

NORTH DAKOTA LEGISLATIVE MANAGEMENT

Minutes of the

**BUDGET SECTION**

Tuesday, June 22, 2010  
Senate Chamber, State Capitol  
Bismarck, North Dakota

Senator Ray Holmberg, Chairman, called the meeting to order at 8:30 a.m.

**Members present:** Senators Ray Holmberg, Bill Bowman, Randel Christmann, Tony S. Grindberg, Ralph L. Kilzer, Karen K. Krebsbach, Elroy N. Lindaas, Tim Mathern, Carolyn Nelson, David O'Connell, Larry J. Robinson, Tom Seymour, Bob Stenehjem, Rich Wardner, John Warner; Representatives Larry Bellew, Rick Berg, Merle Boucher, Al Carlson, Jeff Delzer, Mark A. Dosch, Eliot Glassheim, Kathy Hawken, Lee Kaldor, Keith Kempenich, James Kerzman, Matthew M. Klein, Gary Kreidt, Joe Kroeber, Ralph Metcalf, Shirley Meyer, Jon Nelson, Chet Pollert, Bob Skarphol, Ken Svedjan, Blair Thoreson, Don Vigesaa, Alon C. Wieland, Clark Williams

**Members absent:** Senator Tom Fischer; Representatives Mary Ekstrom, Bob Martinson, David Monson, Kenton Onstad, Francis J. Wald

**Others present:** John Bjornson, Legislative Council, Bismarck

See [Appendix A](#) for additional persons present.

**It was moved by Senator Robinson, seconded by Senator Krebsbach, and carried on a voice vote that the minutes of the March 11, 2010, meeting be approved as distributed.**

Estimated general fund turnback		0
Balance obligated for authorized carryover from the 2007-09 biennium		76,383,530
Estimated total available		\$3,347,459,832
Less		
2009-11 biennium general fund ongoing appropriations	(\$2,970,380,754)	
2009-11 biennium general fund one-time appropriations	(278,984,727)	
Contingent appropriation for centers of excellence (2009 SB 2018)	(5,000,000)	
Balance obligated for authorized carryover from the 2007-09 biennium	(76,383,530)	
Estimated deficiency requests	(1,391,000)	
Total appropriations and estimated deficiency requests		(\$3,332,140,011)
Estimated general fund balance - June 30, 2011		\$15,319,821

**STATUS OF THE STATE GENERAL FUND**

Chairman Holmberg called on Ms. Pam Sharp, Director, Office of Management and Budget (OMB), to present a report ([Appendix B](#)) on the status of the general fund.

Ms. Sharp presented the following information on the status of the state general fund for the 2009-11 biennium based on revenue collections through May 2010:

Unobligated general fund balance - July 1, 2009		\$361,843,514
Add		
General fund collections through May 2010	\$1,410,331,101	
Forecasted general fund revenue for the remainder of the 2009-11 biennium	1,498,901,687	
Total estimated general fund revenue for the 2009-11 biennium		\$2,909,232,788

Ms. Sharp presented the following information on the status of the permanent oil tax trust fund for the 2009-11 biennium:

Beginning permanent oil tax trust fund balance - July 1, 2009	\$489,727,017
Add	
Revenue collections through May 2010	222,612,246
Forecasted revenues for the 2009-11 biennium (based on 2009 legislative forecast assumptions for oil price and production)	288,901,133
Total estimated funds available for the 2009-11 biennium	\$1,001,240,396
Less expenditures and transfers	
Transfer to the general fund pursuant to 2009 HB 1015	(\$140,000,000)
Transfer to the general fund for the mill levy reduction program pursuant to 2009 SB 2199	(295,000,000)
Transfer to the property tax relief sustainability fund pursuant to 2009 SB 2199	(295,000,000)
Appropriations pursuant to 2009 HB 1015, 1305, and 1394 and SB 2003 and 2020	(16,175,100)
Estimated permanent oil tax trust fund balance - June 30, 2011	\$255,065,296

Ms. Sharp said \$71 million in oil and gas tax revenue has been deposited in the general fund, and currently all oil and gas tax collections allocated to the state for the 2009-11 biennium are being deposited in the permanent oil tax trust fund. Through May 2010, oil tax collections totaling \$222.6 million have been transferred to the permanent oil tax trust fund. She said deposits totaled \$43.2 million for May 2010, and if the deposits remain at this level for the remainder of the biennium, the ending balance in the permanent oil tax trust fund could be nearly \$475 million.

Ms. Sharp presented information on general fund revenue collections for May 2010 and the 2009-11 biennium to date. She said general fund revenues collected, biennium to date, are 2.9 percent less than the legislative forecast. She said sales tax collections for May were \$12.4 million less than projected. She said the variance was likely due to the month ending on the Memorial Day holiday, leaving businesses until Tuesday to make their payments. She said biennium to date sales tax collections were \$24.2 million, or 4.7 percent less than the legislative forecast, but exceeded 2007-09 biennium to date collections by \$54.4 million, or 12.3 percent. She said oil tax collections through May have exceeded the biennium to date legislative forecast, \$71 million has been deposited in the general fund, and \$222.6 million has been deposited in the permanent oil tax trust fund. She said biennium to date motor vehicle excise tax collections have also exceeded estimates by \$14.7 million, or 41.2 percent.

### IRREGULARITIES IN THE FISCAL PRACTICES OF THE STATE

Pursuant to North Dakota Century Code Section 54-14-03.1, Ms. Sharp presented information ([Appendix C](#)) on irregularities in the fiscal practices of the state. She said the state agency with a fiscal irregularity is:

Agency	Amount	Reason
Department of Commerce	\$715.50	Settlement agreement due to reduction in workforce, severance pay in March 2010

### TOBACCO SETTLEMENT PROCEEDS

Ms. Sharp presented information ([Appendix D](#)) on the status of tobacco settlement proceeds received by North Dakota. She said total payments received to date are \$305.4 million, and the next payment is anticipated to be received in April 2011. She said funds are deposited into two accounts as directed in the initiated measure adopted by voters in November 2008. She said the April 2010 payment totaled \$33.1 million, of which \$20.8 million was deposited in the tobacco settlement trust fund and \$12.3 million was deposited in the tobacco prevention and control trust fund. A summary of recent collections is:

	Tobacco Settlement Trust Fund (Amounts Shown In Millions)	Tobacco Prevention and Control Trust Fund (Amounts Shown In Millions)	Total (Amounts Shown In Millions)
April 2009	\$25.0	\$14.1	\$39.1
April 2010	20.8	12.3	33.1
Total	\$45.8	\$26.4	\$72.2

### AMERICAN RECOVERY AND REINVESTMENT ACT OF 2009

Ms. Sheila Peterson, Director of Fiscal Management, Office of Management and Budget, presented information ([Appendix E](#)) regarding the American Recovery and Reinvestment Act of 2009 (ARRA), including an update of funding information and the number of state employees who have been employed using federal stimulus funding.

#### ARRA Funding Update

Ms. Peterson provided a listing ([Appendix F](#)) of ARRA funding to political subdivisions, including airports, cities, counties, fire districts, housing authorities, nonprofit organizations, private entities, school districts, state agencies, tribes, and water districts. She said awards total \$631.1 million, of which \$213.6 million has been received through March 2010. She said a total of 2,297.02 jobs were reported as having been created or retained by the recipients of the funding.

Representative Kaldor requested additional information on the jobs reported as created. He said some award recipients are not reporting any jobs being created when it appears by the type of award, some job creation is likely. Representative Berg suggested the 2,297.02 jobs reported as having been created be categorized as private sector or government. He also asked whether information is available on the number of private sector jobs created from nonstate awards. Ms. Peterson said OMB would review the information reported, and to the extent available, provide additional information at the next meeting. She said recipient information reported is managed and reported by the federal government; therefore, more detailed information may not be available.

#### State Employees Employed Using Federal Stimulus Funding

Ms. Peterson provided a listing ([Appendix G](#)) of the number of state employees who have been employed using federal stimulus funding. She said approximately 45.59 full-time equivalent (FTE) state employees were paid from ARRA funding.

Representative Skarphol expressed concern that when ARRA funding is no longer available, funding for these positions will be expected to be from the general fund. Representative Skarphol requested from OMB information identifying by agency requests

for continuation of new FTE positions and related funding that originated with ARRA funding, requests for funding for positions paid for with ARRA funds that will revert back to their previous funding source when ARRA funding is no longer available, and the number of positions paid for with ARRA funds that are not being requested to continue. Representative Kempenich suggested information also be provided on the programs that have been initiated with ARRA funds and programs that have temporarily received ARRA funding but which will revert to state funds when ARRA funding is no longer available.

