

# NORTH DAKOTA LEGISLATIVE COUNCIL

Minutes of the

## BUDGET SECTION

Wednesday, June 9, 1999  
Senate Chamber, State Capitol  
Bismarck, North Dakota

Representative Jack Dalrymple, Chairman, called the meeting to order at 9:10 a.m.

**Members present:** Representatives Jack Dalrymple, Ole Aarsvold, LeRoy G. Bernstein, James Boehm, Merle Boucher, Ron Carlisle, Jeff Delzer, Pam Guleson, James Kerzman, David Monson, Jim Poolman, Ken Svedjan, Ben Tollefson; Senators John Andrist, Bill L. Bowman, Joel C. Heitkamp, Ray Holmberg, Aaron Krauter, Pete Naaden, Larry J. Robinson, Ken Solberg, Harvey D. Tallackson, Steve Tomac

**Members absent:** Representatives Rex R. Byerly, Al Carlson, John Dorso, Serenus Hoffner, Robert Huether, Ed Lloyd, Ronald Nichols, Mike Timm, Francis J. Wald, Janet Wentz; Senators Tony Grindberg, Ed Kringstad, Elroy N. Lindaas, Gary J. Nelson, David E. Nething, Rod St. Aubyn

**Others present:** See attached appendix

**It was moved by Senator Tallackson, seconded by Representative Boehm, and carried on a voice vote that the minutes of the December 10-11, 1998, meeting of the Budget Section be approved as distributed.**

### RULES OF OPERATION AND PROCEDURE

At the request of Chairman Dalrymple, Mr. Chester E. Nelson, Jr., Legislative Budget Analyst and Auditor, Legislative Council, presented a memorandum entitled *Supplementary Rules of Operation and Procedure of the North Dakota Legislative Council*.

### STATUS OF THE STATE GENERAL FUND

At the request of Chairman Dalrymple, Mr. Chuck Lang, Director of Accounting, Office of Management and Budget, presented a report on the status of the state general fund. A copy of the information presented is on file in the Legislative Council office. Mr. Lang said 1997-99 biennium revenues through April 30, 1999, were 3.2 percent or \$42.1 million more than estimated in the 1997 legislative revenue forecast and .1 percent or \$2 million more than estimated in the 1999 legislative revenue forecast. Mr. Lang presented the following information on the status of the state general fund, based on revenue collections through the month of April 1999:

Unobligated general fund balance - July 1, 1997	\$65,000,000
<b>Add</b>	
Actual general fund collections through April 30, 1999	1,344,849,448
Remaining forecasted general fund revenue for the 1997-99 biennium (based on the 1999 legislative forecast)	133,457,389
<b>Total estimated general fund revenue for the 1997-99 biennium</b>	<b>\$1,543,306,837</b>
<b>Less</b>	
1997-99 biennium general fund expenditures (\$1,489,240,087 appropriated by the 1997 Legislative Assembly adjusted for deficiency appropriations made by the 1999 Legislative Assembly and estimated general fund agency turnback)	1,489,532,421
<b>Estimated general fund balance - June 30, 1999 (\$4,206,243 less than the 1999 Legislative Assembly estimate of \$57,980,659)</b>	<b>\$53,774,416</b>

### STATUS OF STATE WATER PROJECTS

At the request of Chairman Dalrymple, Mr. David Sprynczynatyk, State Engineer, State Water Commission, discussed the status of the state water management plan and various water projects, pursuant to Section 9 of 1999 Senate Bill No. 2188. Mr. Sprynczynatyk discussed the status of the following five major water projects:

1. **Grafton Flood Control Project** - This project has not yet been authorized by Congress, but authorization is expected within the next several months.
2. **Wahpeton Flood Control Project** - This project has been federally authorized and the city is working with the United States Army Corps of Engineers to finalize an agreement for the project.
3. **Southwest Pipeline Project** - During the current year, no money is anticipated to be received from the state of South Dakota for the delivery of Southwest Pipeline water to Perkins County, South Dakota. Mr. Sprynczynatyk said he will recommend to the State Water Commission that, pursuant to 1999 Senate Bill No. 2188, the State Water Commission move ahead with alternative financing and begin work on the Mott/Elgin phase of the Southwest Pipeline Project.

