

NORTH DAKOTA LEGISLATIVE COUNCIL

Minutes of the

BUDGET COMMITTEE ON GOVERNMENT SERVICES

Monday and Tuesday, October 25-26, 1999
Roughrider Room, State Capitol
Bismarck, North Dakota

Senator Aaron Krauter, Chairman, called the meeting to order at 9:00 a.m.

Members present: Senators Aaron Krauter, John Andrist, Bill L. Bowman, Ed Kringstad, Kenneth Kroepflin, Elroy N. Lindaas; Representatives April Fairfield, Pat Galvin, Bette Grande, Robert Huether, James Kerzman, Matthew M. Klein, Myron Koppang, Chet Pollert, Wanda Rose, Ben Tollefson, Janet Wentz, Lonny B. Winrich

Members absent: Senator John T. Traynor; Representative Roxanne Jensen

Others present: See attached appendix

The Legislative Council staff indicated the minutes of the previous meeting have been corrected to clarify the types of expenditures made by the Department of Health in the construction of its temporary morgue facility and to clarify the comments made by Ms. Chris Runge of the North Dakota Employees Association regarding privatization.

It was moved by Representative Huether, seconded by Representative Kerzman, and carried on a voice vote that the minutes of the previous meeting, as corrected, be approved.

BUDGET MONITORING

Mr. Rod Backman, Director, Office of Management and Budget, commented on the status of the state general fund. Mr. Backman said the June 30, 1999, general fund balance was \$61.1 million, \$9.3 million more than estimated by the 1999 Legislative Assembly. Mr. Backman said through September 1999, general fund revenues have exceeded estimates by \$5.6 million or 3.4 percent. Mr. Backman said the projected June 30, 2001, general fund balance is currently estimated to be \$35 million, \$23.7 million more than the \$11.3 million estimated June 30, 2001, balance estimated by the 1999 Legislative Assembly. A copy of the report is on file in the Legislative Council office.

Senator Krauter asked for the impact of the depressed agriculture economy on the state's revenue forecast. Although Mr. Backman did not have the information immediately available, he responded during the second day of the committee meeting. He said based on preliminary information, the Office of Management and Budget is projecting gross income from all agricultural sectors to be \$220 million less than projected.

The Legislative Council staff presented a memorandum entitled *Oil Tax Revenues, Oil Production, and Oil Market Prices for the 1999-2001 Biennium*. The Legislative Council staff said through August 1999, general fund revenues from oil and gas production taxes have exceeded estimates by \$633,000. The Legislative Council staff said general fund revenues from the oil extraction tax have exceeded estimates for this same period by \$351,000.

The Legislative Council staff said oil production in August 1999 totaled 2,743,468 barrels, 211,700 barrels less than the estimated production of 2,955,168 barrels. The Legislative Council staff said the average market price per barrel of oil in August 1999 was \$19.51, \$8.83 more than the estimated price of \$10.68 per barrel.

Chairman Krauter asked that the Legislative Council staff continue to monitor the oil information and update the committee at each of its meetings.

STATE AGENCY OFFICE SPACE NEEDS

The Legislative Council staff presented a memorandum entitled *State Agency Space Utilization and Needs*. The Legislative Council staff said the memorandum summarizes the results received and compiled to date of a survey of all state agencies regarding each agency's location, FTE, job types, dependence on technology, and on potential agency functions that could be performed in a more rural area of the state.

The Legislative Council staff said information from the 12 agencies is not yet included in the memorandum but will be added and presented to the committee at its next meeting. The Legislative Council staff said the memorandum provides information on each location utilized by a state agency, whether the space is leased or owned, the number of FTE and temporary employees at each location, the types of jobs at the location, and how dependent those jobs are on technology.

The Legislative Council staff said based on the survey responses, agencies that have the most locations across the state include Attorney General, judicial branch, State Health Department, Department of Human Services, Job Service North Dakota, Highway Patrol, Department of Corrections and Rehabilitation, Adjutant General, Experiment Station/Extension Service, State Historical Society, Game and Fish

Department, Parks and Recreation Department, and Department of Transportation.

The Legislative Council staff reviewed a schedule showing agency functions that state agencies identified as potential activities that could be performed offsite in a more rural area of the state and the advantages and disadvantages of making this change. A copy of the report is on file in the Legislative Council office.

Senator Krauter expressed concern that many agencies did not explore more creative options when identifying agency functions that could be performed offsite in a more rural area of the state.