## DEPARTMENT OF HUMAN SERVICES

### Status of Medicaid Management Information System

Mr. Tom Burlin, Chief Operating Officer, Affiliated Computer Services (ACS) Government Healthcare Solutions, a Xerox Company, Dallas, Texas, presented information ([Appendix H](#)) regarding the status of the Medicaid management information system (MMIS) project. He said the MMIS project timeline has been revised from its previous estimated completion date of April 2011. He said the first part of the new MMIS--provider enrollment--will be implemented on December 1, 2011, and the remainder of the new MMIS will be implemented six months later in June 2012.

Senator Mathern expressed concern that testing will begin in July 2010, but the project will not be completed until June 2012. Mr. Burlin said the initial base enterprise system is a core system designed for basic functionality and standard enough to be applied to each state. He said the customization of the base enterprise system to meet the individualized needs of North Dakota will be occurring during this time. He said to ensure specific needs of the state are addressed, integration testing, state-performed user acceptance testing, and a registration/testing period will be conducted and completed by June 2012.

Representative Delzer expressed concern that the project completion date has again been delayed. He asked for assurance that June 2012 will be the "go live" date. Mr. Burlin expressed his regret for the delay. He said he has become more heavily involved in the project and with project personnel. He committed to meet the new timeline and milestones. He said the June 1, 2010, milestone of completing and testing specific base enterprise functions had been met, and the project is on schedule to meet the July 15, 2010, milestone of completing functional and system testing of the remaining base enterprise components.

Senator Wardner asked whether similar ACS projects in other states were also delayed. Mr. Burlin said other projects are also delayed.

Ms. Jennifer Witham, Director, Information Technology Services, Department of Human Services, presented information ([Appendix I](#)) regarding the status of the MMIS project.

Ms. Witham provided the following project funding summary through May 2010:

Description	Budget	Spent Through May 2010	Remaining
General fund	\$3,643,133	\$2,651,027	\$992,106
Federal funds	55,218,418	32,760,780	22,457,638
Other funds	3,667,820	1,786,914	1,880,906
Total	\$62,529,371	\$37,198,721	\$25,330,650

## AGENCY REQUESTS AUTHORIZED BY THE EMERGENCY COMMISSION

Chairman Holmberg directed the committee to consider agency requests, which have been authorized by the Emergency Commission and forwarded to the Budget Section pursuant to Section 54-16-04.1. The information relating to the requests was provided to Budget Section members prior to the meeting. Committee members chose to vote on Emergency Commission Requests #1737 and #1741 separately.

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

- **Adjutant General (Request #1731) - Request to increase spending authority by \$20,859,375 of federal funds from the Federal Emergency Management Agency (FEMA) for costs relating to 2010 spring flooding.**
- **Adjutant General (Request #1732) - Request to increase spending authority by \$28,368,750 of federal funds from FEMA for costs relating to damage caused by an April 2010 spring storm.**
- **Racing Commission (Request #1733) - Request to increase the Racing Commission line item by \$75,000 of special funds from the Racing Commission administrative fund for expenses associated with licensing of account wagering companies.**
- **Council on the Arts (Request #1734) - Request to increase the grants line item by \$209,029 of federal funds from the National Endowment for the Arts to be distributed for arts programming throughout the state.**
- **Game and Fish Department (Request #1736) - Request to increase the salaries and wages line item (\$61,000), the capital assets line item (\$20,000), and the grants line item (\$1,062,500) for a total of \$1,143,500 of federal funds from the United States Department of Agriculture and the United States Department of the Interior for various fishing-related projects, dam repairs and retrofitting, boat ramps, shoreline stabilization and fishing access projects,**

and monitoring of avian influenza and chronic wasting disease.

- **Attorney General (Request #1738) - Request to increase the capital assets line item by \$269,877 of federal funds from the Department of Justice and the Office of National Drug Control Policy to purchase equipment for the State Crime Laboratory.**
- **Department of Corrections and Rehabilitation (Request #1739) - Request to increase the juvenile services line item by \$308,125 of federal funds available from the Department of Commerce for implementing energy conservation projects and improving environmental conditions at the Youth Correctional Center.**
- **Department of Corrections and Rehabilitation (Request #1740) - Request to increase the adult services line item by \$122,656 of federal funds from Job Service North Dakota to implement a workforce training project.**

Senators Holmberg, Bowman, Christmann, Grindberg, Kilzer, Krebsbach, Lindaas, Mathern, Nelson, O'Connell, Robinson, Seymour, Stenehjem, Wardner, and Warner and Representatives Bellew, Berg, Boucher, Carlson, Delzer, Dosch, Glassheim, Hawken, Kaldor, Kempenich, Kerzman, Klein, Kroeber, Metcalf, Meyer, Nelson, Pollert, Skarphol, Svedjan, Thoreson, Vigesaa, Wieland, and Williams voted "aye." No negative votes were cast.

Regarding Emergency Commission Request #1737, Representative Skarphol asked for more information on the requested FTE position. Ms. Peterson said the Emergency Commission did not approve the request for one FTE position to manage the Title I - School Improvement Grant program. The salaries and wages funding will be used to hire a temporary position for the remainder of this biennium. She said the department may request an additional FTE position from the 2011 Legislative Assembly to assist with the grant program for the 2011-13 biennium.

**It was moved by Senator Mathern, seconded by Senator O'Connell, and carried on a roll call vote that pursuant to Section 54-16-04.1 the Budget Section approve the following request, which has been approved by the Emergency Commission:**

- **Department of Public Instruction (Request #1737) - Request to increase the salaries and wages line item (\$67,958) and the operating expenses line item (\$100,000) for a total of \$167,958 of federal funds available from ARRA for the administration of the Title I - School Improvement Grant program.**

Senators Holmberg, Bowman, Christmann, Grindberg, Kilzer, Krebsbach, Lindaas, Mathern, Nelson, O'Connell, Robinson, Seymour, Stenehjem, Wardner, and Warner and Representatives Bellew, Berg, Boucher, Carlson, Delzer, Dosch, Glassheim, Hawken, Kaldor, Kempenich, Kerzman, Klein, Kreidt,

Kroeber, Metcalf, Meyer, Nelson, Pollert, Skarphol, Svedjan, Thoreson, Vigesaa, Wieland, and Williams voted "aye." No negative votes were cast.

Regarding Emergency Commission Request #1741, Representative Dosch requested more information on the funding source of the \$1.73 million of special funds. Ms. Peterson said the prison commissary has been managed under private contract by a company in Missouri; however, advances in technology have made it more feasible for the program to be managed by Roughrider Industries. She said the \$1.73 million in special funds is from the sale of items in the commissary and will be used for inventory and to pay stipends to inmates working there. She said the request is for spending authority to operate the commissary.

**It was moved by Senator O'Connell, seconded by Senator Seymour, and carried on a roll call vote that pursuant to Section 54-16-04.1 the Budget Section approve the following request, which has been approved by the Emergency Commission:**

- **Department of Corrections and Rehabilitation (Request #1741) - Request to increase the adult services line item by \$1.73 million of special funds from Roughrider Industries to allow Roughrider Industries to manage and operate the prison commissary.**

Senators Holmberg, Grindberg, Krebsbach, Lindaas, Mathern, Nelson, O'Connell, Robinson, Seymour, Stenehjem, Wardner, and Warner and Representatives Boucher, Carlson, Glassheim, Hawken, Kaldor, Kerzman, Kroeber, Metcalf, Meyer, Nelson, Svedjan, Wieland, and Williams voted "aye." Senators Bowman, Christmann, and Kilzer and Representatives Bellew, Berg, Delzer, Dosch, Kempenich, Klein, Kreidt, Pollert, Skarphol, Thoreson, and Vigesaa voted "nay."