4. **Grand Forks Flood Control Project** - The project has been approved by Congress and the United States Army Corps of Engineers and a project agreement is being negotiated between the United States Army Corps of Engineers and the cities of Grand Forks and East Grand Forks. After agreement has been reached on the project, the State Water Commission will reimburse the city of Grand Forks for expenses incurred in the acquisition of land for the project. The initial reimbursement could be \$6 to \$8 million.
5. **Devils Lake** - The lake, which is currently at 1,447.1 feet above mean sea level, has risen three feet during the current year and could continue to rise if more rain is received in the Devils Lake Basin. The lake is currently less than three feet from the level of the dike that protects the city of Devils Lake. The State Water Commission is awaiting the release of a technical report to be issued by the United States Army Corps of Engineers, which will guide State Water Commission actions regarding an outlet from the lake.

Mr. Sprynczynatyk said the Governor has developed the following three-part plan to deal with the Devils Lake flooding issue:

1. Encourage the United States Army Corps of Engineers to take action regarding an outlet from Devils Lake.
2. Construct a channel from Devils Lake to Stump Lake, which could lower the lake level two to three feet (estimated cost of approximately \$10 million).
3. Construct a temporary emergency outlet through the Twin Lakes, with the concurrence of the Spirit Lake Tribe (estimated cost of \$6 million).

Mr. Sprynczynatyk said the State Water Commission has begun discussion with the Bank of North Dakota on the establishment of a line of credit pursuant to Senate Bill No. 2188. He said the line of credit will provide interim financing until November 1, 1999, which is the target date to have the necessary bonds issued. He said it is currently estimated that tobacco settlement proceeds, 45 percent of which will be deposited in the water development trust fund to finance water development projects, will be approximately \$57 million during the 1999-2001 biennium. He said approximately \$40 million may be needed to finance water development projects in the state prior to the end of the 1999-2001 biennium.

Senator Solberg asked about the status of the federal permit for construction of a channel from Devils Lake to Stump Lake. Mr. Sprynczynatyk said the permit application has been completed and is ready to be submitted upon release of a technical report by the United States Army Corps of Engineers. In response to another question from Senator

Solberg, Mr. Sprynczynatyk said the corps can issue an emergency permit in 30 to 60 days, rather than the waiting period of approximately one year for a regular permit. He said plans for the project are already completed and construction could begin this summer. He said construction time is estimated to be approximately 60 days.

Senator Solberg said that without intervention, water will eventually flow to Stump Lake. He said there could be problems caused by the uncontrolled flow of water and plans should be in place to control the flow. Mr. Sprynczynatyk said the movement of water to Stump Lake will be only a trickle and will not be an uncontrolled flow unless the lake rises several more feet.

Senator Solberg said the people in the Devils Lake area have been dealing with flood issues for several years and a solution needs to be developed to address the flooding problems. He said a viable option would be to drain water from the east end of the lake into Stump Lake and construct an outlet to move water to the Sheyenne River through the Tolna Coulee. Senator Solberg said an outlet from Stump Lake to the Sheyenne River is not desirable and planning needs to be done to prevent this from occurring naturally. Mr. Sprynczynatyk said the city of Devils Lake has proposed an emergency outlet from Stump Lake and the State Water Commission has discussed the negative effects of moving poor quality water into the Sheyenne River. He said the State Water Commission is working with the city and discussing the proposal outlined by Senator Solberg.

Senator Bowman said a major rainfall could raise the lake level enough to jeopardize the safety of the city of Devils Lake. He asked if the state would be liable for allowing that to occur. Mr. Sprynczynatyk said to the best of his knowledge no one has identified who would be liable in such a situation.

In response to a question from Senator Heitkamp, Mr. Sprynczynatyk said the State Water Commission has worked with the Red River Basin Board to disseminate information regarding the status of the Devils Lake situation. He said the board has not been used for the purpose of consensus building. Senator Heitkamp said North Dakota did not fund any portion of the costs associated with the board, and he inquired about North Dakota's status with the board. Mr. Sprynczynatyk said the state of Minnesota appropriated \$200,000 for the board, to be matched by the state of North Dakota. He said in the current biennium, the State Water Commission provided the required matching funds through federal and other funds available to the State Water Commission and the State Department of Health. He said he is unsure how funding will be provided for the 1999-2001 biennium and stated that the board will eventually need to be self-supporting.

In response to a question from Representative Aarsvold, Mr. Sprynczynatyk said the diversion of

Devils Lake water into the Sheyenne River will have an impact on the Sheyenne riverbed. He said the State Water Commission has conducted a survey of the Sheyenne River and will be committed to conducting ongoing monitoring.