Senator Andrist expressed concern that some survey responses indicate a limited work force is a disadvantage to locating in rural areas. He believes many rural areas have the work force needed to fulfill agency employment needs.

Mr. Curt Zimmerman, Director, Facility Management Division, presented a schedule showing state agency leases by county. The schedule presents for each agency the location of the leased space, the square footage being leased, the annual rent, the type of space, the term of the lease, and the landlord's name and address. Mr. Zimmerman said based on the most recent information available to the Facility Management Division, state agencies lease 553,191 square feet of space at an annual rental cost of \$4,808,858. He said the average cost per square foot is \$8.69.

Chairman Krauter asked that the Facility Management Division provide information to the committee at its next meeting on the cost per square foot of each lease identified on the schedule.

Senator Andrist asked for the average amount of space needed for each employee. Chairman Krauter asked that the Legislative Council staff calculate the number of square feet per employee on the state agency space utilization schedule presented by the Legislative Council staff.

Mr. Curtis L. Wolfe, Chief Information Officer, Information Technology Department, commented on options technology provides for locating employees away from a central office setting.

Mr. Wolfe said that all counties, to some extent, are connected to the state's wide area network. He said that telephone services through the Information Technology Department are available anywhere in the state. He said Senate Bill No. 2043, approved by the 1999 Legislative Assembly, provides for the expansion and enhancement of the Information Technology Department's wide area network. He said the enhanced network will include video services that can assist in conducting agency functions in rural areas of the state.

Chairman Krauter asked for suggestions on the types of jobs or agency functions the Information Technology Department believes would be the most appropriate for moving to rural areas of the state. Mr. Wolfe said the decision on which agency function

could be performed away from a central office setting is an agency business decision; however, he said the technology is available to support any function of an agency that is performed offsite.

Mr. Jerry Coleman, Department of Public Instruction, presented information on vacant school buildings that may be available for providing office space for state agencies. Mr. Coleman said the Department of Public Instruction conducted a survey of all school districts regarding vacant school buildings that may be available for providing office space for state agencies. Mr. Coleman identified the communities in which a vacant school building is located: Tolley, Tioga, Jamestown, Grafton, Galesburg, Portland, Rutland, Overly, New Rockford, Leonard, Strasburg, Park River, Karlsruhe, Jud, Napoleon, Keene, Carpio.

Mr. Keith Magnusson, Driver and Vehicle Safety Director, Department of Transportation, presented information on how other states administer their driver's license and motor vehicle registration programs.

Mr. Magnusson said the driver's license function of the department is based primarily on safety. Its mission is to put the safest driver possible on the road.

Mr. Magnusson said the function of the Motor Vehicle Division is primarily to generate revenue. He said it is difficult to compare motor vehicle division operations between states because of the variation of each state's taxing structure. He said some states, like North Dakota, collect the tax and distribute revenue to local political subdivisions, while in some other states the counties collect the tax, keep a portion, and send the state its share.

Mr. Magnusson said the Drivers License Division has 44 driver's license sites in the state. Of these sites, he said, 26 are automated. He said approximately 83 percent of driver's license transactions are processed at the offices in the eight major cities, 13 percent at the remaining 18 automated sites, and 4 percent at the 18 nonautomated sites.

Mr. Magnusson distributed a schedule showing for each state the number of fixed driver's license sites, the number of roving sites, and the percentage of transactions conducted by the fixed sites.

Mr. Magnusson presented a summary of North Dakota's method of collecting motor vehicle registration fees compared to other states. He said North Dakota provides its motor vehicle services through the central office in Bismarck and 13 privately operated motor vehicle branch offices located in Beulah, Devils Lake, Dickinson, Ellendale, Fargo, Grafton, Grand Forks, Jamestown, Minot, Rugby, Valley City, Wahpeton, and Williston. He said the privately operated branch offices receive no financial support from state government; however, he said, these offices generate revenue by charging a service fee ranging from \$2 to \$6 for each customer transaction.

In Minnesota, Mr. Magnusson said motor vehicle services are provided through 172 deputy registrar

offices located in 35 city government offices, 63 county government offices, 61 corporate offices, and 13 offices run by individuals. Mr. Magnusson said these offices do not receive financial support from state government but charge a service fee of \$3.50 per transaction.

