No. 2024 (2007))** - This section provides that the Department of Human Services obtain Budget Section approval prior to obligation or expenditure of funds related to a project change or other occurrence that requires the use of \$500,000 or more of state contingency funds for the Medicaid management information system computer project (effective February 14, 2007).
25. **Conduct budget tours and receive budget tour group reports** - Traditionally the Budget Section has conducted budget tours of state facilities and institutions or assigned the budget tours to other interim committees and received reports from the committees on the budget tours conducted.

## OFFICE OF MANAGEMENT AND BUDGET

### Final 2005-07 Biennium General Fund Revenues and Expenditures

The Budget Section received a report from the Office of Management and Budget on the final status of the general fund for the 2005-07 biennium:

Unobligated general fund balance - July 1, 2005	\$68,015,056
Add	
General fund collections through June 30, 2007	2,317,659,171
General fund turnback for the 2005-07 biennium	13,069,134
Total general fund revenue for the 2005-07 biennium	\$2,398,743,361
Less	
2005-07 biennium general fund appropriations	1,989,452,623
Supplemental appropriations (Senate Bill No. 2023 (2007))	11,084,451
Transfer to the budget stabilization fund	100,527,369
Cash certifications, adjustments, and changes in authorized carryover	2,137,742
Ending general fund balance - June 30, 2007	\$295,541,176

The Legislative Assembly approved House Bill No. 1429 (2007), which provided, in lieu of other transfers, that \$100,527,369 be transferred from the ending 2005-07 biennium general fund balance to provide for a total of \$200,000,000 in the budget stabilization fund for the biennium beginning July 1, 2007, and ending June 30, 2009. The Office of Management and Budget reported \$100,527,369 was transferred from the general fund to the budget

stabilization fund at the end of the 2005-07 biennium. Pursuant to NDCC Section 54-27.2-01 and effective July 1, 2009, the maximum balance allowed in the fund will be increased from 5 percent to 10 percent of the general fund budget as approved by the most recently adjourned Legislative Assembly.

### 2005-07 Biennium General Fund Deficiency Appropriations and General Fund Turnback

The Budget Section received a report from the Office of Management and Budget on the 2005-07 biennium agency deficiency appropriation amounts. Deficiency appropriations for the 2005-07 biennium totaled approximately \$11 million. Agencies with the largest deficiency appropriations included the Department of Corrections and Rehabilitation (\$4,069,832) and the Adjutant General (\$4,100,000).

The Budget Section received a report from the Office of Management and Budget on the 2005-07 biennium agency unspent general fund appropriation amounts (turnback). Unspent general fund appropriations for the 2005-07 biennium totaled approximately \$13 million. Agencies with the largest amounts of unspent general fund appropriations included the Department of Human Services (\$3,813,646), the judicial branch (\$2,101,220), and the Department of Corrections and Rehabilitation Youth Correctional Center and Juvenile Services Division (\$1,031,512).

### Status of the General Fund

At each Budget Section meeting, a representative of the Office of Management and Budget reviewed the status of the state general fund and revenue collections for the 2007-09 biennium. The following is a summary of the status of the state general fund, based on actual revenue collections through August 2008, and reflecting the July 2008 revised revenue forecast for the remainder of the 2007-09 biennium:

Unobligated general fund balance - July 1, 2007		\$295,541,176
Add		
General fund collections through August 2008	\$1,535,043,766	
Forecasted general fund revenue for the remainder of the 2007-09 biennium (based on the July 2008 revised forecast)	1,077,697,548	
Total estimated general fund revenue for the 2007-09 biennium		\$2,612,741,314
Total available		\$2,908,282,490
Less		
2007-09 biennium general fund ongoing appropriations	\$2,317,447,307	
2007-09 biennium general fund one-time appropriations	139,526,649	
Contingent appropriation (Section 50 of Senate Bill No. 2200 (2007))	5,000,000	
Total appropriations		\$2,461,973,956
Estimated general fund balance - June 30, 2009 (\$427,652,355 more than the legislative estimate of \$18,656,179)		\$446,308,534

The Office of Management and Budget's July 2008 revised revenue forecast for the 2007-09 biennium anticipates general fund revenue will total \$2.5 billion, \$363 million more than the April 2007 legislative forecast. The Office of Management and Budget's July 2008 preliminary 2009-11 biennium revenue forecast anticipates total general fund revenue of \$2.7 billion for the 2009-11 biennium, \$202 million more than the 2007-09 biennium revised forecast.

### Status of the Permanent Oil Tax Trust Fund

At each Budget Section meeting, a representative of the Office of Management and Budget reviewed the status of the permanent oil tax trust fund and revenue collections for the 2007-09 biennium. The following is a summary of the status of the permanent oil tax trust fund, based on actual revenue collections through August 2008, and reflecting the July 2008 revised revenue forecast for the remainder of the 2007-09 biennium:

Beginning permanent oil tax trust fund balance - July 1, 2007	\$143,270,662
Add	
Revenue collections through August 2008	275,158,783
Forecasted revenues for the remainder of the 2007-09 biennium (based on revised forecast assumptions for oil price and production)	358,871,552
Total estimated permanent oil tax trust funds available for the 2007-09 biennium	\$777,300,997
Less expenditures and transfers	145,716,541
Estimated permanent oil tax trust fund balance - June 30, 2009 (\$494.6 million more than the \$137.0 million projected by the 2007 Legislative Assembly)	\$631,584,456

The July 2008 revenue forecast anticipates transfers to the permanent oil tax trust fund to total \$625 million during the 2007-09 biennium and \$666 million during the 2009-11 biennium.

### Tobacco Settlement Proceeds

Pursuant to NDCC Section 54-44-04, the Budget Section received reports on tobacco settlement proceeds received by the state. The Office of Management and Budget reported that, as of September 2008, approximately \$58.9 million had been received for the 2007-08 interim by the state and deposited in the tobacco settlement trust fund. The state receives annual payments in April and the proceeds have been allocated among the community health trust fund, common schools trust fund, and water development trust fund as follows pursuant to Section 54-27-25:

Tobacco settlement trust fund	
Community health trust fund (10%)	\$5,889,522
Common schools trust fund (45%)	26,502,848
Water development trust fund (45%)	26,502,848
Total transfers from the tobacco settlement trust fund	\$58,895,218

The Office of Management and Budget reported revenues and expenditures in the trust funds from

December 1, 1999, through August 31, 2008, and balances of the trust funds were as follows:

Community health trust fund	
Deposits	\$23,315,645
Expenditures	21,057,772
August 31, 2008, balance	\$2,257,873
Water development trust fund	
Deposits	\$104,920,399
Expenditures	93,158,552
August 31, 2008, balance	\$11,761,847

### Fiscal Irregularities

Pursuant to NDCC Section 54-14-03.1, the Budget Section received reports from the Office of Management and Budget on irregularities in the fiscal practices of the state. Fiscal irregularities include the use of state funds to provide bonuses, cash incentive awards, and temporary salary adjustments for state employees. The Office of Management and Budget identified the following fiscal irregularities:

Agency	Amount	Reason
Workforce Safety and Insurance	\$823.00	Retroactive pay for additional workload due to vacancies
Information Technology Department	\$2,500.00	Retroactive pay for five-month temporary increase for employee who served as interim Chief Information Officer
Department of Transportation	\$2,442.59	Retroactive pay for reinstated employee
Office of Management and Budget	\$1,000.00	Retroactive pay for additional workload due to vacancies and implementation of new P-card vendor contract
Department of Human Services	\$15,414.36	Severance pay
Department of Human Services	\$13,721.13	Severance pay
Department of Transportation	\$10,000.00	Severance pay
Department of Commerce	\$500.00	Temporary increase for workload increase due to vacancy of director of Division of Economic Development and Finance
Department of Commerce	\$4,250.00	Temporary increase for workload increase due to vacancy of vice president of research
Department of Commerce	\$2,500.00	Temporary increase for workload increase due to vacancy in Division of Community Services
Information Technology Department	\$841.19	Temporary increase for additional workload due to the Family and Medical Leave Act
Office of Management and Budget	\$1,000.00	Retroactive pay for two employees for additional workload due to custodial vacancies throughout the 2005-07 biennium
Department of Human Services	\$8,820.00	Settlement agreement
Department of Commerce	\$500.00	Temporary increase due to vacancy in Division of Community Services
Department of Commerce	\$1,125.00	Temporary increase due to vacancy of vice president of research
Commission on Legal Counsel for Indigents	\$2,000.00	Pay for an extra project in addition to normal duties

Workforce Safety and Insurance	\$500.00	Retroactive pay for additional workload due to vacancy in accounts payable
Information Technology Department	\$1,245.00	Additional pay for part-time employee who worked additional hours during vacancy
Veterans Home	\$3,403.00	Settlement agreement
Workforce Safety and Insurance	\$127,848.00	Settlement agreement
Job Service North Dakota	\$77,300.00	Severance packages for 14 individuals whose jobs were eliminated when the job opportunities and basic skills program was terminated
Department of Transportation	\$2,555.00	Retroactive pay for additional workload
Department of Mineral Resources	\$33,500.00	Performance bonuses for 44 individuals which exceeded the limit of 12 full-time equivalent (FTE) positions or 25 percent of employees
Department of Transportation	\$26,023.00	Overspent appropriation authority in the Driver and Vehicle Services program in the 2005-07 biennium
Veterans Home	\$3,544.00	Settlement agreement
Workforce Safety and Insurance	\$23,569.00	Severance package
Workforce Safety and Insurance	\$15,920.00	Severance package
Parks and Recreation Department	\$8,512.00	Settlement agreement
Department of Transportation	\$2,460.00	Settlement agreement
Attorney General's office	\$44,432.00	Payout of accumulated annual pay
North Dakota Vision Services - School for the Blind	\$3,726.00	Additional work in June for four teachers outside of their nine-month teaching contract
State Fair Association	\$8,764.00	Additional work for three individuals during transition to new State Fair Association manager
Department of Commerce	\$1,625.00	Temporary additional work for a special project
Department of Corrections and Rehabilitation - Youth Correctional Center	\$750.00	Additional work in August for one teacher at the Youth Correctional Center outside of her teaching contract
State Auditor's office	\$14,000.00	Performance bonuses are limited by statute to 13, but 14 individuals received performance bonuses in fiscal year 2008.

### 2009-11 Biennium Budget Form Changes

The Budget Section reviewed information on the form of the budget data and appropriation bill format and changes to the appropriation bill format for the 2009 legislative session as recommended by the Budget and Finance Committee.

Pursuant to NDCC Section 54-44.1-07, the Office of Management and Budget reported it has expanded the budget changes report to identify one-time items that have been removed and one-time items being requested by agencies for the 2009-11 biennium. One-time funding items recommended in the executive budget will also be identified.



## Budget Data Recommendation

Pursuant to NDCC Section 54-44.1-07, the Budget Section recommended changes to the budget data by requesting the Office of Management and Budget to:

1. Prepare the appropriation bills for introduction to the Legislative Assembly in a format that provides:
  - a. Base level funding, adjustments or enhancements, and the appropriation for each agency in a single section using a three-column format; and
  - b. The number of FTE positions in total for each agency shown for the base level, adjustments or enhancements, and the authorized (appropriation) level.
2. Prepare the appropriation bills for introduction to the 2009 Legislative Assembly by including a separate line item for deferred maintenance funding and that each agency maintain detailed records of amounts spent from this line item for deferred maintenance and for any extraordinary repairs or other purposes.

## Status of the Risk Management Workers' Compensation Program

The Office of Management and Budget presented information to the Budget Section regarding the status of the risk management workers' compensation program pursuant to NDCC Section 65-04-03.1(5). Legislation in 2001 established a single workers' compensation account for all state entities. The Risk Management Division of the Office of Management and Budget administers the program. The Office of Management and Budget reported for coverage periods beginning July 1, 2001, the Risk Management Division entered deductible contracts with Workforce Safety and Insurance for 143 consolidated accounts. The deductible amount selected was \$100,000 per claim with a \$5 million aggregate stop. Results for the seven coverage years from July 1, 2001, through September 15, 2008, are:

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

The Risk Management Division has implemented the following programs to allow agencies to benefit from the savings and effective risk management strategies:

- Discount dollars program, which relates to the implementation of safety programs, totaled \$2 million.
- Dividend dollar program, which relates to an agency's loss history, totaled \$684,000.

## HIGHER EDUCATION

### Capital Projects

During the 2007-08 interim, the Budget Section received requests relating to the following North Dakota University System capital projects:

- **Minot State University - Dome floor replacement project** - Pursuant to NDCC Section 48-02-20, the Budget Section approved Minot State University's request to increase spending authority for the dome floor replacement project from \$387,000 to \$431,000.
- **State College of Science - Steamline project** - Pursuant to NDCC Section 48-02-20, the Budget Section approved State College of Science's request to change the scope of the steamline project to include replacement of water and sewerlines.
- **University of North Dakota - Harrington Hall (Jodsaas Center)** - Pursuant to NDCC Section 15-10-12.1, the Budget Section approved University of North Dakota's request to accept and spend \$1.3 million in donated funds for an addition to Harrington Hall. At a later meeting, the Budget Section was informed that the University of North Dakota Alumni Foundation will issue bonds to finance construction of the project and create an endowment with the donated funds that will meet bond payment obligations and provide for other foundation priorities.
- **University of North Dakota - President's house** - Pursuant to NDCC Section 15-10-12.1, the Budget Section approved University of North Dakota's request to accept from the University of North Dakota Alumni Foundation a new president's house at a construction cost of \$900,000. At a later meeting, the Budget Section was informed that the University of North Dakota Alumni Foundation will issue bonds to finance construction of the project and create an endowment with the donated funds that will meet bond payment obligations and provide for other foundation priorities.
- **North Dakota State University - President's house** - Pursuant to NDCC Section 15-10-12.1, the Budget Section approved North Dakota State University's request to accept from the North Dakota State University Development Foundation a new president's house at a construction cost of \$900,000. At a later meeting, the Budget Section was informed that the North Dakota State University Development Foundation will issue bonds to finance construction of the project and create an endowment with the donated funds that will meet bond payment obligations and provide for other foundation priorities.
- **North Dakota State University - Material handling facility** - Pursuant to NDCC Section 48-01.2-25, the Budget Section approved North Dakota State University's request to increase the scope of its material handling facility project from

\$3.5 million to \$4 million for Phase 1 of the project.