In response to a question from Representative Boucher, Mr. Sprynczynatyk said 1999 Senate Bill No. 2188 authorized the State Water Commission to obtain an \$84.8 million line of credit from the Bank of North Dakota. He said the line of credit is not revolving and if \$40 million is used during the 1999-2001 biennium, the remaining amount available will be \$44.8 million. In response to another question from Representative Boucher, Mr. Sprynczynatyk said tobacco settlement money deposited in the water development trust fund is not appropriated for bond repayment during the 1999-2001 biennium. He said it will be used to retire the line of credit and reduce the amount required to be financed through bond issuance.

Senator Solberg asked if the State Water Commission has determined what level would be appropriate for the stabilization of Devils Lake. Mr. Sprynczynatyk said a level has not been determined. He said in his opinion, a manageable level would be 1,435 to 1,440 feet above mean sea level. He said the appropriate level for the lake will not be decided by the State Water Commission without input from the Devils Lake Outlet Management Advisory Committee and other interested parties.

### **GRAND FORKS CORPORATE CENTER**

At the request of Chairman Dalrymple, the Legislative Council staff presented a memorandum entitled *Request for Budget Section Approval of the Sale of the Corporate Center in Grand Forks - Background Information*.

At the request of Chairman Dalrymple, Mr. John O'Leary, Executive Director, Office of Urban Development, Grand Forks, presented a request for approval of a proposed purchase option agreement for the Corporate Center in Grand Forks. A copy of the information presented is on file in the Legislative Council office. Mr. O'Leary said that during the fire and flood of 1997, 11 historic buildings in the city's central business district burned, and an additional 43 buildings were severely damaged. He said a key component of the recovery strategy for the central business district is the construction of the Corporate Center. He said that cooperatively, city staff and the Grand Forks Region Economic Development Corporation developed a proposal which challenged the largest central business district employers to consider a downtown location. He said the businesses responded with an intent to lease, contingent upon the availability of convenient and adequate parking, rental rates comparable to pre-flood costs, the ability of the city to provide "class A" office space, and the provision of an option to purchase the building at some future date.

Mr. O'Leary said the Corporate Center will consist of two buildings, 401 DeMers Avenue and 402 DeMers Avenue. He said the 401 DeMers Avenue building, the larger of the two structures, will house First National Bank North Dakota; Brady, Martz and Associates, PC; and the Camrud, Maddock, Olson, and Larson, Ltd., law firm. Mr. O'Leary said a purchase option has been negotiated with each tenant which will allow the city to recoup the equity invested in the building, plus interest at the rate of 2.5 percent per year, plus one-half of any appreciation in value. He said this is a fair deal for the city because it allows the city to recover its equity in the building and is a fair deal for the tenants because in return for their risk in making an early commitment to the downtown area, they will have an opportunity to participate in any appreciation in value which may occur. He said the approval of the Budget Section is being requested because even though the purchase option provides that the purchase cannot take place sooner than 21 years from the inception of the lease, Section 5 of 1999 Senate Bill No. 2188 provides that the Corporate Center may not be voluntarily sold without the prior approval of the Budget Section.

With the permission of Chairman Dalrymple, Mr. Randy Newman, President/Chief Executive Officer, First National Bank North Dakota, discussed the purchase option agreement negotiated between the city of Grand Forks and the future tenants of the Corporate Center. Mr. Newman said the three main tenants of the 401 DeMers Avenue building have negotiated purchase option agreements with the city of Grand Forks for their respective space in the Corporate Center. He said he is asking the state to honor the commitment made by the city in exchange for the tenants agreeing to locate downtown. He said the purchase option makes good business sense for First National Bank North Dakota, especially when considering the fact that the bank has paid almost \$750,000 for improvements to the building.