## STATE DISASTER RELIEF FUND - BUDGET SECTION AUTHORITY

Chairman Holmberg called on Mr. John Bjornson, counsel, Legislative Council, to present a memorandum entitled [State Disaster Relief Fund Expenditures - Budget Section Approval](#), as requested by the Budget Section at its March 2010 meeting, regarding the authority of the Budget Section to approve Adjutant General requests to spend funding from the state disaster relief fund. The following Adjutant General requests to spend funding from the state disaster relief fund were reviewed:

Funding Request	Amount
Request for 97 percent of the cost of repairing a parking lot damaged during staging for the 2009 flood event that did not qualify for FEMA reimbursement	\$21,909
Request for 97 percent of the cost of raising the grade level of a county road to protect the road from rising floodwaters and ensure continued public use. The expenditure did not qualify for FEMA reimbursement.	180,420

Funding Request	Amount
Request for funding to repay the federal share of home buyouts made through the hazard mitigation grant program in 1998 that were later deemed ineligible by FEMA inspectors	192,486
Request for funding to purchase flood materials in anticipation of a 2010 flood event and a presidential disaster declaration	500,000
Total	\$894,815

Mr. Bjornson said in 2009 Senate Bill No. 2012 the Budget Section does not have authority to approve or disapprove these four requests. Based on the provisions of Senate Bill No. 2012, the Budget Section does have authority to approve or disapprove requests to spend money from the fund to match federal disaster relief funds received for state purposes and for requests to approve or disapprove grants for state disaster relief that exceed \$13 million during the biennium. It appears the Adjutant General may distribute funds for other disaster-related purposes without Budget Section approval if the Adjutant General concludes that the grants are eligible for reimbursement under Section 37-17.1-27.

Representative Delzer said the legislative intent of the money in the state disaster relief fund was to provide funding for state matching requirements for eligible FEMA-declared disasters. He expressed concern that the department would consider using these funds for other purposes.

Representative Berg said the state disaster relief fund was established to provide a source of state matching funds for disasters to avoid agency requests for deficiency appropriations for disaster-related expenses. He suggested the 2011 Legislative Assembly address the allowable use of money in the fund.

### REQUESTS TO SPEND FUNDS FROM THE STATE DISASTER RELIEF FUND

Chairman Holmberg called on Major General David Sprynczynatyk, Adjutant General, to provide information ([Appendix J](#)) regarding a request for Budget Section approval to use funds from the state disaster relief fund pursuant to provisions of 2009 Senate Bill No. 2012 for the state matching requirements relating to the 2010 spring flooding (\$2,781,250) and to the 2010 spring storm (\$2 million).

Major General Sprynczynatyk reported that of the \$43 million available in the state disaster relief fund, expenditures to date total \$6.77 million. He said expenditures to date include \$5.38 million for emergency snow removal grants (\$20 million appropriated) and \$1.39 million for the 2009 flood disaster, snow removal damage to roads, and other disaster expenditures (\$23 million appropriated). He said projected expenditures for the remainder of the 2009-11 biennium include \$5.4 million for the 2009 flood, \$2.4 million for disasters prior to 2009, \$2.8 million for the 2010 flood, \$2.3 million for the January 2010 winter snowstorm, and \$3.8 million for

the April 2010 ice storm. He said the estimated June 30, 2011, balance in the state disaster relief fund is \$19.6 million.

Senator Grindberg suggested the committee receive information on the total funding by funding source for each disaster being paid for during the 2009-11 biennium. Major General Sprynczynatyk said he would provide the information at the next meeting.

In response to a question from Representative Carlson, Major General Sprynczynatyk said he believes the state disaster relief fund is intended to allow the agency a source of funds to use for costs of state disasters rather than the agency borrowing funds for these costs and repaying the loan and accumulated interest at the end of the biennium after receiving a deficiency appropriation from the Legislative Assembly. Representative Carlson suggested the 2011 Legislative Assembly review the language establishing the purpose and uses of the state disaster relief fund.

**It was moved by Senator Mathern, seconded by Senator Nelson, and carried on a roll call vote that the Budget Section pursuant to 2009 Senate Bill No. 2012 approve the Adjutant General request to use \$2,781,250 from the state disaster relief fund to pay the state matching requirement relating to the 2010 spring flooding and \$2 million from the state disaster relief fund to pay the state matching requirement relating to the 2010 spring storm.** Senators Holmberg, Bowman, Christmann, Grindberg, Kilzer, Krebsbach, Lindaas, Mathern, Nelson, O'Connell, Robinson, Seymour, Stenehjem, Wardner, and Warner and Representatives Bellew, Berg, Boucher, Carlson, Delzer, Dosch, Glassheim, Hawken, Kaldor, Kempenich, Kerzman, Klein, Kreidt, Kroeber, Metcalf, Meyer, Nelson, Pollert, Skarphol, Svedjan, Thoreson, Vigasaa, Wieland, and Williams voted "aye." No negative votes were cast.

### CENTERS OF EXCELLENCE AUDIT REPORTS

Mr. Shane C. Goettle, Commissioner, Department of Commerce, presented information ([Appendix K](#)) on the centers of excellence monitoring report and distributed the annual audit reports of 14 of the 17 centers of excellence under the jurisdiction of the Centers of Excellence Commission pursuant to Section 15-69-05(2). He said state statute requires each center to conduct an annual audit and provide it to the State Board of Higher Education, the Economic Development Foundation, and the Legislative Council. He said the audits are for the fiscal year ended June 30, 2009. He said of the 14 centers audited, there were nine findings. He said seven centers did not have any findings. He said all findings have been addressed and corrected, or will be addressed and corrected if the items related to methodologies of the annual functional performance report. He said most findings were administrative in nature, and none of the

findings in his judgment impact the scope or purpose of the project significantly.

Mr. Goettle said the following three centers of excellence had not yet received funding as of June 30, 2009, and, therefore, an audit has not yet been conducted:

- North Dakota State University (NDSU) Center for Integrated Electronic Systems.
- University of North Dakota (UND) Research Foundation Center of Excellence for Passive Therapeutics.
- North Dakota State University Center for Biopharmaceutical Research and Production.

Mr. Goettle discussed the increased level of accountability of centers of excellence. He said the 2007 Legislative Assembly provided for a mandatory monitoring period. He said monitoring is accomplished utilizing a functional review and site visit conducted annually. He said the Legislative Assembly has also established requirements regarding the distribution of funds and matching funds availability. Because of these accountability requirements, he said, the Department of Commerce has withheld funding on two approved centers of excellence for their inability to acquire matching funds--UND Biomedical Device Research, Development, and Commercialization and Minot State University Great Plains Knowledge and Data Center.

Mr. Goettle discussed the *Centers of Excellence Annual Report 2009* ([Appendix L](#)). He said the estimated total economic impact to North Dakota's economy of the centers of excellence program is \$329.4 million. He said the centers of excellence have reported expenditures of \$19.9 million as of June 30, 2009. In addition, he said, the centers of excellence program has led to the creation of 2,060 total jobs and partnerships with 135 companies.

## 2009-11 CENTERS OF EXCELLENCE APPLICATIONS

Chairman Holmberg called on Mr. Mark Nisbet, Chairman, Centers of Excellence Commission, Fargo, to present the centers of excellence projects for consideration by the Budget Section ([Appendix M](#)). Mr. Nisbet said the Centers of Excellence Commission is requesting Budget Section approval of \$7.2 million in total funding for three centers of excellence projects.

### NDSU - Center for Sensors, Communications and Control

Dr. Phil Boudjouk, Vice President for Research, Creative Activities and Technology Transfer, North Dakota State University, Fargo, provided an overview ([Appendix N](#)) of the NDSU centers of excellence proposal for a Center for Sensors, Communications and Control. Mr. Matt Noah, Senior Project Manager, Center for Nanoscale Science and Engineering, North Dakota State University, Fargo, provided additional details regarding the operations of the Center for

Sensors, Communications and Control. Mr. Noah said the center would conduct market-driven research using the center's expertise in core areas of JAVA computer programming, sensor integration, and systems engineering. He said through this work, the center would build upon and accelerate a cluster of expertise in the functional disciplines of sensors, communications, and controls. A goal of the center through this technology cluster is to become a geographic region known for expertise in sensors, communications, and control. He said the center is requesting \$2.8 million and has \$5.6 million of matching funds through private sector partners SNAPS Holding Company, Pedigree Technologies, Intelligent InSites, and PureChoice. Dr. Raymond Gruby, Chief Medical Officer, Intelligent InSites, Fargo, expressed support for the proposed center of excellence. A letter from Mr. Alex Warner, President, Pedigree Technologies, was also read expressing support for the center.

Representative Skarphol expressed concern that the center of excellence proposal was focused more on creating additional working capital for a private company than creating a center of excellence with a unique purpose.