- **Dickinson State University - Whitney Stadium** - Pursuant to NDCC Section 48-01.2-25, the Budget Section approved Dickinson State University's request to increase the scope of the Whitney Stadium project from \$8 million to \$16 million. At a later meeting, the Budget Section learned 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 entered into a joint powers agreement and that the city of Dickinson plans to contribute \$6 million to the project over a five- to seven-year period.
- **North Dakota State University - Living Learning Residence Hall West and Ceres Hall** - Pursuant to NDCC Section 48-01.2-25, the Budget Section approved North Dakota State University's request to increase the scope of the total project authorization for the Living Learning Residence Hall West and Ceres Hall from \$12 million to \$12.4 million.
- **North Dakota State University - Dickinson Research Extension Center - Manning Ranch site** - Pursuant to NDCC Section 48-01.2-25, the Budget Section approved North Dakota State University's request to increase the scope of the project authorization for the waste management system at the Dickinson Research Extension Center - Manning Ranch site from \$351,000 to \$450,000.
- **Bismarck State College - Schafer Hall** - Pursuant to NDCC Section 48-01.2-25, the Budget Section approved Bismarck State College's request to increase the scope of the project authorization for the Schafer Hall renovation project from \$543,000 to \$800,000.
- **Williston State College - Service rig project** - Pursuant to NDCC Section 48-01.2-25, the Budget Section approved Williston State College's request to increase the scope of the project authorization for the service rig project from \$700,000 to \$810,000.
- **University of North Dakota - Human simulator laboratory facility** - Pursuant to NDCC Section 15-10-12.1, the Budget Section approved University of North Dakota's request to accept from the University of North Dakota Alumni Foundation a human simulator laboratory facility with an estimated value of \$1.5 million.

#### **Local Funds -**

##### **Higher Education Construction Projects**

The Budget Section received a report from the North Dakota University System on the sources of local funds received for construction projects of entities under the State Board of Higher Education for the 2005-07 biennium pursuant to NDCC Section 15-10-12.3. The University System reported three state-funded projects were authorized for the 2005-07 biennium requiring a

local match. The projects were located at the North Dakota State University Main Research Center and the North Central and Central Grasslands Research Centers. The projects at the Main Research Center and the North Central Research Center were not completed in the 2005-07 biennium and were continued into the 2007-09 biennium. The Central Grasslands Research Center project was completed within the overall appropriation authority and provided the local match requirement.

#### **STATE BOARD OF AGRICULTURAL RESEARCH AND EDUCATION STATUS REPORT**

The State Board of Agricultural Research and Education provided information to the Budget Section regarding the status of the board pursuant to NDCC Section 4-05.1-19(10). The board reported agriculture continues to be a major factor in North Dakota's economy and is the state's No. 1 industry. The board is in the process of analyzing the needs of North Dakota's agricultural community and developing strategies to generate solutions to these needs. The board distributed a list of plant improvement project requests totaling \$3.5 million and a list of deferred maintenance project requests totaling \$4.4 million for the Agricultural Experiment Station.

#### **INFORMATION TECHNOLOGY DEPARTMENT Annual Reports**

Pursuant to NDCC Section 54-59-19, the Budget Section received the Information Technology Department 2006-07 and 2007-08 annual reports. The Information Technology Department reported it has been concentrating on customer service for the last three years and the focus of its fiscal year 2008 report is on measuring outcomes. In fiscal year 2008 the department reported, based on customer surveys, the department is a trusted business partner 94.9 percent of the time and the preferred information technology provider 86.2 percent of the time. The Information Technology Department logged 53,738 incidents over the last year and users indicated that, in 99.8 percent of these incidents, the department provided a positive customer experience. The department reported billings for fiscal year 2008 totaled \$41.8 million, \$2.8 million more than fiscal year 2007 and \$7.8 million more than fiscal year 2006. The majority of revenue is generated from computer hosting and software development service fees. The department reported experiencing challenges in recruiting and retaining employees with a turnover rate of 6.8 percent. The department's goal is a 4 percent to 6 percent turnover rate. The department reported the majority of its service rates are competitive with surrounding states.

#### **Loan Request**

Pursuant to NDCC Section 54-59-05(4), the Budget Section received a request from the Information Technology Department for approval to borrow up to

\$6 million for the purchase of computer hardware and software and the associated implementation services necessary to host the Department of Human Services' Medicaid management information system applications. Section 54-59-05 provides that, with the approval of the Legislative Assembly or the Budget Section, the Information Technology Department may finance the purchase of hardware and software provided the financing agreement does not exceed five years and does not exceed 7.5 percent of the amount appropriated to the department during the biennium. The department reported, based on its 2007-09 biennium appropriation of \$124,907,776, the purchase does not exceed the 7.5 percent limit of \$9,368,083. The 2007 Legislative Assembly provided the department with \$6,017,443 of special funds spending authority for procuring the hardware, software, and related services for the Medicaid management information system project.

The Budget Section approved, pursuant to NDCC Section 54-59-05(4), the Information Technology Department's request for approval to borrow up to \$6 million for the purchase of computer hardware and software and the associated implementation services necessary to host the Department of Human Services' Medicaid management information system applications.

## **DEPARTMENT OF HUMAN SERVICES**

### **Transfers in Excess of \$50,000**

Pursuant to Section 4 of Senate Bill No. 2012 (2007), the Budget Section received a report from the Department of Human Services regarding transfers the department made between line items and between subdivisions of Senate Bill No. 2012 in excess of \$50,000. The department reported four line item transfers made through June 30, 2008, were to:

1. Realign the distribution of the social service block grant funding to provide more efficient reporting to the grantor agency - \$2,050,532.
2. Move Projects for Assistance in Transition from Homelessness grant funding from the Northwest Human Service Center to the Southeast Human Service Center to address changes in need - \$50,541.
3. Realign information technology staff to ensure technology remains centralized - \$172,193.
4. Realign the records management function within the Information Technology Services Division because the work performed supported the entire department - \$75,167.

### **Status of Medicaid Management Information System**

Pursuant to Section 3 of Senate Bill No. 2024 (2007), the Budget Section received periodic reports from the Department of Human Services regarding the status of the Medicaid management information system computer project. The Budget Section learned the requirements phase of the project is complete and the effort in the 2007-09 biennium has been focused on Phase 2 planning, hardware/software configuration and environment setup, and documentation of the North Dakota-specific claim edits and audits. The Department

of Human Services has finalized the contracts for the decision support system and the independent verification and validation. The cost of the independent verification and validation vendor is estimated to be 8 percent to 12 percent of the total project cost. The contractor will review business processes and the system design, ensure the traceability of requirements, and oversee testing. 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. Due to delays in the New Hampshire project, the department met with ACS in April 2008 to discuss how to "delink" North Dakota's project from the New Hampshire project to ensure North Dakota would not be negatively impacted by the delay. 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. The department has expressed its concern regarding delays in the product development to the developer. While the department has been negotiating a revised schedule with ACS, the project team has continued to proceed with system design specifications. Negotiations with ACS are primarily focused on the postdesign phases of the project which are highly dependent on the timely delivery of an ACS product that meets North Dakota requirements. The Budget Section received the following project funding summary:

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

### **Enhancement of County Eligibility Systems**

The Budget Section received information on the enhancement of county eligibility systems. The county eligibility systems are separate and independent from the Medicaid management information system. County eligibility workers use the following four distinct information systems:

1. Vision - For determining temporary assistance for needy families and certain categories of Medicaid eligibility.
2. Technical eligibility computer system - For determining food stamps and the remaining categories of Medicaid eligibility.
3. Low-income home energy assistance program - For determining low-income fuel assistance eligibility.
4. Child care eligibility determination system.