In response to a question from Representative Svedjan, Mr. O'Leary said even though the sale will not take place until at least 21 years from the inception of the lease, bonds need to be issued now to finance the construction of the building. He said Budget Section action is required now because bond purchasers need to know about any proposed sale of the building. Representative Svedjan asked if the exercise of the proposed purchase option agreement will result in less money being paid to the state. Mr. O'Leary said Senate Bill No. 2188 provides that after the payment of the bonds (estimated to be 18 years from the date of issuance), the amounts previously used for bond repayments must be paid to the state. Mr. O'Leary presented the following information which indicates that the state will receive an additional \$5.7 million based upon the proposed sale of the Corporate Center:

Minimum payment to the state in the event of sale of the Corporate Center in year 21 of the lease	\$14.5 million
Less estimated present value of payments to the state during years 19 to 40 of tenants' lease, if the Corporate Center is not sold	8.8 million
Additional payment to the state resulting from the sale of the Corporate Center in year 21 of the lease	\$5.7 million

Chairman Dalrymple said the Budget Section needs to ensure that the provisions of Senate Bill No. 2188 are followed. He said this bill provides that if Grand Forks makes money on the Corporate Center, after the payment of bonds or in the event the building is sold, the proceeds must go to flood control projects. He asked if anything included in the purchase option agreement presented by the Office of Urban Development is in conflict with Senate Bill No. 2188. Mr. O'Leary said the proposed purchase agreement does not conflict with the provisions of Senate Bill No. 2188. He said, however, that Senate Bill No. 2188 does not provide for the partial sale of the building. He said the bill provides that once the bonds issued for the construction of the building are repaid, the city will make payments to the state equal to the bond payments, or in the event of a sale, the city will pay the proceeds of the sale to the state. He said the bill does not allow the city to make a reduced annual payment to the state in the event that only a portion of the building is sold. He said this conflict in the law may need to be addressed by a future Legislative Assembly.

Senator Naaden asked the Legislative Council staff to determine if the proposed sale is in accordance with the provisions of Section 5 of Senate Bill No. 2188. Mr. John Olsrud, Director, Legislative Council, said whether or not the proposed sale is in accordance with Senate Bill No. 2188 is a question that deals with legislative intent and policy rather than law. He said the language in Section 5 of Senate Bill No. 2188 is very broad.

Senator Solberg asked for clarification regarding the specific authority being requested by the Office of Urban Development. Mr. O'Leary said the Office of Urban Development is requesting Budget Section approval to enter into a purchase option agreement with the three initial tenants of the Corporate Center.

In response to a question from Representative Poolman, Mr. O'Leary said the state will benefit from exercise of the purchase option. He said the purchase option has been negotiated with the best interests of the city and the state in mind and is the result of one and one-half years of ongoing negotiations. He said the 1999 Legislative Assembly was aware that negotiations for the sale of the building were underway, which is why the provisions of Section 5 were included in Senate Bill No. 2188.

In response to a question from Representative Monson, Mr. O'Leary said the purchase agreement

provides a formula for determining the city's proceeds from the proposed sale. He said the unknown factor in the formula is the fair market value at the time of purchase, but even the minimum purchase price allowable under the formula will benefit the state.

The committee recessed for lunch from 12:00 noon to 1:05 p.m.

Senator Solberg expressed concern that Budget Section approval may change the legislative intent of the bill. Representative Andrist said the Legislative Assembly anticipated that the sale would be years in the future, not that the Budget Section would be approving the sale of the Corporate Center so soon after the adjournment of the 1999 Legislative Assembly. Representative Dalrymple expressed concern that the committee received little notice regarding the request to approve the proposed sale but said the request is not in conflict with the provisions of Senate Bill No. 2188.

**It was moved by Senator Tallackson, seconded by Senator Krauter, and carried on a roll call vote that the Budget Section approve the request of the City of Grand Forks Office of Urban Development to enter into an agreement with the three initial tenants of the Corporate Center for the future sale of all or a portion of the Corporate Center as provided in the proposed purchase agreement, subject to the provisions of 1999 Senate Bill No. 2188.** Representatives Dalrymple, Aarsvold, Boehm, Carlisle, Guleson, Kerzman, Monson, Poolman, and Svedjan and Senators Andrist, Heitkamp, Holmberg, Krauter, Robinson, Tallackson, and Tomac voted "aye." Representatives Bernstein, Delzer, and Tollefson and Senators Bowman, Naaden, and Solberg voted "nay."

#### **AGENCY REQUESTS AUTHORIZED BY THE EMERGENCY COMMISSION**

Chairman Dalrymple directed the committee to consider agency requests which have been authorized by the Emergency Commission and forwarded to the Budget Section pursuant to North Dakota Century Code Sections 54-16-04, 54-16-04.1, and 54-16-04.2. The information relating to the requests was distributed to the Budget Section members prior to the meeting and is on file in the Legislative Council office.

Senator Krauter requested additional information on Emergency Commission Request #1217 relating to State Radio Communications.