In Montana, Mr. Magnusson said motor vehicle registration services are provided in 56 county government offices. In South Dakota, he said, motor vehicle registration services are provided in 64 county government offices. A copy of the report is on file in the Legislative Council office.

Senator Krauter asked whether the Department of Transportation has had any discussions with counties regarding their involvement in providing motor vehicle or driver's license services. Mr. Magnusson said the department has had some indirect discussions with county representatives; however, the department believes North Dakota residents are being adequately served with the 13 motor vehicle branch offices and the 44 driver's license sites. In addition, he said, anyone can choose to register a motor vehicle by mail.

Senator Andrist expressed concern regarding the infrequent availability of driver's license services in certain rural areas. He suggested improvements could be made in driver's license services provided in rural areas of the state.

Mr. Mark Johnson, Executive Director, North Dakota Association of Counties, presented information on efficiencies that may result from providing state government services at county courthouses utilizing county staff. Mr. Johnson said the Association of Counties conducted a survey of counties regarding the availability of office space in each county seat community. Mr. Johnson presented the results of that survey, which he said indicates an availability of office space and a willingness of counties to cooperate in providing state services. He said the office space appears to be generally well-equipped and handicapped accessible. He said all courthouses have computer access to the North Dakota Information Network, generally good telephone services, and ample parking. He said most counties already provide office space to state, federal, and private entities, and many counties indicate the possibility of reduced rent and, in a few cases, no rent.

Mr. Johnson commented on the initiative under way in Watford City and McKenzie County involving the development of expanded technology services in that county. Mr. Johnson suggested the committee establish a pilot project, possibly in Watford City because of its technological advancements, involving one or two state agencies, which, if successful, could be duplicated in other rural parts of North Dakota.

Mr. Johnson expressed concern with the lack of state agency responses to the Legislative Council survey regarding potential agency functions that could be provided in rural areas of the state. He believes agencies should be considering options for service

delivery that will be expected, through the use of technology, in the future. A copy of the report is on file in the Legislative Council office.

Ms. Bobbi Kukla, Dunn County Treasurer, appearing on behalf of the County Treasurers Association, expressed support for the study resolution. She said the goals of the County Treasurers Association in rural North Dakota are to bring services to rural North Dakota and stop outmigration. Ms. Kukla suggested motor vehicle registration services could be performed by county staff rather than private contractors. She said North Dakota residents would benefit by having better access to motor vehicle registration services, and counties would benefit from the revenue generated by charging a service fee and by providing services and jobs in rural communities. She said the North Dakota Century Code authorizes the director of the Department of Transportation, with the approval of the Governor, to name agents of the department for the registration of motor vehicles. A copy of the report is on file in the Legislative Council office.

Ms. Stacey Miller, Slope County Treasurer, commented on the possibility of the counties administering motor vehicle registration services on behalf of the state. She said in a review of other states, the County Treasurers Association learned 18 other states already involve counties in providing their motor vehicle registration services. A copy of the report is on file in the Legislative Council office.

Mr. Jim Heinrich, McIntosh County Treasurer, commented on efficiencies that can result from locating state government or other services in rural areas. Mr. Heinrich presented a sample of the Tech Link, Inc., data processing center in Ashley that contracts with Meridian Government Services to verify Medicare Part B claims. A copy of the report is on file in the Legislative Council office.

Mr. Cal Klewin, Bowman County Development Corporation, commented on a study conducted by North Dakota State University as requested by a group of eight counties. He said the report presents the economic impact of outsourcing state agencies to rural North Dakota.

Mr. Randy Sell, Research Scientist, North Dakota State University, presented the economic impact study of outsourcing state agencies from Bismarck to rural North Dakota. Mr. Sell said the study compares the costs of a 5-employee office and a 10-employee office at various locations in North Dakota.

Mr. Sell said the information used in the study was collected from a variety of sources, including Job Service North Dakota, Facility Management Division of the Office of Management and Budget, and Consolidated Telephone Cooperative. He said the cost comparison includes the Bismarck metropolitan service area (MSA), which includes Burleigh and Morton Counties and locations in the far west, west central, east central, and far east sections of North Dakota. He said the far east section excludes the

metropolitan service areas of Fargo and Grand Forks that include Cass and Grand Forks Counties, respectively. The schedule below presents the projected total annual expenses and annual savings relative to the Bismarck metropolitan service area for a five-employee office.