The effort and expense associated with consolidating the four systems would be extensive and were not included in the Department of Human Services' 2007-09 biennium budget. The department issued a request for information during the 2007-08 interim to determine the cost of consolidating the four systems and conducted a

state-level market assessment to better understand recent procurements in other states. The assessment will allow the department to formulate a budget request for consideration by the 2009 Legislative Assembly.

### **Status of Medicaid Reimbursements**

The Budget Section received information on the status of Medicaid reimbursements. The Department of Human Services experienced a Medicaid claims backlog that had been above the normal level since the spring of 2006. The department normally has between 20,000 claims and 25,000 claims in suspense. In October 2007 the department had approximately 90,000 claims in suspense.

The high number of claims in backlog was primarily due to two federal changes. Medicare changed the process by which claims are submitted for individuals who are eligible for both Medicare and Medicaid. The change led to delays in the receipt and processing of Medicare/Medicaid claims. The second change was the requirement that the National Provider Identification be in production in May 2007, a significant change to the system that resulted in thousands of claims being suspended or rejected.

The Medical Services Division authorized overtime for staff for over a year in an effort to process claims on a more timely basis. The division began mandatory overtime in September 2007 when it became evident that voluntary overtime was not reducing the backlog effectively. The overtime resulted in the processing of additional claims; however, the large volume of claims in suspense warranted the addition of six temporary staff. The department monitored the backlog on a weekly basis and issued payouts to providers until the backlog was reduced. By June 2008 the number of claims in suspense had been reduced to approximately 30,000 claims, which is near average.

### **Capital Projects**

#### **State Hospital**

The Budget Section received a report from the State Hospital regarding the sexual offender unit addition capital project. The State Hospital reported that cost estimates for the project were more than estimated and, due to less demand for sexual offender treatment services, the State Hospital no longer believes the sexual offender unit addition is needed; therefore, the State Hospital requested to use the \$3.1 million from the general fund appropriated for the project for other capital improvement needs at the State Hospital.

The Budget Section approved, pursuant to NDCC Section 48-01.2-25, the State Hospital's request to change the sexual offender unit addition capital project but limited the use of the funds to \$1,751,973 of the \$3,100,000 authorized by the 2007 Legislative Assembly for the State Hospital sexual offender unit addition for the electrical distribution project, a security fence, and architectural and engineering fees.

## **DEPARTMENT OF COMMERCE**

### **Annual Audits of Renaissance Fund Organizations**

The Department of Commerce reported on the annual audits of renaissance fund organizations pursuant to NDCC Section 40-63-07(9). The department reported 43 renaissance zone cities, of which 7 have renaissance fund organizations. The Legislative Assembly approved the following maximum aggregate tax credits for investments in a renaissance fund organization:

- \$2.5 million - 1999 Legislative Assembly.
- \$1 million - 2001 Legislative Assembly.
- \$1.5 million - 2003 Legislative Assembly.

Of the \$2.5 million in renaissance credits approved by the 1999 Legislative Assembly, \$591,250 remain but are unavailable because of pending investments. Of the \$2.5 million in renaissance credits approved by the 2001 and 2003 Legislative Assemblies, \$682,500 remain available. The Budget Section learned the independent auditor's reports of the renaissance fund organizations examined contain no exceptions.

### **Centers of Excellence**

Pursuant to NDCC Section 15-69-02, the Budget Section considered applications for centers of excellence funding awards recommended by the Centers of Excellence Commission and the Emergency Commission and forwarded to the Budget Section. The Budget Section considered 13 requests, all of which were approved. Centers of excellence projects totaling \$10 million were approved in Round 1 of the application process in October 2007. Of the six centers of excellence applications approved in Round 1, two were discontinued. As a result, the Centers of Excellence Commission did not distribute \$4.6 million of the \$10 million approved for Round 1 projects; therefore, \$14.6 million was available for Round 2 applications. Seven projects totaling \$14,050,000 were approved in Round 2 of the application process in September 2008. Funding for the 11 approved applications remaining totals \$19,450,000, including \$15,000,000 from the permanent oil tax trust fund and up to \$5,000,000 from loan proceeds from the Bank of North Dakota as authorized in Section 15 of House Bill No. 1018 (2007). The Office of Management and Budget will request authority from the 2009 Legislative Assembly to repay any amounts borrowed from the Bank of North Dakota. The approved applications for centers of excellence are:

- North Dakota State University Center for Agbiotechnology: Oilseed Development II - \$1,500,000.
- North Dakota State University Center of Excellence for Surface Protection - \$2,000,000.
- University of North Dakota Biomedical Device Research - \$2,500,000 (approved, but subsequently discontinued).
- University of North Dakota Unmanned Aircraft System - \$1,500,000.
- Lake Region State College Dakota Center for Technology-Optimized Agriculture - \$400,000.

- Minot State University Great Plains Knowledge and Data Center - \$2,100,000 (approved, but subsequently discontinued).
- North Dakota State University Center for Integrated Electronic Systems - \$2,050,000.
- North Dakota State University Center for Biopharmaceutical Research and Production - \$2,000,000.
- University of North Dakota Passive Therapeutics - \$2,650,000.
- University of North Dakota SUNRISE BioProducts: A Center of Excellence for Chemicals, Polymers, and Composites From Crop Oils - \$2,950,000.
- University of North Dakota Petroleum Research, Education, and Entrepreneurship Center of Excellence - \$3,000,000.
- University of North Dakota Center of Excellence in Space Technology and Operations - \$1,000,000.
- Minot State University - Bottineau Entrepreneurial Center for Horticulture - \$400,000.

### **Centers of Excellence Audit Reports**

The Budget Section received, pursuant to NDCC Section 15-69-05(2), the annual audit reports of the 11 centers of excellence approved prior to the 2007-09 biennium and the centers of excellence monitoring report from the Department of Commerce.

Each center of excellence is required to conduct an annual audit and provide it to the State Board of Higher Education, the North Dakota Economic Development Foundation, and the Legislative Council. The department provided audits for the fiscal year ended June 30, 2007. Of the 11 centers audited, 5 centers had no findings, and 6 centers had a combined nine findings. The department reported four of the nine findings have been corrected and the Department of Commerce is working with the centers to correct the remaining five findings. The department reported none of the findings impact the scope or purpose of the project in any significant manner.

The department reported the total state investment in centers of excellence of \$23 million has been leveraged by nearly \$100 million in matching funds from the private sector and other sources. The department reported 102 private sector companies are participating in the centers of excellence program and the program has resulted in 16 new or expanded businesses. The department reported 500 new direct jobs have been created, with an annual payroll of \$21 million and 2,500 new direct jobs are projected.

## **DEPARTMENT OF CORRECTIONS AND REHABILITATION**

### **Correctional Facility Review Committee Recommendation to the Emergency Commission**

Pursuant to Section 10 of House Bill No. 1015 (2007) 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. 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. See the report of the Correctional Facility Review Committee for details regarding the committee's study and recommendations.

### **Space, Operational, and Staffing Plan**

The Budget Section received from the Department of Corrections and Rehabilitation information regarding a space, operational, and staffing plan for the State Penitentiary and the James River Correctional Center pursuant to Section 17 of House Bill No. 1015 (2007). The department provided information regarding minimum number of staff at the State Penitentiary, the James River Correctional Center, and the Missouri River Correctional Center. 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. To staff one post 24 hours a day 7 days a week requires 5.1 FTE 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.