**It was moved by Senator Grindberg, seconded by Representative Klein, and carried on a roll call vote that the Budget Section pursuant to Section 15-69-02 approve the funding award recommendation for the NDSU Center for Sensors, Communications and Control made by the Centers of Excellence Commission which has been recommended for approval by the Emergency Commission.** Senators Holmberg, Bowman, Christmann, Grindberg, Kilzer, Krebsbach, Lindaas, Mathern, Nelson, O'Connell, Robinson, Seymour, Wardner, and Warner and Representatives Bellew, Berg, Carlson, Delzer, Dosch, Glassheim, Hawken, Kaldor, Kempenich, Kerzman, Klein, Kreidt, Kroeber, Metcalf, Meyer, Nelson, Pollert, Svedjan, Thoreson, Vigesaa, Wieland, and Williams voted "aye." Senator Stenehjem and Representative Skarphol voted "nay."

### NDSU - Center for Advanced Technology Development and Commercialization

Dr. Boudjouk provided an overview ([Appendix O](#)) of the NDSU centers of excellence proposal for a Center for Advanced Technology Development and Commercialization. Mr. Dennis K. Anderson, Associate Vice President, Research, Creative Activities and Technology Transfer, North Dakota State University, Fargo, provided additional details regarding the operations of the Center for Advanced Technology Development and Commercialization. Mr. Anderson said the proposed center of excellence will focus on moving inventions and technologies to the marketplace. He said initial work will focus on advancing NDSU's liquid silicon technology to market through private sector partnerships. He said the center is requesting \$3.9 million and has \$7.8 million of matching funds through private sector partner

Triton Systems, Inc. Mr. Ross Haghighat, President and CEO, Triton Systems, Inc., Boston, Massachusetts, expressed support for the proposed center of excellence.

In response to a question from Senator Wardner, Mr. Haghighat said at least six jobs would be created through the center of excellence. He said the jobs will complement the current staff structure and be filled by experts in the subject matter of science and engineering. He said additional jobs would likely be created by future private sector partners.

**It was moved by Senator Robinson, seconded by Senator Nelson, and carried on a roll call vote that the Budget Section pursuant to Section 15-69-02 approve the funding award recommendation for the NDSU Center for Advanced Technology Development and Commercialization made by the Centers of Excellence Commission and recommended for approval by the Emergency Commission.** Senators Holmberg, Bowman, Christmann, Grindberg, Kilzer, Krebsbach, Lindaas, Mathern, Nelson, O'Connell, Robinson, Seymour, Wardner, and Warner and Representatives Bellew, Berg, Boucher, Carlson, Delzer, Dosch, Glassheim, Hawken, Kaldor, Kempenich, Kerzman, Klein, Kreidt, Kroeber, Metcalf, Meyer, Nelson, Pollert, Svedjan, Thoreson, Vigesaa, Wieland, and Williams voted "aye." Senator Stenehjem voted "nay."

#### **Minot State University/Trinity Health - Geriatric Research Center**

Dr. David Fuller, President, Minot State University, Minot, provided information ([Appendix P](#)) on the Minot State University centers of excellence proposal for the Minot State University/Trinity Health Geriatric Research Center. He said the center of excellence will investigate geriatric health-related issues, seek solutions to problems, and identify best practices in health care for the growing geriatric population in the region. He said teams of Minot State University faculty and students would work with Trinity Health professionals in this research. He said the health-related services provided through both Minot State University and Trinity Health would serve as venues for research projects. He said the center is requesting \$500,000 and has \$1 million of matching funds through private sector partner Trinity Health. Mr. Kevin Seehafer, Chief Financial Officer, Trinity Health, Minot, expressed support for the center of excellence. Mr. Seehafer said more than 55 percent of the patients of Trinity Health are categorized as geriatric, indicating the market and need for this type of research. Dr. Neil Nordquist, Dean, College of Education and Health Sciences, Minot State University, Minot, expressed support for the project. Dr. Nordquist said Trinity Health and Minot State University have an excellent working relationship.

Senator Seymour expressed support for the project. He said Minot is the health center for northwest North Dakota, and Trinity Health and Minot

State University will provide pertinent and needed research to enhance the lives of the area's citizens.

Representative Pollert expressed concern that the centers of excellence proposal is similar to existing research and service programs of the state, including those at the UND School of Medicine and Health Sciences and the Department of Human Services. Dr. Fuller said although similar programs may exist, this center will provide a unique opportunity for Minot State University to work with Trinity Health to address needs in the northwest area of the state.

Representative Svedjan said he does not support the centers of excellence proposal due to its duplication of other state programs, including the UND Center for Rural Health. He also expressed concern that the proposed center was specific to only one region of the state, and it did not include partnerships with other research facilities in the state.

Senator Stenehjem said he does not support the centers of excellence proposal because an estimated \$985,000 of the \$1.5 million of funding for the center of excellence will be used for funding employee positions at the university.

Representative Glassheim expressed support for the centers of excellence proposal. He said centers of excellence should be located throughout the state. He said although the proposal does not involve traditional manufacturing, the proposal focuses on geriatric research that will enhance North Dakota's knowledge-based economy.

**It was moved by Representative Klein and seconded by Senator Warner that the Budget Section pursuant to Section 15-69-02 approve the funding award recommendation for the Minot State University/Trinity Health Geriatric Research Center made by the Centers of Excellence Commission which was not recommended for approval by the Emergency Commission.** Senators Holmberg, Christmann, Krebsbach, Lindaas, Mathern, O'Connell, Robinson, Seymour, and Warner and Representatives Bellew, Boucher, Glassheim, Kaldor, Kerzman, Klein, Kroeber, Metcalf, Meyer, and Williams voted "aye." Senators Bowman, Grindberg, Kilzer, Stenehjem, and Wardner and Representatives Berg, Carlson, Delzer, Dosch, Hawken, Kempenich, Kreidt, Nelson, Pollert, Skarphol, Svedjan, Thoreson, Vigesaa, and Wieland voted "nay." **The motion failed on a roll call vote.**

The Budget Section recessed for lunch at 12:35 p.m. and reconvened at 1:00 p.m.

#### **GAME AND FISH DEPARTMENT LAND ACQUISITIONS**

Mr. Roger Rostvet, Deputy Director, Game and Fish Department, presented information regarding land acquisitions in McKenzie and LaMoure Counties that require Budget Section approval pursuant to Section 20.1-02-05.1.

Mr. Rostvet provided background information and a map of the proposed land acquisition in McKenzie

County ([Appendix Q](#)). He said the property consists of 983 acres of land adjoining the Yellowstone River. He said the \$363,333 purchase will be paid for with \$113,333 from the game and fish fund and \$250,000 from a United States Fish and Wildlife Service grant. He said the Governor has approved the purchase.

Senator Bowman expressed concern that the Game and Fish Department continues to purchase and own land rather than focusing on the management of wildlife in the state. He asked for the authority of the agency to continue to purchase land. Mr. Rostvet said the department by state statute has the duty to identify certain types of wildlife habitats and acquire those for future public use. He said the acquisition process has a number of requirements based on the type of acquisition. He said most purchases require approval from the Governor and the Budget Section and, at times, approval from county commissions.

In response to a question from Representative Wieland, Mr. Rostvet said the McKenzie County Commission did not vote in favor of this project in the natural areas acquisition hearing. He said that 40 percent of the land in McKenzie County is owned by the federal government. As a matter of principle, he said, the county prefers that no future lands be government-held. He said this land acquisition did not require county commission approval.

**It was moved by Representative Nelson, seconded by Senator Mathern, and carried on a roll call vote that pursuant to Section 20.1-02-05.1 the Budget Section approve the Game and Fish Department purchase of 983 acres in McKenzie County.** Senators Holmberg, Grindberg, Kilzer, Krebsbach, Lindaas, Mathern, Nelson, Robinson, Seymour, Stenehjem, Wardner, and Warner and Representatives Bellew, Berg, Carlson, Dosch, Glassheim, Hawken, Kaldor, Kroeber, Metcalf, Nelson, Pollert, Svedjan, Thoreson, Vigesaa, and Williams voted "aye." Senators Bowman and Christmann and Representatives Delzer, Kempenich, Kerzman, Klein, Kreidt, Meyer, Skarphol, and Wieland voted "nay."

Mr. Rostvet provided background information and a map of the proposed land acquisition in LaMoure County ([Appendix R](#)). He said the property consists of seven acres of land adjoining the James River on the outskirts of the City of LaMoure. He said the property provides a recreation area and fishing access. He said the owners have offered to sell the property to the Game and Fish Department for \$36,000 (\$5,143 per acre). He said an appraisal completed by Mr. Raymond Thielges of LaMoure stated the value of the land at \$30,000. Funding for the \$36,000 purchase will be from the game and fish fund. He said the Governor has approved the purchase.