Location	Total Expenses	Savings Relative to Bismarck MSA
Bismarck MSA	\$140,658	\$0
Far west	\$134,454	\$6,203
West central	\$115,788	\$24,870
East central	\$114,696	\$25,961
Far east	\$117,407	\$23,250

The schedule below presents the projected total annual expenses and annual savings relative to the Bismarck MSA for a 10-employee office.

Location	Total Expenses	Savings Relative to Bismarck MSA
Bismarck MSA	\$266,191	\$0
Far west	\$259,163	\$7,028
West central	\$220,733	\$45,458
East central	\$217,080	\$49,111
Far east	\$220,958	\$45,232

Mr. Sell said the five-employee office includes one supervisor/administrative support position and four data processing positions. In the 10-person office, he said, the employees include one supervisor/administrative support position and nine data processing positions.

Mr. Sell commented on the economic impact of these examples for various parts of the state. He said the establishment of a 10-person office in Bowman County would be equivalent to the establishment of a 374-person office in Cass County or a 209-person office in Burleigh County.

Mr. Sell said another consideration regarding metropolitan versus rural location of new economic activity is the public infrastructure costs associated with economic population growth. He said because of the past pattern of economic and population change, North Dakota's major metropolitan centers have little or no excess capacity in their local infrastructure and services, while most rural communities have the capacity to absorb some population increase within their local infrastructure. A copy of the report is on file in the Legislative Council office.

Mr. Klewin said the rural counties' intent in commissioning this study is to demonstrate the economic impact and the cost-savings that can result from locating state government services in rural areas. He said people in rural areas of the state are interested in obtaining these types of jobs.

Senator Krauter asked what type of agencies or jobs should be considered for rural areas. Mr. Klewin said survey responses indicate an interest in obtaining data entry jobs.

Mr. Gaylon Baker, Economic Development Director, Dickinson, expressed support for the concept of moving state government jobs to rural areas. He said it would benefit the economic developers in rural parts

of the state to demonstrate to private companies that state government has successfully moved jobs to rural areas and saved money as a result.

Representative Winrich commented that Job Service North Dakota has reported a surplus of professional, managerial, and technologically related workers in Grand Forks. He asked that the committee receive information on the classification of job types across the state that are in demand and those for which there is a surplus. Chairman Krauter said Job Service North Dakota would be asked to provide that information at the committee's next meeting.

The committee recessed for lunch at 12:35 p.m. and reconvened at 1:15 p.m.

STATE DEPARTMENT OF HEALTH FACILITIES PLAN

Mr. Murray G. Sagsveen, State Health Officer, State Department of Health, presented information on the status of its facilities plan and on options for privatizing its laboratory facilities. He said the department is currently in negotiations with the architectural firm of Triebwasser, Helenske, and Associates of Fargo for the development of a master plan. He said the Fargo firm will work with Earl Walls Associates from San Diego, California, which is a firm specializing in laboratory planning and design.

Mr. Sagsveen said the department has been awarded a \$35,000 grant from the federal Environmental Protection Agency to supplement the \$45,000 of general fund money appropriated to the department for developing its master facilities plan. A copy of the report is on file in the Legislative Council office.

Mr. Bob Barnett, Administrative Services Director, State Department of Health, said the department will be considering the privatization of its laboratory facilities through the development of its master facilities plan.

Dr. Edward Carlson, Chairman, Department of Anatomy, University of North Dakota School of Medicine and Health Sciences, commented on the possibility of locating the state morgue at the University of North Dakota School of Medicine and Health Sciences. Dr. Carlson said the School of Medicine is interested in locating the state morgue and the state medical examiner position at the University of North Dakota. He reviewed the following advantages of locating the state morgue and state medical examiner at the University of North Dakota:

1. There is space available in the medical school.
2. The state could remodel existing space rather than construct new space.
3. The space has private entrances, private spaces, and is secure.
4. The School of Medicine's anatomy labs and morgue are on the same floor.
5. The School of Medicine's library is located onsite.
6. Two electron microscopes are available.

7. The Department of Pathology can process all slides.
8. A photographer and studio are located in the building.
9. Medical graphics is located in the building.
10. The state medical examiner can become pathology faculty.
11. There would be a source of colleagues in pathology, anatomy, and others.
12. As a faculty member, the state medical examiner could participate in the TIAA/CREF retirement plan.
13. The potential exists to share expenses with pathology and anatomy personnel.
14. First- and second-year medical and allied health students and faculty could observe autopsies.
15. A fourth-year elective could be established.
16. There is the potential for a pathology fellowship program to be established.
17. Inquiring minds would be around the autopsy table.
18. University of North Dakota criminal justice students would benefit.
19. The law school and law library are located at the University of North Dakota.
20. A forensic anthropologist is on staff.
21. The Deeded Body Program at the medical school would benefit.