The Budget Section learned a 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. The report estimates the remodel/expansion plan would require an increase of approximately 67 FTE to 73.5 FTE correctional officers; however, the actual number of staff cannot be determined until the plans are complete. The department reported that because the construction of the facility will extend beyond the 2009-11 biennium, it anticipates requesting additional staffing for the next biennium.

Regarding the James River Correctional Center, the department reported a review and analysis of staffing needs reveal an inadequate relief factor and the department anticipates requesting additional officers. The Missouri River Correctional Center also does not have adequate staff to cover absences, resulting in overtime or managing the facility below minimum staffing levels.

The department anticipates space issues 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. The James River Correctional Center and the Missouri River Correctional Center both operate at maximum capacity. In addition, 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. 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.

### **Inmate Medical System**

The Budget Section received, from the Department of Corrections and Rehabilitation, a request for approval of its inmate medical system implementation plan pursuant to Section 12 of House Bill No. 1015 (2007). The department reported inmate populations are constantly moving within the correctional system and an American Correctional Association standard states that an offender's medical file must follow the offender. When, due to overcrowding, an inmate is housed at a county jail, the department must copy and transport large medical files. 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. The department collaborated with the Information Technology Department and has developed a plan for implementation of an inmate medical system. The project is anticipated to be completed over 11 months and cost \$1 million.

The Budget Section approved, pursuant to Section 12 of House Bill No. 1015, the Department of Corrections and Rehabilitation's plan for implementation of an inmate medical system.

### **PUBLIC SERVICE COMMISSION**

The Budget Section received a report regarding the status of a facility use agreement between the Public Service Commission and the Facility Management Division of the Office of Management and Budget and the future of the metrology laboratory pursuant to Section 11 of Senate Bill No. 2008 (2007). The Budget Section learned the Public Service Commission staff currently obtains advance approval for all renovations to the metrology laboratory and will continue to do so. Agency staff has met with the Facility Management Division 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. The agency has received a proposed joint use agreement from the director of the Facility Management Division and will continue to meet with Facility Management Division staff to develop an agreement that will allow the agency to maintain National Institute of Standards and Technology recognition through the current biennium. The Legislative Assembly appropriated \$74,600 from the general fund for the renovation of the metrology laboratory to avoid certain issues of noncompliance with National Institute of Standards and Technology standards. The agency provided a list of improvements made 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. The agency continues to work to maintain National Institute of Standards and Technology conditional recognition of the state metrology laboratory by making progress to mitigate noncompliance issues.

### **STATE FAIR ASSOCIATION**

The Budget Section received, pursuant to Section 4 of House Bill No. 1009 (2007), a report on 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. The Budget Section viewed a video developed by the State Fair Association to aid in its fundraising efforts and received information, including a 2008 North Dakota State Fair brochure; 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. The Budget Section learned the State Fair is the largest annual event held in the state and the economic impact of the State Fair and related activities is over \$62 million annually. 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. Of this amount, the Budget Section learned \$85,974 has been spent through June 2008 on fundraising counsel, a DVD and brochure, a television documentary, and architectural fees. The agency plans to conduct a feasibility study and will establish the fundraising and construction timetable based on the results of its study.

### **AGRICULTURE COMMISSIONER**

#### **Status of the State Meat Inspection Program**

The Budget Section received reports, pursuant to Section 13 of Senate Bill No. 2009 (2007), from the Department of Agriculture on the status of the state meat and poultry inspection program. The 2007 Legislative Assembly provided a deficiency appropriation of \$58,130 to the department for the 2005-07 biennium, of which the department spent \$45,528.

Senate Bill No. 2009 provided funding for four new FTE positions to meet the increased demands for state meat and poultry inspection services. The department reported four new FTE positions include one FTE inspector position that was approved by the Emergency Commission and the Budget Section in March 2006. The other FTE positions include a supervising inspector, an inspector/grader, and an office staff person/relief inspector. The department reported all but one of the FTE positions have been filled, and it is anticipated the vacant position will be filled by the end of the biennium. Total state meat and poultry inspection program expenditures through August 2008 were \$813,720, of which \$414,247 was from the general fund. Reimbursements for grading services through June 2008 total \$5,488. Total revenue for the country of origin labeling program through August 2008 is \$3,139 compared to total expenditures of \$3,948.

## **Status of the Endangered Species Program**

The Budget Section received reports, pursuant to Section 14 of Senate Bill No. 2009 (2007) from the Department of Agriculture on the status of the endangered species program. Senate Bill No. 2009 provided 1.5 FTE positions and funding of \$250,000 for an endangered species program. The department reported the .5 FTE position was combined with an existing vacant .5 FTE position from the noxious weed program to create an FTE geographic information system specialist position. The department has also hired an environmental scientist. An agreement will be formalized with the Environmental Protection Agency regarding the department's provision of information to the agency. The department plans to work with North Dakota State University to develop a pesticide use survey and with the State Department of Health to develop a pesticide monitoring program for surface water. The endangered species program provides the Environmental Protection Agency with data and recommendations to assist the agency in evaluating pesticides for potential effects that threaten and endanger species, as well as assistance with developing pesticide use restrictions. The major component of the Environmental Protection Agency's Endangered Species Protection Program is the use of Endangered Species Protection Bulletins, which add use restrictions above and beyond those on the pesticide label. The bulletins, issued on a county-by-county basis, are enforceable documents under both state and federal law. The program was established to more clearly define areas in which pesticides are restricted, resulting in smaller restricted areas rather than larger default restricted areas. The department submitted a formal plan for approval to the Environmental Protection Agency in June 2008. The department has received Environmental Protection Agency comments on the plan and anticipates making the necessary changes and resubmitting the plan for final approval in the fall of 2008. The program is also responsible for performing risk assessments for Section 18 emergency exemptions and Section 24(c) special local needs registrations under the Federal Insecticide, Fungicide, and Rodenticide Act and providing education and outreach.

## **ATTORNEY GENERAL**

### **Status of the New Crime Laboratory Building**

The Budget Section received periodic reports from the Attorney General's office regarding the status of the new Crime Laboratory building pursuant to Section 13 of Senate Bill No. 2003 (2007). The 2005 Legislative Assembly appropriated \$3.65 million for a 13,000-square foot expansion to the existing Crime Laboratory, which is colocated with the State Department of Health laboratory. The Attorney General's office reported after spending nearly \$400,000 for design and engineering services, the resulting bids exceeded the funds available and the project was delayed until the 2007 Legislative Assembly could address the issue of additional funding. The 2007 Legislative Assembly allowed the Attorney General's office to continue existing bond proceeds and appropriated an additional \$1.44 million from the general

fund and \$200,000 from special funds for continuation of the project and redesign of a 19,000-square foot structure in close proximity to the existing laboratory. The building was completed and a "ribbon-cutting" ceremony was held October 21, 2008. The Attorney General's office reported although the building is complete, a few items remain unfinished, including the relocation of the State Department of Health's garage elsewhere on the property and the extension of the State Water Commission's gravel surface lot. The garage will be demolished once the new garage is completed and, weather permitting, the relocation will be completed in 2008. It is unlikely the parking lot extension will be completed before spring 2009. The Attorney General's office reported they are confident the new Crime Laboratory will be completed within the \$4,790,162 budget. Expenditures through September 2008 totaled \$3,847,009.