Senator Christmann expressed concern that property values in this area may be less than the land acquisition price of over \$5,000 an acre. Mr. Rostvet explained that an appraisal was done by a local

appraiser using comparable values of small acreage types. Senator Christmann asked the Game and Fish Department for a copy of the appraisal report.

**It was moved by Senator Mathern, seconded by Senator Lindaas, and carried on a roll call vote that pursuant to Section 20.1-02-05.1 the Budget Section approve the Game and Fish Department purchase of seven acres in LaMoure County.** Senators Holmberg, Grindberg, Kilzer, Krebsbach, Lindaas, Mathern, Nelson, Robinson, Seymour, Stenehjem, Wardner, and Warner and Representatives Bellew, Berg, Boucher, Carlson, Delzer, Glassheim, Hawken, Kerzman, Klein, Kroeber, Metcalf, Nelson, Pollert, Svedjan, Thoreson, Vigesaa, Wieland, and Williams voted "aye." Senators Bowman and Christmann and Representatives Dosch, Kempenich, Kreidt, Meyer, and Skarphol voted "nay."

### STATE AGENCY UNCLAIMED PROPERTY

Chairman Holmberg called on Ms. Linda Fisher, Administrator, Unclaimed Property Division, Land Department, to present a report ([Appendix S](#)) regarding state agencies that have not submitted a claim for unclaimed property belonging to those agencies pursuant to Section 47-30.1-24.1.

Ms. Fisher said the 2003 Legislative Assembly enacted Section 47-30.1-24.1 in an effort to resolve the issue of state agency unclaimed property. She said this section provides that within one year of receipt of state agency property, the administrator of unclaimed property is to notify the agency by certified mail; the commissioner of University and School Lands is to present a report to the Budget Section identifying every state agency that has not submitted a claim for property belonging to that agency within one year of the receipt of the date of the certified mail receipt; and upon approval of the Budget Section, the agency relinquishes its right to recover its property. She presented a list ([Appendix T](#)) of the four state agencies that did not respond to the certified mailing-- Department of Transportation, NDSU, UND, and the Developmental Center.

**It was moved by Senator Mathern, seconded by Senator Wardner, and carried on a roll call vote that pursuant to Section 47-30.1-24.1 the Budget Section approve the list provided by the Land Department of the following state agencies relinquishing their rights to recover unclaimed property:**

- Department of Transportation.
- NDSU.
- UND.
- Developmental Center.

Senators Holmberg, Bowman, Grindberg, Kilzer, Krebsbach, Lindaas, Mathern, Nelson, Robinson, Seymour, Stenehjem, Wardner, and Warner and Representatives Bellew, Berg, Boucher, Carlson, Delzer, Dosch, Glassheim, Hawken, Kempenich, Kerzman, Klein, Kreidt, Kroeber, Metcalf, Meyer, Pollert, Skarphol, Svedjan, Thoreson, Vigesaa,

Wieland, and Williams voted "aye." No negative votes were cast.

### **NORTH DAKOTA UNIVERSITY SYSTEM - CHANGE IN SCOPE OF PROJECTS**

Chairman Holmberg called on representatives of the North Dakota University System to present information regarding requests for Budget Section approval of changes to the following project authorizations pursuant to Section 48-01.2-25.

#### **Dakota College at Bottineau**

Dr. Ken Grosz, Dean, Dakota College at Bottineau, Bottineau, presented a request ([Appendix U](#)) for Budget Section approval of a decrease in cost and scope of the Dakota College at Bottineau Entrepreneurial Center for Horticulture project from \$2 million to \$700,000. He said funding for the project is from federal and private grants. He said the cost reduction is a reflection of the college's commitment to bring cost-effective new techniques to small farmers and producers across the state. The initial Entrepreneurial Center for Horticulture project plan developed in 2005 included full-scale year-round growing facilities. He said these have been replaced with high tunnels, which are less costly and demonstrate season extension techniques, which are not capital-intensive for small North Dakota farmers. He said cost reductions also resulted through the use of existing classrooms rather than constructing a new facility as initially proposed.

**It was moved by Representative Klein, seconded by Representative Thoreson, and carried on a roll call vote that the Budget Section pursuant to Section 48-01.2-25 approve the decrease in scope of the Dakota College at Bottineau Entrepreneurial Center for Horticulture project.** Senators Holmberg, Bowman, Christmann, Grindberg, Kilzer, Krebsbach, Lindaas, Mathern, Nelson, O'Connell, Robinson, Seymour, Stenehjem, Wardner, and Warner and Representatives Bellew, Berg, Boucher, Carlson, Delzer, Dosch, Glassheim, Hawken, Kempenich, Kerzman, Klein, Kreidt, Kroeber, Metcalf, Meyer, Pollert, Skarphol, Svedjan, Thoreson, Vigesaa, and Wieland voted "aye." No negative votes were cast.

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

Ms. Alice Brekke, Vice President for Finance and Operations, University of North Dakota, Grand Forks, presented the request ([Appendix V](#)) for Budget Section approval to increase the project authorization and scope of the Northern Plains Center for Behavioral Research project to include a skywalk, card security system, and College of Nursing classroom renovations. She said the skywalk was an alternate item that was initially not constructed as part of the project because project bids were more than anticipated. She said the project cost is estimated at

\$409,000, of which \$169,326 is from the general fund and tuition income and \$239,674 is from local funds.

In response to a question from Senator Christmann, Ms. Brekke said local funding for the project is from a combination of funds currently available to the university. She said she did not have the specific source of the available funds but noted it was likely to be a combination of student fee collections and donated funds.

**It was moved by Senator Grindberg, seconded by Senator Mathern, and carried on a roll call vote that the Budget Section pursuant to Section 48-01.2-25 approve the UND request to increase the project authorization and amend the project scope of the Northern Plains Center for Behavioral Research project to include a skywalk at an estimated cost of \$409,000.** Senators Holmberg, Bowman, Christmann, Grindberg, Kilzer, Krebsbach, Lindaas, Mathern, Nelson, Robinson, Seymour, Stenehjem, Wardner, and Warner and Representatives Bellew, Berg, Boucher, Glassheim, Hawken, Kaldor, Kempenich, Kerzman, Klein, Kreidt, Kroeber, Metcalf, Meyer, Pollert, Skarphol, Svedjan, Thoreson, Vigesaa, and Wieland voted "aye." Representatives Delzer and Dosch voted "nay."

#### **North Dakota State University**

Mr. Larry Kotchman, State Forester, North Dakota Forest Service, Bottineau, presented a request ([Appendix W](#)) for Budget Section approval to increase the project authorization of the North Dakota Forest Service greenhouse project at the Towner State Nursery by \$91,000, from \$300,000 to \$391,000. He stated the \$91,000 is from additional income carryover from the 2007-09 biennium resulting from the sale of nursery trees exceeding estimates. He said the greenhouse project will house containerized seedlings used for conservation purposes throughout North Dakota.

**It was moved by Senator Robinson, seconded by Senator Seymour, and carried on a roll call vote that the Budget Section pursuant to Section 48-01.2-25 approve the NDSU request to increase the project authorization of the North Dakota Forest Service greenhouse project at the Towner State Nursery by \$91,000, from \$300,000 to \$391,000.** Senators Holmberg, Bowman, Christmann, Grindberg, Kilzer, Krebsbach, Lindaas, Mathern, Nelson, O'Connell, Robinson, Seymour, Stenehjem, Wardner, and Warner and Representatives Bellew, Berg, Boucher, Carlson, Glassheim, Hawken, Kaldor, Kempenich, Kerzman, Klein, Kreidt, Kroeber, Metcalf, Meyer, Pollert, Skarphol, Svedjan, Thoreson, Vigesaa, and Wieland voted "aye." Representatives Delzer and Dosch voted "nay."

#### **Mayville State University**

Mr. Steven Bensen, Vice President for Business Affairs, Mayville State University, Mayville, presented a request ([Appendix X](#)) for Budget Section approval to increase the project authorization of the

science/library renovation and education addition project by \$180,003, from \$4,958,325 to \$5,138,328. He said the additional funding will be from deferred maintenance funding and will be used to renovate cabinets and countertops and for the removal and replacement of floor tile, removal of shelving, repairing of walls, painting, and installing new shelves in the office and storage laboratory rooms.

In response to a question from Senator Christmann regarding the use of deferred maintenance funding for the increase in project costs, Mr. Bensen said the updates address the purpose of deferred maintenance funding. He said the updates include mechanical, electrical, windows, flooring, and cabinetry. He said these costs were not included in the initial project plan, but because the building is closed for the project, the university determined it would be beneficial to also renovate the science laboratories.