Dr. Roger Sopher, Chairman, Department of Pathology, University of North Dakota School of Medicine and Health Sciences, discussed the possibilities and disadvantages of locating the state morgue and state medical examiner at the University of North Dakota. Dr. Sopher said the possibilities include:

1. Autopsies for the Altru medical facility could be done at the medical school.
2. It could serve as a regional autopsy center, including parts of Minnesota.
3. The access to human tissues for researchers may be possible.
4. A nucleus may result for development of trained lay examiners.

Mr. Sopher reviewed the following disadvantages of locating the state morgue and the state medical examiner at the University of North Dakota:

1. The state medical examiner and other personnel would need to relocate to Grand Forks.
2. Inquiring minds around the autopsy table may result in extending the time it takes to do an autopsy.
3. Toxicology specimens would need to be sent by Federal Express to Bismarck.

A copy of Dr. Carlson's and Dr. Sopher's report is on file in the Legislative Council office.

In response to a question from Senator Krauter, Mr. Sagsveen said the cost of delivering a body to the morgue and the cost of returning the body from the morgue is the responsibility of local government. He

said all other costs relating to the autopsy and subsequent testimony in court by the state medical examiner, if required, are paid by the state. Senator Krauter asked for the number of autopsy requests by county. Mr. Sagsveen said the department would provide that information to the committee at its next meeting.

Representative Pollert asked for the estimated cost of remodeling the space at the University of North Dakota. Mr. Sagsveen said the cost estimates presented during the 1999 legislative session for remodeling the space at the School of Medicine was approximately \$750,000, including equipment, which, he said, was slightly higher than the estimated cost of building a new state morgue.

Mr. Sagsveen said a policy decision needs to be made by the Legislative Assembly in addition to the decision of the location of the state morgue. He said the Legislative Assembly needs to determine whether the purpose of the State Medical Examiner is to provide assistance to law enforcement and the courts or whether it should also involve an educational purpose.

Chairman Krauter asked that the Office of Management and Budget's state planner be invited to the next committee meeting to discuss the various options for the state morgue including the viability of the space at the University of North Dakota.

Representative Rose suggested that the committee receive information from law enforcement personnel on the appropriate role for the State Medical Examiner. Chairman Krauter indicated that law enforcement personnel, including state's attorneys, Bureau of Criminal Investigation staff, sheriffs, police, and court personnel would be invited to testify at the next meeting.

Representative Wentz suggested the committee receive input from previous graduates of the University of North Dakota School of Medicine and Health Sciences on the benefits of having the state medical examiner located at the School of Medicine. Chairman Krauter said the North Dakota Medical Association will be invited to comment at the next committee meeting on the educational benefits of locating the State Medical Examiner at the School of Medicine.

Chairman Krauter asked that the Legislative Council staff provide information from the Legislative Council's interim committee that recommended the hiring of a state medical examiner.

The committee conducted a tour of the State Department of Health facilities in Bismarck, including the Missouri Office Building, the white house facility, the microbiology laboratory, the chemistry laboratory, the forensic laboratory, the toxicology laboratory, the temporary morgue facility, and the environmental training center.

The committee recessed at 5:20 p.m. and reconvened at 8:30 a.m. on Tuesday, October 26.

PRIVATIZATION

The Legislative Council staff presented the recommendations resulting from a 1991-92 interim Legislative Council study of privatization. The Legislative Council staff said the committee recommended House Bill No. 1026, which was not approved by the 1993 Legislative Assembly but which would have required state agencies to submit a report to the Senate and House Appropriations Committees during each legislative session on any action taken by the agency since the last regular legislative session to contract with the private sector for services and on any recommendations for future privatization of public services. The Legislative Council staff said the bill further provided that when new positions or programs are requested by an agency, the agency must report to the Appropriations Committees information on the consideration given privatization in arriving at the request.

Chairman Krauter asked the Legislative Council staff to provide the legislative history associated with 1993 House Bill No. 1026 to the committee at its next meeting.