## **VETERANS HOME**

The Budget Section received periodic reports from the Veterans Home regarding the status of the Veterans Home construction project pursuant to Section 4 of Senate Bill No. 2418 (2007) and a request for Budget Section approval to increase the project authorization for the new Veterans Home construction project from \$21,098,656 to \$25,600,000 pursuant to NDCC Section 48-01.2-25. The Veterans Home reported plans prepared previously did not address circulation space correctly, and it was not identified in the initial plan. The plan provided for a traditional nursing home design that would have cost approximately \$24 million. The federal Department of Veterans Affairs did not approve of the traditional design and preferred a more household or neighborhood concept where residents are grouped in smaller units or pods, which has resulted in increased costs. The federal Department of Veterans Affairs has committed to funding 65 percent of the cost of a 121-bed facility. The home is currently licensed for 150 beds and plans to build a 150-bed facility that will include 4 double rooms and 94 private rooms in basic care and 52 private rooms in skilled care. The design of the new home will require an increase in staff that the Veterans Home anticipates will be paid from revenue increases.

The Veterans Home reported the revised cost of the facility is \$25.6 million for a 150-bed facility. The federal Department of Veterans Affairs will provide \$13.4 million relating to the 121-bed portion of the facility, requiring a state match of \$7.2 million. The Veterans Home reported additional state funding of \$5 million is needed to construct the additional 29 beds to provide a total of 150 beds. The 2007 Legislative Assembly appropriated \$6.5 million from the permanent oil tax trust fund to match the federal funding for the 121-bed facility and authorized \$2.6 million in revenue bonds to provide additional funds for a 150-bed facility. To provide the additional state match of \$700,000 required for the 121-bed portion of the project, the Veterans Home will use \$75,000 from the Department of Commerce for a geothermal heating system, \$150,000 from the veterans' postwar trust fund, and \$394,000 of Veterans Home special fund revenue. For the remaining matching

funds, the Veterans Home requested Budget Section approval for \$109,000 from the state contingencies appropriation. The Veterans Home plans to submit a request to the 2009 Legislative Assembly for \$2.4 million in additional revenue bond authority for the increased funding needed for the additional 29 beds.

The Budget Section approved, pursuant to NDCC Section 48-01.2-25, the Veterans Home request to increase the project authorization for the Veterans Home project from \$21.1 million to \$25.6 million. The Budget Section also approved an Emergency Commission request to transfer \$109,000 from the state contingencies appropriation to provide the necessary additional matching funds and to increase the capital assets line item by \$2,128,000.

The Veterans Home reported groundbreaking for the new facility occurred on June 7, 2008. The National Guard has finished the base of the building and a firm has been hired to prepare the site. The federal Department of Veterans Affairs has granted the Veterans Home project conditional approval for 180 days, through March 16, 2009, to allow the 2007 Legislative Assembly to address additional project financing. The Veterans Home plans to begin construction in March 2009.

## **WORKFORCE SAFETY AND INSURANCE**

The Budget Section received periodic reports from Workforce Safety and Insurance regarding the status of the State Auditor's office performance audit recommendations pursuant to Section 5 of Senate Bill No. 2021 (2007). The performance audit contained 60 formal recommendations of which the agency concurred or partially concurred with 56. The agency monitors implementation date, internal audit validation, and validation date.

The Budget Section learned in September 2008 Workforce Safety and Insurance had implemented 48 recommendations and partially implemented 8 recommendations for an implementation rate of 86 percent, and the State Auditor's office is performing followup analysis with regard to the implementation of the audit recommendations.

The Budget Section received information on the recommendations Workforce Safety and Insurance did not concur with at the time the audit was presented from the agency and the State Auditor's office. The agency did not concur with four recommendations at the time the audit was presented. The agency has, however, made progress on two of the recommendations. 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. The third recommendation the agency did not concur with related to organizing the Quality Assurance Division under the control of the Internal Audit Division. 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. The agency continues to disagree with the recommendation related to the travel and moving expenses of the executive director. The Workforce Safety and Insurance Board of Directors believes the recommendation is no longer applicable. The State Auditor's office reported on a list of eight performance audit recommendations Workforce Safety and Insurance did not concur with, partially concurred with, or could not respond to.

## **GAME AND FISH DEPARTMENT Land Acquisition Requests**

Pursuant to NDCC Section 20.1-02-05.1, the Budget Section received requests from the Game and Fish Department for the approval of land acquisitions.

### **Oliver County**

The Budget Section received a request from the Game and Fish Department to authorize the purchase of approximately 208 acres of land in Oliver County adjacent to an existing wildlife management area owned by the Game and Fish Department. The Game and Fish Department has an opportunity to acquire the property at appraised value, estimated at \$481,600. The department provided information on requirements relating to the sale which limits the department's future use of the land. Funding for the purchase is to include \$200,000 from a federal wildlife grant, matched with \$200,000 from the game and fish fund, and the remainder from conservation group donations. The Budget Section expressed concern with the land use restriction included as part of the sale. The department agreed and plans to seek clarification before proceeding with the purchase.

Pursuant to NDCC Section 20.1-02-05.1, the Budget Section approved the Game and Fish Department request to acquire approximately 208 acres of land in Oliver County, subject to land use restriction provisions being removed or changed to the satisfaction of the Game and Fish Department.

### **Williston**

The Budget Section received a request from the Game and Fish Department to authorize the purchase of 2.18 acres of land adjacent to the department's shop and office facility in Williston. The department requested approval to purchase the land for \$12,500 primarily for parking and storage space.

Pursuant to NDCC Section 20.1-02-05.1, the Budget Section approved the Game and Fish Department request to acquire 2.18 acres of land in Williston.

## **JOB SERVICE NORTH DAKOTA Status of the Job Insurance Trust Fund**

Pursuant to NDCC Section 52-02-17, the Budget Section received a report on the status of the job insurance trust fund. As of December 31, 2007, Job Service North Dakota reported the trust fund balance was \$120 million, and the target for reserve adequacy was \$69.6 million. The agency reported it has exceeded the targeted reserve fund amount due to increased



earnings in recent years and a reduction in the targeted reserve fund balance requirement. The agency provided projected trust fund balances through 2016 to demonstrate how, through rate adjustments, Job Service North Dakota plans to reduce the trust fund balance to the targeted reserve fund amount by December 31, 2016. The agency reported the targeted modified average high-cost multiplier is currently .86 percent.

## **CORRESPONDENCE FROM ETHANOL PLANTS**

Pursuant to NDCC Section 17-02-01, the Budget Section received a report from a North Dakota ethanol plant receiving production incentives from the state. The report, from the Archer Daniels Midland Company plant in Walhalla, indicated the plant produced a profit for the year ending December 31, 2006, and did not receive incentive payments in 2006 from the North Dakota ethanol production incentive program.

## **STATE AGENCY UNCLAIMED PROPERTY**

The Budget Section received reports from the Land Department 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. The Budget Section learned the North Dakota Uniform Unclaimed Property Act has been in effect since 1975, and since that time, North Dakota state agencies have been reported as being owners of unclaimed property. The 2003 Legislative Assembly enacted Section 47-30.1-24.1 in an effort to resolve the issue of state agency unclaimed property. Section 47-30.1-24.1 provides that within one year of receipt of state agency property the administrator of unclaimed property shall notify the agency by certified mail; the commissioner of University and School Lands shall 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.

The Land Department reported that during the 2007-08 interim, the Unclaimed Property Division reviewed its database annually and identified a total of 37 state agencies with unclaimed property, and certified letters were mailed to those agencies. Of the 37 state agencies which confirmed receipt of the certified mailing, 16 agencies either claimed the property or signed off on the property and 21 agencies did not respond.