Senator Bowman expressed concern that the Budget Section is continually requested to approve changes in the scope of projects that should be considered by the entire Legislative Assembly.

Representative Hawken said that because the Legislative Assembly meets only every other year, it is important to have a process to address changes and issues that occur in major construction projects.

**It was moved by Senator Lindaas, seconded by Senator Nelson, and carried on a roll call vote that the Budget Section pursuant to Section 48-01.2-25 approve the Mayville State University request to increase the project authorization of the science/library renovation and education addition project by \$180,003, from \$4,958,325 to \$5,138,328.** Senators Holmberg, Christmann, Grindberg, Kilzer, Krebsbach, Lindaas, Mathern, Nelson, Robinson, Seymour, Stenehjem, Wardner, and Warner and Representatives Bellew, Berg, Boucher, Carlson, Glassheim, Hawken, Kaldor, Kerzman, Klein, Kreidt, Kroeber, Metcalf, Meyer, Skarphol, Thoreson, and Wieland voted "aye." Senator Bowman and Representatives Delzer, Dosch, Kempenich, Pollert, Svedjan, and Vigasaa voted "nay."

## UNIVERSITY SYSTEM - NEW PROJECT PROPOSALS

Chairman Holmberg called on representatives of the University System to present information regarding requests for Budget Section approval of the following projects pursuant to Chapter 15-10.

### University of North Dakota

Ms. Brekke presented a request ([Appendix Y](#)) for Budget Section approval to use \$220,000 of asbestos settlement funds as local matching funds for the O'Kelly Hall renovation project pursuant to Section 15-10-12.3. She said the 2007-09 biennium appropriation for the O'Kelly Hall renovation project included a \$1.9 million general fund appropriation and required a \$220,000 special funds match to be provided from the university. She said the North

Dakota Century Code requires the local match to be raised and designated for the project or for legislative or Budget Section approval for use of funds that did not meet that requirement. In September 2009 the university reported to the Budget Section that the local funds match was from asbestos settlement funds, but authorization to use these funds was not requested. She said because there was asbestos mitigation associated with the renovation project, the university believed use of the asbestos settlement funds was appropriate.

Representative Carlson expressed concern that asbestos settlement funds were used for the local matching requirement. He said using the asbestos settlement funds for the special funds match may result in future general fund requests for asbestos mitigation in other campus buildings which could have been paid for with the asbestos settlement funds.

Representative Skarphol asked the Legislative Council staff for the consequences of the request not being approved. The legislative budget analyst and auditor said because the university did not receive legislative or Budget Section approval for the use of asbestos settlement funds, if the university does not use an allowable source of funds for the local matching requirement and return the asbestos settlement funds for their intended purpose, the issue will likely be reported by the auditor as a finding in a followup audit report.

**It was moved by Representative Glassheim and seconded by Senator Nelson that the Budget Section pursuant to Section 15-10-12.3 approve the UND request to use \$220,000 of asbestos settlement funds as local matching funds for the O'Kelly Hall renovation project.** Senators Krebsbach, Lindaas, Mathern, Nelson, Robinson, and Seymour and Representative Glassheim voted "aye." Senators Holmberg, Christmann, Grindberg, Kilzer, Stenehjem, Wardner, and Warner and Representatives Bellew, Berg, Boucher, Carlson, Delzer, Dosch, Hawken, Kaldor, Kempenich, Kerzman, Klein, Kreidt, Kroeber, Metcalf, Meyer, Pollert, Skarphol, Svedjan, Thoreson, Vigasaa, and Wieland voted "nay." **The motion failed on a roll call vote.**

### North Dakota State University

Dr. Boudjouk presented a request ([Appendix Z](#)) for Budget Section approval of a \$29,361,750 addition to the Research I facility, including \$15,661,750 of grant and contract funds and \$13.7 million of equipment from the Research II facility at NDSU pursuant to Section 15-10-12.1. He said the building is used for the commercialization of technologies developed at NDSU or NDSU's private sector partners. He said funding for the project is primarily from the United States Department of Commerce and the state centers of excellence enhancement program grant. He noted the United States Department of Commerce has not yet approved the proposed site for the Research I facility.

In response to a question from Senator Christmann, Dr. Boudjouk said the \$13.7 million of equipment is being moved out of the Research II facility because of limitations on the commercial use of the Research II facility required because the source of funding used to construct the Research II facility was from tax-exempt bonds.

In response to a question from Representative Carlson, Dr. Boudjouk said the long-term maintenance of the facility is paid for from federal grants and contracts that NDSU obtains. Representative Carlson said maintenance funding for the Research I facility should not appear in the University System budget request.

**It was moved by Senator Nelson, seconded by Representative Hawken, and carried on a roll call vote that the Budget Section pursuant to Section 15-10-12.1 approve the NDSU request of a \$29,361,750 addition to the Research I facility, including \$15,661,750 of grant and contract funds and \$13.7 million of equipment from the Research II facility.** Senators Holmberg, Bowman, Christmann, Grindberg, Kilzer, Krebsbach, Lindaas, Mathern, Nelson, Robinson, Seymour, Stenehjem, Wardner, and Warner and Representatives Berg, Boucher, Carlson, Dosch, Glassheim, Hawken, Kaldor, Kempenich, Kerzman, Klein, Kreidt, Kroeber, Metcalf, Meyer, Pollert, Skarphol, Svedjan, Thoreson, Vigasaa, and Wieland voted "aye." Representatives Bellew and Delzer voted "nay."

### University of North Dakota

Ms. Brekke presented a request ([Appendix AA](#)) for Budget Section approval to accept and spend \$1.9 million for renovations to the Energy and Environmental Research Center, Building 184, pursuant to Section 15-10-12.1. She said funding consists of a private sector contract, federal funds, and local contract-generated facilities and administrative funds.

**It was moved by Senator Seymour, seconded by Senator Krebsbach, and carried on a roll call vote that the Budget Section pursuant to Section 15-10-12.1 approve the UND request to accept and spend \$1.9 million for renovations to the Energy and Environmental Research Center, Building 184, with funding to consist of a private sector contract, federal funds, and local contract-generated facilities and administrative funds.** Senators Holmberg, Bowman, Christmann, Grindberg, Kilzer, Krebsbach, Lindaas, Mathern, Nelson, Robinson, Seymour, Wardner, and Warner and Representatives Bellew, Boucher, Carlson, Dosch, Glassheim, Hawken, Kaldor, Kempenich, Kerzman, Klein, Kreidt, Kroeber, Metcalf, Meyer, Pollert, Skarphol, Svedjan, Thoreson, Vigasaa, and Wieland voted "aye." No negative votes were cast.

### Valley City State University

Ms. Trudy Collins, Vice President of Business Affairs, Valley City State University, Valley City, presented a request ([Appendix BB](#)) for Budget Section approval to change funding sources for the renovation of Snoeyenbos Hall from \$3.5 million of revenue bond funds to \$3.43 million of recovery zone economic development bonds and \$70,000 of institutional funds pursuant to Section 15-10-12.3.

**It was moved by Senator Robinson, seconded by Senator Mathern, and carried on a roll call vote that the Budget Section pursuant to Section 15-10-12.3 approve the Valley City State University request to change funding sources for the renovation of Snoeyenbos Hall from \$3.5 million of revenue bond funds to \$3.43 million of recovery zone economic development bonds and \$70,000 of institutional funds.** Senators Holmberg, Bowman, Christmann, Kilzer, Krebsbach, Lindaas, Mathern, Nelson, Robinson, Seymour, Wardner, and Warner and Representatives Boucher, Carlson, Dosch, Glassheim, Hawken, Kaldor, Kempenich, Kerzman, Klein, Kreidt, Kroeber, Metcalf, Meyer, Pollert, Skarphol, Svedjan, Thoreson, Vigasaa, and Wieland voted "aye." Representative Bellew voted "nay."

### Dickinson State University

Dr. Richard McCallum, President, Dickinson State University, Dickinson, presented a request ([Appendix CC](#)) for Budget Section approval to change funding sources for the Badlands Activities Center from donations and gifts to donations, gifts, and student fee revenues pursuant to Section 15-10-12.3.