The Legislative Council staff presented a memorandum entitled *Privatization Activities of State Agencies - 1999-2001 Biennium*. The Legislative Council staff said the memorandum summarizes the results received and compiled to date of a survey of all state agencies regarding privatization activities and potential privatization activities of state agencies. The Legislative Council staff said information relating to 12 agencies is yet to be included in the memorandum. The Legislative Council said the memorandum will be updated with the additional information for the committee's next meeting.

The Legislative Council staff reviewed the privatization activities of state agencies.

The larger privatization contracts include:

Agency/Service	Estimated 1999-2001 Biennial Cost	
	General Fund	Total Funds
Retirement and Investment Office		
Investment management services		\$23,200,000
Public Employees Retirement System		
Health insurance plan		\$160,800,000
State Department of Health		
Women, infants, and children food costs		\$18,226,930
Department of Human Services		
Aging community-based services	\$9,479,212	\$21,495,103
Child care services	\$3,675,262	\$16,579,896
Child welfare services	\$16,898,424	\$72,180,303
Foster care eligibility determination	\$542,921	\$10,740,449
Medicaid services (excluding nursing home services)	\$70,474,142	\$261,920,967
Nursing home services	\$75,067,679	\$252,358,444
Vocational rehabilitation services	\$2,705,326	\$10,280,731

The Legislative Council staff reviewed agency responses identifying potential services the agency

could privatize. The Legislative Council staff reviewed proposed statutory changes that agencies identified as enabling them to privatize or to more easily privatize services. The Legislative Council staff said the Tax Department identified North Dakota Century Code (NDCC) Sections 57-01-13, 57-38-34, and 57-01-03 which, if changed, would allow them to contract for collections from North Dakota residents, allow tax forms to be mailed to an address other than the Tax Commissioner in Bismarck, and allow general authority to contract for performing its statutory duties. The Legislative Council staff said the Office of Administrative Hearings identified Sections 54-57-01 and 54-57-02 which, if changed, would allow the director to hire contract administrative law judges on more than an as-needed basis.

The Legislative Council staff said North Dakota State University identified NDCC Section 15-10-17(15), which could be expanded to identify specific services for the University System to privatize.

Representative Fairfield asked for information on the guidelines state agencies utilize when contracting for services. Chairman Krauter asked that the Legislative Council staff report to the committee at its next meeting on the criteria, guidelines, and parameters included in statute, administrative rules, or Office of Management and Budget policies relating to contracting for services.

Ms. Chris Runge, Executive Director, North Dakota Public Employees Association, introduced Ms. Nancy Van Meter, Associate Director, Federation of Public Employees, who commented on the privatization study. Ms. Van Meter reviewed issues and concerns associated with privatization and provided examples of privatization activities in other states. Major issues and concerns identified by Ms. Van Meter include:

1. The need for oversight of private contractors.
2. Rapid and unplanned transition to privatization can result in higher costs and lower quality.
3. Government is ultimately responsible for paying costs resulting from damages or inappropriate services provided by the private contractor.
4. States generally have no system to oversee contractors' complex financial arrangements.
5. Because private corporations focus on profits, quality of services is sometimes reduced.
6. Government may be responsible for paying cost overruns incurred by private contractors.
7. Many times, privatization does not result in cost-savings or improved quality of services as expected.
8. Clear and consistent standards are needed to evaluate proposals to privatize.

Ms. Van Meter recommended that if the state considers contracting out services, it should establish

standards that protect quality services, ensure the prudent use of taxpayer dollars, and maintain accountability. She suggested the following criteria be developed for contracting out for services:

1. Consider providing the services with state employees - Only contract out for services that cannot meet cost or quality benchmarks with state employees.
2. Require an "apples-to-apples" comparison between public and private costs of providing a service.
3. Require significant cost-savings due to the risks of contracting out services rather than providing them internally.
4. Limit the length of contracts - Review the company's performance - Prohibit automatic renewals and extensions.
5. Restrict the bidding to companies without a record of procurement violations or labor or environmental violations - Require contractors to disclose any criminal convictions, penalties, or assessments imposed on either the company or the individual.
6. Keep the process open - Require that information on the services and bidders be available to the public, including the identities of those with an interest in the company - Prohibit individuals with conflicts of interest from voting on a contract.
7. Allow workers currently performing the job to bid on the contracts equally with private contractors.
8. Require bidders to respect community standards for wages and benefits - Ensure that any cost-savings are not realized through lower wages and benefits.