The Budget Section, pursuant to NDCC Section 47-30.1-24.1, approved the lists of state agencies relinquishing their rights to recover unclaimed property.

## **LEGISLATIVE HEARINGS FOR FEDERAL BLOCK GRANTS**

### **Background**

The Budget Section was informed the Legislative Council staff contacted state agencies receiving federal funds to determine which agencies receive block grants that require legislative hearings. The results of the survey revealed one block grant, the community services

block grant administered by the Department of Commerce Division of Community Services, requires legislative hearings. The required public hearing will be held as part of the appropriations hearing for the Department of Commerce during the 2009 legislative session.

## **Recommendation**

The Budget Section recommends Senate Concurrent Resolution No. 4001 to authorize the Budget Section to hold public legislative hearings required for the receipt of new federal block grant funds during the period from the recess or adjournment of the 61<sup>st</sup> Legislative Assembly through September 30, 2011.

## **FEDERAL FUNDS**

The Budget Section reviewed a report on federal funds anticipated to be received by state agencies and institutions for bienniums ending June 30, 2009, and June 30, 2011. The report indicated for the 2007-09 biennium, state agencies and institutions anticipate receiving \$2.463 billion of federal funds, approximately \$11.6 million less than the amount appropriated. For the 2009-11 biennium, state agencies and institutions anticipate receiving approximately \$2.650 billion of federal funds. Based on estimates, the 2009-11 biennium will require \$496.9 million of general fund matching dollars, \$41.7 million more than the 2007-09 biennium, if the estimated amounts are appropriated. The 2009-11 amounts are preliminary as several agencies had not filed their 2009-11 budget requests.

## **LEGISLATIVE COUNCIL STAFF REPORTS**

The Budget Section received the following reports prepared by the Legislative Council staff:

- *60<sup>th</sup> Legislative Assembly Analysis of Legislative Changes to the Executive Budget 2007-09 Biennium.* The report provides information on legislative changes to the executive budget, FTE changes, major programs, and related legislation for each state agency. The report also includes the analysis of various special funds and statistical information on state appropriations.
- *60<sup>th</sup> Legislative Assembly Budget Status Report for the 2007-09 Biennium.* The report provides information on the status of the general fund and estimated June 30, 2009, ending balance, legislative changes to general fund revenues, and legislative appropriation changes to the executive recommendation.
- *Summary of 2007-09 Centers of Excellence Applications - Round 1.* The report provides a listing of 2005-07 approved applications and summaries of the 2007-09 Round 1 applications.
- *Status of Contingency Appropriations for the 2007-09 Biennium.* The report provides information regarding the status of contingency appropriations for the 2007-09 biennium.
- *2007-09 Biennium Report on Compliance With Legislative Intent.* The report provides the current status of major budget changes and initiatives approved by the 2007 Legislative

Assembly for various agencies. The report contains information regarding the status of major special funds as of March 2009.

- *Ongoing Cost of Budget Section Actions.* The report provides a summary of the Budget Section approvals during the 2007-08 interim to date that have an ongoing cost and the estimated future cost relating to those actions.
- *Summary of 2007-09 Centers of Excellence Applications - Round 2.* The report provides a listing of 2005-07 approved applications, the 2007-09 Round 1 approved applications, and summaries of the 2007-09 Round 2 applications.
- *Approval and Evaluation of Donated Assets - Other States.* The report provides information on other states' methods of evaluating the future costs of donated facilities and any subsequent monitoring of actual costs.

### AGENCY REQUESTS AUTHORIZED BY THE EMERGENCY COMMISSION

Pursuant to NDCC Sections 54-16-04, 54-16-04.1, 54-16-04.2, and 54-16-09, the Budget Section considered agency requests that had been authorized by the Emergency Commission and forwarded to the Budget Section. From the June 27, 2007, meeting to the September 25, 2008, meeting, the Budget Section considered 33 requests, all of which were approved. The 33 Emergency Commission requests approved included expenditure of \$70,454,427 of federal funds and \$20,988,584 of other funds, line item transfers totaling \$381,250, and authorization of eight FTE positions for the remainder of the 2007-09 biennium. At the end of this report is a listing which provides a description of each agency request considered by the Budget Section.

### Status of the State Contingencies Appropriation

Eight requests authorized by the Emergency Commission were to obtain funds from the state contingencies appropriation. The following is a summary of the state contingencies appropriation:

State Contingencies Appropriation		
2007 legislative appropriation		\$700,000
Emergency Commission requests		
Adjutant General (#1643)	(\$32,054) <sup>1</sup>	
Attorney General's office (#1654)	(25,000)	
Adjutant General (#1656)	(52,100)	
Veterans Home (#1659)	(109,000)	
Secretary of State (#1661)	(30,263)	
Attorney General's office (#1662)	(7,000)	
Adjutant General (#1663)	(77,700)	
Attorney General's office (#1679)	(84,000)	
Total of Emergency Commission requests		\$417,117
Remaining balance - October 2008		\$282,883

<sup>1</sup>The Adjutant General requested and received funding of \$120,000 for operations support relating to the Northwood tornado damage. The Adjutant General received Federal Emergency Management Agency reimbursement of \$87,946 which was returned to the state contingencies fund; therefore, the net amount of the state contingencies disbursement was \$32,054.

### OTHER REPORTS

The Budget Section received other reports, including:

- Office of Management and Budget - Information on the oil revenue forecast process.
- Office of Management and Budget - Information on the statutory provisions relating to the budget stabilization fund.
- Office of Management and Budget - Information on the factors resulting in oil price discounts.
- North Dakota State University - Information regarding the status of the Northern Tier Network project.
- North Dakota Experimental Program to Stimulate Competitive Research (EPSCoR) - Information regarding an update on the North Dakota EPSCoR program.

This report presents Budget Section activities through September 2008. Because one of the major responsibilities of the Budget Section is to review the executive budget, which by law is not presented to the Legislative Assembly until after December 1, a supplement to this report will be submitted for distribution at the beginning of the 61<sup>st</sup> Legislative Assembly in January 2009.

## AGENCY REQUESTS CONSIDERED BY THE BUDGET SECTION

Pursuant to NDCC Sections 54-16-04, 54-16-04.1, 54-16-04.2, and 54-16-09, the Budget Section considered 33 agency requests that were authorized by the Emergency Commission. All requests were approved. The following is a list of agency requests approved from June 27, 2007, through September 25, 2008:

### **Adjutant General**

- June 27, 2007 - To increase special funds spending authority by \$6,290,000 for the Air Guard contracts (\$290,000) and Army Guard contracts (\$6,000,000) line items for the 2005-07 biennium. The request is to provide the additional spending authority needed for federally funded capital construction projects started in the 2003-05 biennium but not completed and fully paid until the 2005-07 biennium.
- October 30, 2007 - To transfer \$120,000 from the state contingencies appropriation for costs incurred by the North Dakota National Guard for providing operational support in Northwood following the August 2007 tornado.
- March 19, 2008 - To transfer \$52,100 from the state contingencies appropriation for costs incurred by the National Guard for assisting residents of Northwood with necessary repairs to damaged homes (\$48,000), providing the Department of Transportation with diesel fuel supply assistance (\$2,236), and providing operational support in Mandan during a natural gas pipeline break (\$1,851).
- June 18, 2008 - To transfer \$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.