**It was moved by Senator Wardner, seconded by Representative Meyer, and carried on a roll call vote that the Budget Section pursuant to Section 15-10-12.3 approve the Dickinson State University request to change funding sources for the Badlands Activities Center from donations and gifts to donations, gifts, and student fee revenues.** Senators Holmberg, Bowman, Kilzer, Krebsbach, Lindaas, Mathern, Nelson, Robinson, Seymour, Stenehjem, Wardner, and Warner and Representatives Boucher, Carlson, Delzer, Dosch, Glassheim, Hawken, Kempenich, Kerzman, Klein, Kreidt, Kroeber, Metcalf, Meyer, Pollert, Skarphol, Svedjan, Vigasaa, and Wieland voted "aye." Senator Christmann and Representative Bellew voted "nay."

### Minot State University - Funding Source and Scope Change for Health and Wellness Center Project

Dr. Fuller presented a request ([Appendix DD](#)) for Budget Section approval to change the source of funding for the Health and Wellness Center project under Section 15-10-12.3 to include institutional funds and to change the scope of the project under Section 48-01.2-25 to include a skywalk, climbing wall, and additional fitness and office equipment.

Representative Skarphol expressed concern that reference is made to a potential legislative request for additional state funding for Phase II of the Health and Wellness Center project. Dr. Fuller said Phase II is related to the Minot State University nursing program, geriatrics research, and other health-related curriculum, not a health and wellness center for students. He said Minot State University has requested the State Board of Higher Education to include Phase II in the board's capital project list for the 2011-13 biennium.

Senator Christmann expressed concern regarding the number of capital project requests that the University System seeks Budget Section approval for rather than approval from the Legislative Assembly when in session.

In response to a question from Representative Pollert regarding institutional funds, Dr. Fuller said institutional funds include reserves that are held in certificates of deposit at the Bank of North Dakota and may consist of funds from interest, grants, or other contracts that are placed in reserve. He said the reference to institutional funds represents local funds available from various sources, including indirect costs associated with grants.

Senator Seymour expressed his support for the project. He said Minot State University students should have access to the same opportunities available throughout the University System.

**It was moved by Senator Krebsbach, seconded by Representative Klein, and carried on a roll call vote that the Budget Section pursuant to Sections 15-10-12.3 and 48-01.2-25 approve the Minot State University request to change the source of funding for the Health and Wellness Center project under Section 15-10-12.3 to include institutional funds and to change the scope of the project under Section 48-01.2-25 to include a skywalk, climbing wall, and additional fitness and office equipment.**

Senators Holmberg, Bowman, Krebsbach, Lindaas, Mathern, Nelson, Robinson, Seymour, Wardner, and Warner and Representatives Bellew, Boucher, Glassheim, Hawken, Kaldor, Kerzman, Klein, Kreidt, Kroeber, Metcalf, and Meyer voted "aye." Senators Christmann, Kilzer, and Stenehjem and Representatives Carlson, Delzer, Dosch, Kempenich, Pollert, Skarphol, Svedjan, Thoreson, Vigesaa, and Wieland voted "nay."

### **UNIVERSITY OF NORTH DAKOTA SCHOOL OF MEDICINE AND HEALTH SCIENCES BISMARCK CENTER FOR FAMILY MEDICINE - CAPITAL PROJECT UPDATE**

Ms. Brekke provided an update ([Appendix EE](#)) of the status of the UND School of Medicine and Health Sciences Bismarck Center for Family Medicine capital project. She said a location has been selected for the UND School of Medicine and Health Sciences residency program. She said the facility will be

located on the corner of Seventh Street and Rosser Avenue in Bismarck. She said the property is owned by Medcenter One, and a land lease agreement has been negotiated for use of the property. She said site development plans and corresponding cost estimates are not yet complete, but the university is aware the current authorization is \$5.4 million and will obtain approval if any variance is anticipated.

### **INFORMATION TECHNOLOGY DEPARTMENT - REQUEST FOR APPROVAL TO USE CONTINGENT FUNDS**

Ms. Lisa Feldner, Chief Information Officer, Information Technology Department, presented a request ([Appendix FF](#)) for Budget Section approval to spend the agency's contingent general fund appropriation of \$2,263,883 for a statewide longitudinal data system. She said the department applied for an ARRA grant in December 2009, and in May 2010 the department was notified that its application was not approved.

**It was moved by Senator Wardner, seconded by Representative Pollert, and carried on a roll call vote that pursuant to Section 3 of 2009 Senate Bill No. 2021 the Budget Section approve the Information Technology Department request to spend the agency's contingent general fund appropriation of \$2,263,883 for a statewide longitudinal data system.** Senators Holmberg, Bowman, Christmann, Kilzer, Krebsbach, Lindaas, Mathern, Nelson, Robinson, Seymour, Stenehjem, Wardner, and Warner and Representatives Bellew, Boucher, Carlson, Delzer, Dosch, Glassheim, Hawken, Kaldor, Kerzman, Klein, Kreidt, Kroeber, Metcalf, Meyer, Pollert, Skarphol, Svedjan, Thoreson, Vigesaa, and Wieland voted "aye." No negative votes were cast.

### **NORTH DAKOTA STATE UNIVERSITY DEVELOPMENT FOUNDATION**

Chairman Holmberg called on Mr. Jim Miller, Executive Director, North Dakota State University Development Foundation, Fargo, to present a report ([Appendix GG](#)) on the foundation's use of funds. Mr. Miller said the NDSU Development Foundation is organized as a not-for-profit entity that exists solely for the benefit of NDSU. In fiscal year 2009, he said, the NDSU Development Foundation provided \$8.2 million in direct support to NDSU, including \$4.7 million for scholarships and fellowships, \$366,000 for professorships and salary support, \$424,000 for equipment, \$1.1 million for colleges and department development grants, and \$1.6 million in discretionary spending.

In response to a question from Representative Boucher, Mr. Miller said discretionary spending items may consist of student-faculty exchanges; support for student groups; conference registration and travel for faculty; guest lecturers; relocation packages for

faculty; or special events of scholarship receptions, graduation receptions, and celebrations of faculty excellence to recognize outstanding teachers and instructors.

### **VETERANS' HOME REPORT**

Chairman Holmberg called on Mr. Russ Handegard, Construction Project Manager, Veterans' Home, Lisbon, to present a summary report ([Appendix HH](#)) regarding the status of the Veterans' Home construction project pursuant to 2009 Senate Bill No. 2007. Mr. Handegard said problems associated with backfill failures have been remedied, and construction is no longer delayed as a result. However, he said, the backfill failure did affect the project schedule, and there is an ongoing dispute over responsibility. He said the project is now expected to be completed by December 24, 2010, rather than October 1, 2010, due to North Dakota health requirements, weather-related events in the fall of 2009, delays in the original contract from the backfill failure, and weather-related events in the spring of 2010. Although the Veterans' Home construction project is scheduled for completion on December 24, 2010, he explained, the expected occupancy date is unknown as weather conditions may not permit residents to move at that time. He said the project is approximately 65 percent complete as of May 2010.

In response to a question from Representative Kreidt, Mr. Mark Johnson, Director, Veterans' Home, Lisbon, said the Veterans' Home does not anticipate any significant increase in project costs. Mr. Johnson said \$35,267,053 was appropriated for the project, and approximately \$15.4 million has been spent through May 2010.

In response to a question from Representative Pollert, Mr. Handegard said backfill failures caused mechanical piping placed in building foundations to become flooded and damaged from fall and spring rains.

Representative Kreidt asked if the State Department of Health is actively involved in monitoring the project. Mr. Johnson said the Veterans' Home is working with the department. He said department representatives conduct onsite inspections approximately every three weeks.

### **SALES TAX COLLECTIONS RESULTING FROM OIL-RELATED ACTIVITIES**

Mr. Ryan Rauschenberger, Deputy Tax Commissioner, Tax Department, presented information ([Appendix II](#)) regarding current revenues distributed to political subdivisions as a result of the tribal oil agreement and provided an estimate of distributions to political subdivisions under the tribal oil agreement if the payments were computed based on total revenues rather than revenues allocated to the state. He said revenues to political subdivisions as a result of the tribal oil agreement resulted in a \$35,936 revenue reduction to counties for fiscal year 2009 and

a \$440,584 revenue reduction to counties for the first eight months of fiscal year 2010. Using April 2010 distributions, he said, estimated biennial loss to counties would be \$1.97 million. He said the production on the reservation that may not have occurred without the tribal agreement results in an estimated potential gain to counties of \$4.63 million per biennium, based on April 2010 distributions.

### **2009-11 BIENNIUM REPORT ON COMPLIANCE WITH LEGISLATIVE INTENT**

Chairman Holmberg called on the legislative budget analyst and auditor to present the *2009-11 Biennium Report on Compliance With Legislative Intent* and the analyses of major state trust funds ([Appendix JJ](#)).