Ms. Van Meter suggested developing cooperative efforts involving labor and management will result in improving services and reducing costs more successfully than privatization. She suggested providing employees the opportunity to collaborate with management in redesigning work to save money and improve productivity and quality.

Ms. Van Meter said the Federation of Public Employees has developed, with the assistance of the University of Wisconsin, a computer software program that enables labor and management to make an "apples-to-apples" comparison of public and private costs of a service. She said this software program should be available in the near future.

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

Senator Bowman commented that problems similar to those cited by Ms. Van Meter relating to private sector companies providing services also can occur with public employees providing services.

Representative Koppang asked for examples of the successful implementation of privatization by governmental entities. Ms. Van Meter cited the privatization efforts in Indianapolis as a success; however,

she indicated other changes relating to that city's government operations also occurred at the same time which contribute to the successes realized by Indianapolis.

Representative Fairfield asked for information on the criteria used by the Department of Corrections and Rehabilitation in contracting with TransCor America, Inc., a company that transports certain prisoners for the department. Chairman Krauter said the Department of Corrections and Rehabilitation will be asked to present information to the committee at its next meeting on the process it uses to hire private contractors and on any suggestions for improvements to the process.

Representative Kerzman asked for information on the state's liability resulting from private contractors' actions as a result of the loss of sovereign immunity for the state. Chairman Krauter asked that the Legislative Council staff provide information on the state's liability as it relates to private contractors at the committee's next meeting.

Ms. Runge suggested if the state considers privatizing a state prison facility, it should review the adequacy of its laws relating to the operation of a private prison and whether appropriate safeguards are in place relating to background checks and monitoring of services.

Representative Fairfield suggested the committee develop parameters and guidelines for state agencies to utilize when considering privatization.

INDUSTRIAL COMMISSION STUDY

The Legislative Council staff distributed copies of the enterprise funds section of the North Dakota Comprehensive Annual Financial Report for the fiscal year ended June 30, 1998, which includes information on the Bank of North Dakota and other Industrial Commission entities.

Ms. Karlene Fine, Executive Director and Secretary, Industrial Commission, presented information regarding the history of the authority of the Governor to veto action of other members of the Industrial Commission.

Ms. Fine said the three members of the Industrial Commission include the Governor, Attorney General, and Agriculture Commissioner. From 1919 to 1933 she said decisions of the commission required a majority of the commission voting in favor of the action. She said meetings could occur without the Governor; however, any action at such meeting had to be ratified by the Governor.

From 1933 to 1973 Ms. Fine said the Governor had veto power over any action of the Industrial Commission. She said the Governor and one other member were necessary for a quorum.

From 1973 to the present Ms. Fine said decisions of the commission require a majority of the commission voting in favor of the action. She said the Governor and one other member are necessary for a quorum.

Ms. Fine said since 1993 out of a total of 146 meetings of the Industrial Commission with an average of 10 votes per meeting, the Governor has voted no only 14 times.

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

Representative Tollefson expressed concern with the amount of authority of the Industrial Commission. He believes the commission should be made up of more than three members and believes the Governor should have veto power over commission decisions.

Mr. John Hoeven, President, Bank of North Dakota, presented information regarding the Bank's mission, location, role, and function.

Mr. Hoeven distributed background information on the Bank of North Dakota, the Bank's strategic plan, the Bank's 1998 annual report, and the Bank's second quarter 1999 lending programs report.

Mr. Hoeven said the Bank was founded in 1919 when the perception of the North Dakota Legislative Assembly was that both the access to financing and the grain trade were controlled in Minneapolis. He said the Legislative Assembly created both the Bank and the Mill and Elevator to assist North Dakotans to take control of their economic destiny. He said services of the Bank have evolved over the years. Currently, he said the major objectives of the Bank include:

1. To finance the expansion and diversification of the state's economy and its job base. The Bank complements and supports the work of private financial institutions through the Bank's lending programs. Mr. Hoeven said the Bank currently has over \$1 billion in loans outstanding, \$800 million more than in 1993. He said the Bank makes loans in four primary areas: business and industrial loans, farm loans, home loans, and student loans.
2. To maintain capital strength and financial integrity of the Bank. Mr. Hoeven said as the Bank provides capital to help build and diversify North Dakota's economic base, the Bank needs to maintain its financial strength and integrity. He said the Bank's target capital asset ratio is 10 percent, which is above the state regulatory target of at least seven percent. He said the Bank's current capital asset ratio is 8.75 percent. He said the Bank's capital is approximately \$140 million, and it has total assets of \$1.6 billion.
3. To generate a consistent financial return to the state of North Dakota. Mr. Hoeven said since 1993 the Bank's earnings have increased from approximately \$17 million per year to almost \$30 million in 1999.
4. To deliver first-class customer service. The Bank's four major operating divisions are:
 - a. Lending--provides a variety of loan programs such as farm loans, business and industrial loans, home loans, and

special programs such as partnership in assisting community expansion fund (PACE) and Ag PACE to stimulate economic development activity throughout the state.