### **Department of Agriculture**

- June 27, 2007 - To increase spending authority by \$110,500 of federal funds from the United States Forest Service for the grants line item (\$110,500) for control of leafy spurge and multicounty control of noxious and invasive weeds.
- March 19, 2008 - To increase federal funds spending authority by \$264,365 for the salaries and wages line item (\$132,832) and operating expenses line item (\$131,533). The federal funds are received through the United States Department of Agriculture to conduct a survey related to potato cyst nematode.
- June 18, 2008 - 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.

### **Attorney General**

- October 30, 2007 - To increase federal funds spending authority by \$200,000 for salaries and

wages (\$49,500), operating expenses (\$8,102), and capital assets (\$142,398). The federal funds are received through the Department of Transportation from the federal National Highway Traffic Safety Administration for alcohol countermeasure programs.

- September 25, 2008 - To transfer \$84,000 from the state contingencies appropriation for the operating line item to reimburse city and county governments for prosecution witness fees and expenses.

### **Department of Corrections and Rehabilitation**

- June 27, 2007 - To increase spending authority by \$250,000 of federal funds from the United States Department of Justice for the juvenile community services line item (\$250,000) for juvenile justice, juvenile delinquency prevention, and juvenile accountability programs.

### **Council on the Arts**

- June 18, 2008 - 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.

### **Game and Fish Department**

- June 18, 2008 - 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.

### **State Department of Health**

- October 30, 2007 - To increase spending authority by \$170,000 to accept federal funds from the Centers for Disease Control and Prevention for the salaries and wages line item (\$170,000) and approval of two FTE positions for programs pertaining to influenza surveillance and testing along with enhancing detection of pandemic influenza.
- March 19, 2008 - To increase the salaries and wages line item by \$74,000 of federal funds from the Centers for Disease Control and Prevention to maintain North Dakota immunization information system (NDIIS) data, enhance the data quality in the NDIIS, and conduct statistical analysis of NDIIS data. The funding is for one FTE epidemiologist II position. This position is included in a five-year grant, which ends December 31, 2012.

### **Industrial Commission**

- September 25, 2008 - To amend a request, which was approved by the Emergency Commission on March 14, 2008, but that did not require Budget Section approval. This request is for approval for a line item transfer of \$285,000 from the Oil and Gas Division contingency line item to the salaries line item (\$254,750) and the operating line item (\$30,250) for employee equity

and retention adjustments and to hire two new FTE positions.

#### **Information Technology Department**

- October 30, 2007 - To increase special funds spending authority and the geographic information system line item by \$75,000 to accept federal funds from the United States Geological Survey to enhance a software program used to download aerial photographs and scanned maps from the state's geographic information system hub.
- October 30, 2007 (approved March 19, 2008) - To increase special funds spending authority and the Criminal Justice Information Sharing line item by \$1,410,160 to accept federal funds from the United States Department of Justice to implement a statewide automated victim information and notification system and to provide one FTE position. The system will be administered by the Department of Corrections and Rehabilitation.

#### **Office of Management and Budget**

- September 25, 2008 - To receive borrowing authority of \$5 million to secure a loan from the Bank of North Dakota for funding centers of excellence-approved projects as provided for in Section 15 of House Bill No. 1018 (2007).
- September 25, 2008 - To transfer \$300,000 from the capital assets line item to the operating expenses line item to provide additional funding for utility expenses.

#### **Department of Public Instruction**

- June 27, 2007 - To increase special funds spending authority by \$16 million for the operating expenses line item (\$1 million) and the other grants line item (\$15 million) for the 2005-07 biennium. The funding is for providing grants to school districts during the 2005-07 biennium.
- June 27, 2007 - To increase special funds spending authority for the 2007-09 biennium by \$525,800 to accept federal funds from the United States Department of Agriculture for development of a software program to expand and improve direct certification procedures related to child nutrition, food stamps, and temporary assistance to needy families.
- September 25, 2008 - To increase federal funds spending authority by \$1,921,812 for the salaries and wages line item (\$88,651), the operating expenses line item (\$313,545), and the grants-other grants line item (\$1,519,616) and provide one FTE position in the Title I Unit to administer the program.

#### **Secretary of State**

- March 19, 2008 - To increase spending authority by \$575,000 to accept federal funds from the United States Election Assistance Commission for the Help America Vote Act election reform fund and for funding of \$30,263 from the state contingencies appropriation for the 5 percent

state match required to obtain the \$575,000 of federal funds.

#### **Department of Transportation**

- June 27, 2007 - To increase the driver and vehicle services line item by \$250,000 of federal funds from the National Highway Traffic Safety Administration to provide grants for traffic safety programs.
- October 30, 2007 - To increase the capital assets line item by \$4,000,000 of special funds from charges to state agencies for State Fleet Services usage.
- October 30, 2007 - To increase the grants line item by \$1,230,436 of federal funds from the National Highway Traffic Safety Administration.
- June 18, 2008 - To increase spending authority by \$41,500,000 for the capital assets line item (\$31,650,000) and the grants line item (\$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.
- June 18, 2008 - To increase federal funds spending authority by \$2,205,354 for grants. 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.
- September 25, 2008 - To increase special funds spending authority by \$4,800,000 for the operating expenses line item (\$2,800,000) and the capital assets line item (\$2,000,000) to receive additional funds from charges to state agencies for State Fleet Services usage.

#### **University of North Dakota**

- June 27, 2007 - To modify and extend into the 2007-09 biennium an existing line of credit in the amount of \$1,515,259 with the Bank of North Dakota, pursuant to NDCC Section 54-16-13, for costs related to 1997 flood disaster damages. The line of credit authorized for the 2005-07 biennium was \$2,610,854.

#### **Veterans Home**

- June 27, 2007 - To increase special funds spending authority from additional resident rent revenue and the operating expenses line item by \$100,000 for medical costs, including medications, primary care laboratory work, tests, and x-rays, which were previously covered by the Veterans Administration Medical Center in Fargo and for increases in utilities and travel costs due to high fuel prices and for a line item transfer of \$65,000 from the salaries line item to the operating expenses line item for additional contract nursing costs incurred due to the inability to find candidates to fill several vacant nursing positions.
- March 19, 2008 - To increase the salaries and wages line item by \$133,500 from special funds available due to actual Veterans Home collections exceeding estimates. The request is

necessary to comply with recommendations resulting from a federal Department of Veterans Affairs survey and focus review. The survey found the Veterans Home had insufficient staffing on the evening shift and the focus review determined the Veterans Home medication administration practices were unsafe. The increase will provide for three FTE certified medication aides and certified nursing assistants.

- March 19, 2008 - To transfer \$109,000 from the state contingencies appropriation and to increase the capital assets line item by \$2,128,000. The additional funding includes \$1,400,000 in federal funds, \$619,000 in special funds, and \$109,000 from the state contingencies appropriation. The cost estimate for the new 150-bed Veterans Home has increased from \$21.1 million to \$25.6 million. The cost of the 121-bed portion of

the project has increased from \$18.5 million to \$20.7 million. The federal Department of Veterans Affairs will provide the additional federal funds necessary for 65 percent of the increased cost of the 121-bed facility if the Veterans Home provides written verification of its 35 percent match required for the project. The additional matching funds required total \$728,000. The Veterans Home anticipates receiving a \$75,000 grant from the Department of Commerce for the geothermal system, \$150,000 of funding from the veterans' postwar trust fund as approved by the Administrative Committee on Veterans Affairs, and \$394,000 from Veterans Home special funds available due to actual collections exceeding estimates, for a total of \$619,000. The remaining \$109,000 of the required match was requested from the state contingencies appropriation.