### **PUBLIC SERVICE COMMISSION STATUS OF THE METROLOGY PROGRAM**

Mr. Darrell Nitschke, Executive Secretary, Public Service Commission, presented information ([Appendix KK](#)) regarding a report on the status of the metrology program transition from a public to a private service pursuant to Section 3 of 2009 House Bill No. 1008. He said the metrology laboratory discontinued providing metrology services to the public on March 14, 2010. He said the commission continues to seek an alternative metrology provider. He said Minnesota Valley Testing Laboratories, Inc., may be interested in operating the metrology program. The Public Service Commission is planning to organize a meeting to discuss this possibility with Mr. Tom Berg, CEO, Minnesota Valley Testing Laboratories, Inc.; Mr. Goettle; and Mr. Russ Staiger, President/CEO, Bismarck-Mandan Development Association. He said Minnesota Valley Testing Laboratories, Inc., is currently in the process of constructing new laboratory facilities in Bismarck.

### **DEPARTMENT OF COMMERCE GRANTS AND LOANS TO EARLY CHILDHOOD FACILITIES**

Mr. Gordon La France, Division of Community Services, Department of Commerce, presented information ([Appendix LL](#)) regarding grants and loans for child care providers for technical assistance, infrastructure, or business planning as provided in 2009 Senate Bill No. 2225. He said funding for grants and loans for child care providers was provided to the Division of Community Services (\$520,300) and the North Dakota Development Fund, Inc. (\$1,299,700).

Mr. La France said the Division of Community Services has completed first round grant distributions of \$243,096 to 92 child care facilities and second round grant distributions of \$209,459 to 65 child care facilities. Total funding for both grant rounds is \$452,555, leaving \$47,445 available for the remainder

of the biennium. He said this amount is available for technical assistance and business plans.

Mr. La France said the Development Fund has approved six loan requests for a total of \$293,041 to entities in Bismarck (2), Fargo (1), Minot (1), West Fargo (1), and Williston (1).

### DEPARTMENT OF TRANSPORTATION USE OF HIGHWAY FUNDING

Mr. Francis Ziegler, Director, Department of Transportation, presented information ([Appendix MM](#)) regarding the anticipated use of federal, emergency, state, and other highway funding during the 2010 construction season pursuant to 2009 Senate Bill No. 2012.

Mr. Ziegler provided the following estimate of 2010 Department of Transportation highway projects:

Funding Source	Projects	Estimated Project Costs (Amounts Shown in Millions)
ARRA	State	\$63.9
	Urban	6.9
	County	4.75
	Transportation enhancement	5.1
Emergency relief	Devils Lake Basin	150.2
	Various cities and counties	4.0
State	Preventative maintenance projects (2009 SB 2012)	34.0
Federal	Bid openings - May, June, and July	217.2
	Oil patch state highways	25.0
Estimated 2010 Department of Transportation construction projects		\$511.05

### HIGHWAY PATROL COMMERCIAL VEHICLE INFORMATION SYSTEMS AND NETWORKS

Colonel James J. Prochniak, Superintendent, Highway Patrol, presented information ([Appendix NN](#)) regarding the status of implementation of the commercial vehicle information systems and networks pursuant to 2009 Senate Bill No. 2011. He said the commercial vehicle information systems and networks is a collection of information systems and communication networks that support commercial vehicle operations and is managed by the Federal Motor Carrier Safety Administration. He said the commercial vehicle information systems and networks program provides a framework that enables state and federal government agencies, the motor carrier industry, and other parties engaged in commercial vehicle operations safety assurance and regulation to exchange and use information to improve safety and security and to conduct business transactions electronically. He said the 2009 Legislative Assembly directed the Highway Patrol to proceed with the implementation of the commercial vehicle information exchange window system, including preparations necessary to allow for the automated issuance of

highway permits, and provided \$100,000 from the general fund to complete the initial implementation process. He said a request for proposal was issued, and McFarland Management of Boise, Idaho, in association with Iteris, Inc., was awarded the contract for the commercial vehicle information systems and networks study. He said the contract was awarded for \$80,595, \$6,092 was spent on advertising the project, and the remaining \$11,655 will not be spent.

### INDUSTRIAL COMMISSION STATUS OF MILL AND ELEVATOR STUDY

Chairman Holmberg called on Mr. Vance Taylor, Executive Director, Mill and Elevator, Grand Forks, to present information regarding the status of the Mill and Elevator study pursuant to Section 11 of 2009 Senate Bill No. 2014. Mr. Taylor called on Mr. Mark Martens, Eide Bailly LLP, Fargo, to discuss a report prepared by his firm entitled *North Dakota Mill and Elevator Association Industry Comparison* ([Appendix OO](#)). Mr. Martens said the industry comparison evaluation of the Mill and Elevator indicates, with the exception of the 2008 fiscal year, that overall the mill compares favorably to peer milling companies, especially in terms of better gross profit and operating expense efficiency ratios. He said fiscal year 2008 was negatively affected by the increase in hard red spring wheat and durum commodity prices and hedging roll costs. He also said his firm's analysis indicated turnover and liquidity ratios differed negatively from industry comparatives due to competitive management practices implemented and more recent fixed asset investments by the mill.

### BANK OF NORTH DAKOTA FEDERAL STUDENT LOANS

Mr. Eric Hardmeyer, President, Bank of North Dakota, presented information ([Appendix PP](#)) regarding the estimated fiscal impact of discontinuing the issuance of federal student loans as required by federal law. He said the federal health care reform bill approved by Congress requires the Bank to eliminate its federal family education loan program as of July 1, 2010. He said this program has been the hallmark of the Bank's student loan program for over 40 years with a total student loan portfolio of approximately \$1 billion. He said the student loan portfolio balance is comprised of \$800 million (80 percent) in federal family education loan program loans and \$200 million (20 percent) in Dakota education alternative loan program loans. He indicated the impact to earnings is minimal in the first year but becomes more significant in years 2011 through 2013. He provided charts illustrating that in 2013 the Bank's federal student loan average balances with the federal family education loan program were projected at \$1.173 billion and without the federal family education loan program will be an estimated \$627 million. He said projected Bank income with the federal family education loan program

was \$20.52 million for 2013 and without the federal family education loan program will be an estimated \$10.98 million. He said without the federal family education loan program, the Bank will continue to seek new ways to use its assets to promote and encourage industry, commerce, and agriculture in North Dakota.

Mr. Hardmeyer said that 55 of the Bank's 170 FTE positions are involved in student loan programs. He said when the Bank will no longer be issuing new federal loans beginning in July 2010, he anticipates these employees will still be necessary for administering existing loans, for implementing the new student loan computer system, and administering the Dakota education alternative loan program. He stated the Bank is still pursuing the possibility of being authorized to service direct loans on behalf of the federal government and, if approved, these employees would be needed.

### **TOBACCO PREVENTION AND CONTROL COMMITTEE**

Chairman Holmberg called on Ms. Jeanne Prom, Executive Director, Center for Tobacco Prevention and Control Policy, to present information ([Appendix QQ](#)) regarding the implementation of the comprehensive tobacco prevention and control plan pursuant to 2009 House Bill No. 1015. Ms. Prom said the 2009-11 biennium appropriation for the Tobacco Prevention and Control Committee is \$12.9 million. She said through May 2010, the Tobacco Prevention and Control Committee spent \$2.4 million of its appropriation, including \$2.2 million for grants to local public health units.

Representative Kempenich asked if the Tobacco Prevention and Control Committee would be monitoring usage rates to determine if the committee's efforts are lowering rates of tobacco use. Ms. Prom said the Tobacco Prevention and Control Committee efforts to create tobacco-free campuses and establishments, as well as raising the tobacco tax, all help to reduce the usage rate.

### **COMMITTEE DISCUSSION AND STAFF DIRECTIVES**

Chairman Holmberg announced the next meeting of the Budget Section is tentatively scheduled for Wednesday, September 22, 2010.

Representative Kreidt requested additional information on the Veterans' Home construction project, specifically a comparison of actual costs to budget to date by major category of expenditure, and current projections of total project costs.

Senator Nelson suggested the University System provide information on the definition of terms relating to institutional and local funds and whether the definition of these terms is consistent across the University System.

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

Chairman Holmberg adjourned the meeting at 5:26 p.m.

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Sara E. Chamberlin  
Fiscal Analyst

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Sheila M. Sandness  
Fiscal Analyst

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Allen H. Knudson  
Legislative Budget Analyst and Auditor

ATTACH:43