- b. Retail and operations--provides services to banks such as check-clearing services.
- c. Investment and trust division--provides investment services to banks throughout the state as well as to the state of North Dakota.
- d. Student loans--provides student loans directly and also serves as the guarantee agency for banks throughout North Dakota that provide student loans.

Copies of the reports are on file in the Legislative Council office.

Mr. Frank Keogh, Chairman of the Bank of North Dakota's Advisory Board and President of American State Bank and Trust, Williston, commented on the role of the Bank's advisory board.

Mr. Keogh said the Bank of North Dakota's Advisory Board meets once a month to review the Bank's financial reports, performance ratios, growth issues, delinquency reports, and loan loss reserves.

In addition, Mr. Keogh said the advisory board, at its monthly meetings, discusses current issues and concerns, reviews loan requests that exceed \$1 million, reviews selected outstanding loans, and evaluates loan concentrations of the Bank of North Dakota.

Mr. Keogh said the advisory board also meets quarterly with the Industrial Commission to discuss issues and topics associated with the Bank.

Senator Andrist asked whether Mr. Keogh has any concerns with the role of the advisory board and the role of the Industrial Commission. Mr. Keogh said both the Industrial Commission and the advisory board are very involved in the activities of the Bank of North Dakota, and he believes the Industrial Commission has been very supportive of the Bank and the decisions made by the advisory board and the Bank staff.

Senator Krauter asked whether the Bank of North Dakota has any concerns with its agricultural portfolio as a result of the depressed farm economy in the state. Mr. Keogh said as a result of the depressed farm economy, the Bank of North Dakota has increased its loan reserves. He said the Bank is monitoring agriculture-related loans more carefully since last year.

Senator Kroeplin asked whether there have been more loan defaults as a result of the depressed farm economy. Mr. Hoeven said there have not been as many agricultural loan foreclosures as in the past; however, more agricultural borrowers have been involved in "work out" plans and voluntary liquidations.

OTHER RESPONSIBILITIES

The Legislative Council staff reviewed the activities and recommendations of the 1995-96 North Dakota/South Dakota Commission. The Legislative Council staff said the 1995-96 North Dakota/South Dakota Commission focused its discussions in the following areas:

1. Education.
2. Highway maintenance near borders.
3. Insurance pools for worker's compensation and high-risk health insurance.
4. Health laboratory services.

The Legislative Council staff said the commission recommended Senate Bill No. 2048, approved by the 1997 Legislative Assembly, which allows an agency, department, or institution of the state of North Dakota to enter into an agreement with South Dakota to form a bistate authority to generally exercise any function the entity is authorized to perform. As a result of this recommendation, this committee has been assigned the responsibility to consider approval of any of these agreements.

The Legislative Council staff said in discussions with representatives of the South Dakota Legislative Council, there has been no further action in South Dakota regarding cooperative ventures with North Dakota.

COMMITTEE DISCUSSION

Chairman Krauter asked that the Legislative Council staff prepare a memorandum that would include a proposed budget form for agencies to complete as a part of the agency's budget request

which will address the issues of locating state agency functions in rural areas of the state.

Representative Grande asked that the committee receive information on the space requirements of the state morgue and the space that is available at the University of North Dakota. Chairman Krauter indicated the state planner from the Office of Management and Budget will be asked to comment on these issues at the next committee meeting.

Representative Winrich suggested the Department of Transportation comment at a future committee meeting on the procedures it utilizes to contract for highway construction projects. He indicated these procedures could be used as a model for other state agency contracts.

Representative Tollefson suggested the committee receive information on the overall responsibilities of the Industrial Commission to determine whether a three-member commission is appropriate for the amount of responsibilities assigned to the commission.

The committee adjourned subject to the call of the chair at 11:40 a.m.

Allen H. Knudson
Senior Fiscal Analyst

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

ATTACH:1