**It was moved by Senator Tallackson, seconded by Senator Robinson, and carried on a voice vote that the Budget Section approve the following requests that have been authorized by the Emergency Commission and forwarded to the Budget Section pursuant to North Dakota Century Code Sections 54-16-04.1 and 54-16-04.2:**

- **Office of Intergovernmental Assistance (Request #1213) - To increase federal funds spending authority and the grants line item**

by \$2 million for the low-income home energy assistance program (\$1 million) and the weatherization assistance program (\$1 million).

- **Public Service Commission (Request #1215)** - To increase federal funds spending authority and the operating expenses line item by \$35,000 for contracted services to eliminate safety hazards at an abandoned underground mine.
- **Bismarck State College (Request #1219)** - To increase other funds spending authority by \$60,000 of excess tuition income for salaries and wages (\$40,000) and operating expenses (\$20,000). (Request was approved by the Emergency Commission subject to approval by the State Board of Higher Education.)
- **Parks and Recreation Department (Request #1220)** - To increase federal funds spending authority and the natural resources line item by \$250,000 for improvements of the On-A-Slant Mandan Indian Village at Fort Lincoln State Park.
- **Job Service North Dakota (Request #1221)** - To increase the other funds spending authority and the new jobs program line item by \$12,900 of additional administrative revenue relating to the new jobs program.
- **Job Service North Dakota (Request #1222)** - To increase federal funds spending authority and the grants line item by \$404,000 for providing classroom training, relocation, and job search assistance for trade-affected North Dakota workers.
- **Game and Fish Department (Request #1225)** - To increase federal funds spending authority and the Lonetree Reservoir line item by \$65,000 for the operation and management of the Lonetree area.

Mr. Lang discussed Emergency Commission Request #1217, relating to State Radio Communications. He said the additional salaries and wages funding, which is being requested to be used for operating expenses for the mobile data terminal project, is available due to mild winters and a resulting reduction in overtime expenses incurred by the agency during the 1997-99 biennium.

**It was moved by Senator Naaden, seconded by Representative Poolman, and carried on a voice vote that the Budget Section approve the following request that has been authorized by the Emergency Commission and forwarded to the Budget Section pursuant to North Dakota Century Code Section 54-16-04:**

- **State Radio Communications (Request #1217)** - To transfer \$204,891 to the

operating expenses line item from equipment (\$158,891) and salaries and wages (\$46,000) for expenses relating to the mobile data terminal project.

### **BUDGET SECTION DUTIES AND RESPONSIBILITIES FOR THE 1999-2001 BIENNIUM**

At the request of Chairman Dalrymple, the Legislative Council staff presented a memorandum entitled *Budget Section Duties and Responsibilities for the 1999-2001 Biennium*. The memorandum listed the following Budget Section duties for the 1999-2001 biennium:

1. Consider requests for higher education campus improvements and building construction (15-10-12.1).
2. Receive report on job insurance trust fund (52-02-17).
3. Receive report on irregularities in the fiscal practices of the state (54-14-03.1).
4. Consider requests for transfers exceeding \$50,000 (54-16-04(2)).
5. Consider requests to receive and spend more than \$50,000 of federal funds which were not appropriated (54-16-04.1).
6. Consider requests to receive and spend more than \$50,000 of other funds which were not appropriated (54-16-04.2).
7. Consider requests for the distribution of Children's Services Coordinating Committee grants (54-56-03, Section 2 of 1999 House Bill No. 1014).
8. Receive statement from ethanol plants that received production incentives (1999 House Bill No. 1019).
9. Receive report on the hiring of additional full-time equivalent (FTE) positions (1999 Senate Bill No. 2012).
10. Review and report on budget data (Legislative Council directive).
11. Consider requests to use moneys in the State Forester reserve account (4-19-01.2).
12. Consider requests by the Board of University and School Lands to invest in real property (15-03-04).
13. Consider Game and Fish Department land acquisitions (20.1-02-05.1).
14. Consider the provision of contract services by the Developmental Center (25-04-02.2).
15. Consider requests to terminate the food stamp program (50-06-05.1(17)).
16. Consider requests to terminate the energy assistance program (50-06-05.1(19)).
17. Consider requests for transfers which will result in program elimination (54-16-04.1).
18. Consider requests to use moneys in the capital improvements preliminary planning revolving fund (54-27-22).

19. Consider requests to use cash flow financing (54-27-23).
20. Receive report on transfers from the budget stabilization fund (54-27.2-03).
21. Prescribe form of budget data (54-44.1-07).
22. Consider objecting to budget allotments or expenditures (54-44.1-12.1).
23. Consider the reduction of budgets due to initiative or referendum action (54-44.1-13.1).
24. Consider the provision of extraterritorial workers' compensation insurance (65-08.1-02).
25. Receive report on higher education institution expenditures of local funds in excess of the amount appropriated (1999 House Bill No. 1003).
26. Consider requests for line item transfers by agencies that received program-based appropriations (various appropriation bills).
27. Consider requests to transfer moneys between the divisions of the Department of Corrections and Rehabilitation (1999 House Bill No. 1016).
28. Receive report on FTE positions transferred to the Division of Independent Study (1999 Senate Bill No. 2013).
29. Consider requests for program terminations, reductions, or changes resulting from federal funding reductions (1999 Senate Bill No. 2015).
30. Hold legislative hearings for federal block grants (1999 Senate Concurrent Resolution No. 4001).
31. Study grant preapproval process (1999 Senate Concurrent Resolution No. 4050).
32. Consider requests by the Game and Fish Department to reduce the balance of the game and fish fund below \$10 million (20.1-02-16.1).
33. Consider requests to change or expand state building construction projects (48-02-20).
34. Receive report on tobacco settlement funds (54-44-04).
35. Consider requests to spend additional local funds for capital projects (1999 House Bill No. 1003).
36. Consider requests to spend moneys for the service, access, growth, and empowerment (SAGE) project (1999 House Bill No. 1003).
37. Receive report on home mortgage finance programs available within Indian reservations (1999 House Bill No. 1015).
38. Receive report on Job Service North Dakota asbestos abatement project (1999 House Bill No. 1017).
39. Receive periodic reports on bovine tuberculosis disease (1999 Senate Bill No. 2009).
40. Receive report on proposed general fund reductions to be included in the 2001-03 biennium budget request for the Northeast Human Service Center (1999 Senate Bill No. 2012).
41. Consider requests to exceed the amount appropriated for traditional Medicaid grants (1999 Senate Bill No. 2012).
42. Receive periodic reports on the status of traditional Medicaid grants (1999 Senate Bill No. 2012).
43. Consider requests to reduce nursing home limitations for cost categories (1999 Senate Bill No. 2012).
44. Consider request to spend a contingent appropriation for the establishment of a traumatic brain-injured facility (1999 Senate Bill No. 2012).
45. Receive report on federal class size reduction initiative grants (1999 Senate Bill No. 2013).
46. Receive report on salary increases provided to state employees for the second year of the biennium (1999 Senate Bill No. 2015).
47. Consider requests to make transfers from the Bank of North Dakota to offset declines in general fund revenues (1999 Senate Bill No. 2015).
48. Consider disaster claims relating to spring 1997 flooding in the Red River Valley (1999 Senate Bill No. 2016).
49. Consider increased payments to governmental nursing facilities (1999 Senate Bill No. 2168).
50. Consider additional allocations from the Department of Human Services health care trust fund (1999 Senate Bill No. 2168).
51. Consider requests for the refinancing or sale of the Corporate Center in Grand Forks (1999 Senate Bill No. 2188).
52. Receive periodic reports on the implementation of the state water development program and water management plan and the issuance of bonds for various water projects (1999 Senate Bill No. 2188).

### **LEGISLATIVE COUNCIL ANALYSIS OF LEGISLATIVE CHANGES TO THE EXECUTIVE BUDGET - 1999-2001 BIENNIUM**

At the request of Chairman Dalrymple, Mr. Jim Smith, Assistant Legislative Budget Analyst and Auditor, Legislative Council, presented the Legislative Council report entitled *An Analysis of 56th Legislative Assembly Changes to Recommended Appropriations in the Executive Budget - 1999-2001 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. Copies of the report are available in the Legislative Council office.

### **HOME MORTGAGE FINANCE PROGRAMS AVAILABLE WITHIN INDIAN RESERVATIONS**

At the request of Chairman Dalrymple, Mr. Pat S. Fricke, Executive Director, North Dakota Housing Finance Agency, presented information, pursuant to Section 14 of 1999 House Bill No. 1015, on housing finance programs available on North Dakota Indian reservations. A copy of the information presented is on file in the Legislative Council office. Mr. Fricke said there are currently three Housing Finance Agency programs actively being utilized by the North Dakota tribes or their members:

1. The rural real estate mortgage (RREM) program, through which the Housing Finance Agency purchases single-family home loans originated by North Dakota lenders utilizing the rural housing guarantee loan program. The borrowers utilizing the RREM program generally do not meet the eligibility requirements for the first-time home buyer program.
2. The low-income housing tax credit program, which is a federal tax credit incentive for the development of low-income housing.
3. The Helping HAND grant program, which provides grants to nonprofit and local governmental entities to address unmet housing needs.

Mr. Fricke said the first-time home buyer program, which utilizes tax-exempt revenue bond proceeds to fund mortgage loans purchased through the program, is presently not available to fund loans on tribal trust lands located within Indian reservations due to legal and jurisdictional questions. He said the agency has requested the Internal Revenue Service (IRS) to resolve these questions through the issuance of a private letter ruling. He said the IRS has not yet issued a private letter ruling, but should make a decision on the issuance of such ruling in the next few weeks. He said the IRS has directed the Housing Finance Agency to enter into necessary agreements with the North Dakota Indian tribes and to submit the agreements to the IRS for review. He said the agency is currently in the process of working with the attorney for the Three Affiliated Tribes to obtain the necessary agreements.

At the request of Chairman Dalrymple, Mr. Thomas M. Disselhorst, Staff Attorney, Three Affiliated Tribes, presented information on Housing Finance Agency home mortgage finance programs available to members of the Three Affiliated Tribes living on the Fort Berthold Indian Reservation. A copy of the information presented is on file in the Legislative Council office. Mr. Disselhorst said low-cost housing on Indian reservations is not adequately provided by the Bureau of Indian Affairs or the United

States Department of Housing and Urban Development (HUD). He said the Bureau of Indian Affairs currently provides no housing funds and the funds available from HUD do not meet demand. He said at current levels of funding from HUD, it would take over 25 years to satisfy the backlog of eligible families and individuals awaiting housing on the Fort Berthold Indian reservation.

### **STUDY OF GRANT PREAPPROVAL PROCESS**

At the request of Chairman Dalrymple, the Legislative Council staff presented a memorandum entitled *Implementation of a Grant Preapproval Process - Background Memorandum*. Senate Concurrent Resolution No. 4050 (1999) directs the Legislative Council to study the feasibility and desirability of implementing a grant preapproval process for every state agency except institutions of higher education. The resolution indicates that one of the reasons for the study is the failure of 1999 Senate Bill No. 2431, which would have required that prior to submitting a grant application to a foundation or the federal government, state agencies submit a copy of the application to the Office of Intergovernmental Assistance (changed to the Division of Community Services by 1999 Senate Bill No. 2179). The memorandum included the following proposed study plan:

1. Receive testimony from representatives of the Division of Community Services on the process used by the agency for the intergovernmental review of federal programs, pursuant to Presidential Executive Order No. 12372.
2. Receive testimony from representatives of the Division of Community Services on the feasibility and estimated costs associated with implementing a grant preapproval process, as would have been required by 1999 Senate Bill No. 2431.
3. Receive testimony from representatives of state agencies that receive a significant amount of federal grants on the feasibility of implementing a grant preapproval process, including measures taken by the agencies to determine that proposed grants do not violate state law or policy and do not obligate the state to provide future funding.
4. Review grant preapproval processes used in other states.
5. Develop recommendations and proposed legislation necessary to implement the recommendations regarding a grant preapproval process.
6. Prepare the committee's final report for presentation to the Legislative Council.

**It was moved by Senator Krauter, seconded by Senator Naaden, and carried on a voice vote that**

**the Budget Section approve the proposed study plan for Senate Concurrent Resolution No. 4050.**

The meeting was adjourned subject to the call of the chair at 2:05 p.m.

### **CORRESPONDENCE FROM ETHANOL PLANTS**

Pursuant to 1999 House Bill No. 1019, correspondence from North Dakota ethanol plants receiving production incentives from the state was distributed to committee members. The correspondence related to the Alchem, Ltd., plant and indicated that the plant did not produce a profit in calendar year 1998 after deducting the payments received from the North Dakota ethanol production incentive program. A copy of the correspondence is on file in the Legislative Council office.

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Joe R. Morrissette  
Senior Fiscal Analyst

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Chester E. Nelson, Jr.  
Legislative Budget Analyst and Auditor

ATTACH:1