

# NORTH DAKOTA LEGISLATIVE COUNCIL

Minutes of the

## BUDGET COMMITTEE ON GOVERNMENT SERVICES

Monday, June 23, 2003  
Roughrider Room, State Capitol  
North Dakota State Penitentiary  
Bismarck, North Dakota

Representative Ron Carlisle, Chairman, called the meeting to order at 1:00 p.m.

**Members present:** Representatives Ron Carlisle, Bette B. Grande, Pam Guleson, Joe Kroeber, Ralph Metcalf, Darrell D. Nottestad, Chet Pollert, Louise Potter; Senators Richard Brown, Duaine C. Espesgard, Joel C. Heitkamp, Ed Kringstad, Elroy N. Lindaas, Stanley W. Lyson

**Member absent:** Representative Amy Warnke

**Others present:** See attached appendix

Chairman Carlisle welcomed Senator Aaron Krauter, Regent, a member of the Legislative Council, to the meeting.

### RULES OF OPERATION AND PROCEDURE

At the request of Chairman Carlisle, the legislative budget analyst and auditor presented a memorandum entitled *Supplementary Rules of Operation and Procedure of the North Dakota Legislative Council*.

Chairman Carlisle said the plans for the committee for the interim are to visit the State Hospital and the James River Correctional Center (JRCC) in Jamestown, the Developmental Center in Grafton, the State Penitentiary, and the Southwest Multi-County Correction Center in Dickinson and New England.

### CORRECTIONAL AND MENTAL HEALTH FACILITIES AND SERVICES

The Legislative Council staff presented a memorandum entitled *Correctional and Mental Health Facilities and Services* relating to the committee's studies, as directed in Section 6 of 2003 House Bill No. 1506 and 2003 House Concurrent Resolution No. 3037, of the long-term prison needs and the needs of individuals with mental illness, drug and alcohol addictions, and physical or developmental disabilities. The committee is to study whether the Department of Corrections and Rehabilitation should continue to contract to house state female inmates with county jails or the state should expand the prison system; the east cell block of the State Penitentiary; the future needs for maximum security prisoners; the female population and related treatment, programming, and training needs; the state's criminal justice process

from arrest to release; alternatives to incarceration; the effectiveness of incarceration and treatment; whether the Department of Corrections and Rehabilitation should continue to expand its facilities on the State Hospital grounds; mental health services of the State Hospital; individuals with multiple needs and how the state responds to those needs; whether patients at the State Hospital with mental health needs should be served in other locations; the long-term plans for the State Hospital, the Developmental Center at Westwood Park, and other state facilities and relationships among those facilities; and the impact and availability of community services.

The Legislative Council staff said that a consultant was hired in the 2001-02 interim to study the facilities and operations of the Department of Corrections and Rehabilitation. The consultant's report included findings and recommendations of the study of the Department of Corrections and Rehabilitation in the areas of population and capacity management, physical plant, operations, and programs.

The Legislative Council staff said that Article IX, Sections 12 and 13, of the Constitution of North Dakota require the State Hospital to be located in Jamestown and the Developmental Center in Grafton.

The Legislative Council staff said a study was done in the 1999-2000 interim on the feasibility and desirability of collocating the Developmental Center and the State Hospital at one location and the feasibility and desirability of transferring additional buildings on the State Hospital grounds to the Department of Corrections and Rehabilitation.

**It was moved by Representative Nottestad, seconded by Senator Brown, and carried on a voice vote that the committee proceed with the study of the state's long-term prison needs, the needs of individuals with mental illness, drug and alcohol addictions, and physical or developmental disabilities as follows:**

1. **Long-term prison needs:**
  - a. **Receive testimony from representatives of the Department of Corrections and Rehabilitation and from the county facilities that the state contracts with to house female inmates regarding contract housing of**

- state female inmates at county facilities.
- b. Receive information from the Department of Corrections and Rehabilitation regarding the condition of the east cell block of the State Penitentiary; the effectiveness of incarceration and treatment, including recidivism rates; the future facility needs for maximum security prisoners; and the female inmate population and related treatment, programming, and training needs.
  - c. Receive information from the judicial branch, the Attorney General's office, and the Department of Corrections and Rehabilitation regarding the state's criminal justice process from arrest to release.
  - d. Receive information from the Department of Corrections and Rehabilitation and the judicial branch regarding the effectiveness of alternatives to incarceration.
  - e. Receive information from the Department of Corrections and Rehabilitation providing a list of its property and values by location.
  - f. Receive testimony from representatives of the Department of Corrections and Rehabilitation, the State Hospital, and the public regarding whether the Department of Corrections and Rehabilitation should continue to expand its facilities on the State Hospital grounds.
  - g. Visit correctional facilities, including the State Penitentiary, the JRCC, and the Southwest Multi-County Correction Center.
  - h. Develop recommendations and prepare legislation necessary to implement the recommendations.
2. Needs of individuals with mental illness, drug and alcohol addictions, and physical or developmental disabilities:
- a. Receive information from the State Hospital on the mental health and addiction services of the State Hospital.
  - b. Receive testimony from a representative of the Department of Human Services regarding the services provided individuals with multiple needs.
  - c. Receive information from the State Hospital and the Developmental Center on the long-term plans for the State Hospital and the Developmental Center and other state facilities and

the relationships among those facilities, and the status of shared administrative functions.

- d. Receive testimony from representatives of the State Hospital and the Developmental Center on whether patients at the State Hospital with mental needs should be served in other locations.
- e. Receive information from the State Hospital and the Developmental Center on which buildings are being used at each location, the capacity at each location, and potential costs and benefits of collaborating services.
- f. Receive information from the Department of Human Services on the impact and availability of community mental health, addiction, and developmental disability services.
- g. Visit the State Hospital and the Developmental Center.
- h. Develop recommendations and prepare legislation necessary to implement the recommendations.

In response to a request from Representative Grande, Chairman Carlisle said the committee may add items to the study plan during the interim if the items are within the scope of the study.

## **DEPARTMENT OF CORRECTIONS AND REHABILITATION**

At the request of Chairman Carlisle, Ms. Elaine Little, Director, Department of Corrections and Rehabilitation, presented information on the status of the Department of Corrections and Rehabilitation, including inmate population and the housing of female inmates in county jails. A copy of the information presented is on file in the Legislative Council office.

Ms. Little said on June 15, 2003, there were 1,183 inmates in the department's custody, of which 1,076 were men and 107 were women. She said the department's 2003-05 budget is based on inmate populations on July 1, 2003, of 1,013 men and 104 women. Therefore, it appears that the number of male inmates will be higher than anticipated on July 1, 2003, by more than 60 inmates. She said the higher than estimated number of inmates is due to the 13.4 percent increase in admissions from January 1, 2003, through June 15, 2003, in comparison to the same time period in 2002. She said that monthly admissions continue to outpace the monthly releases, even with the increase in the number of paroles. She said the higher inmate population can be traced to the ever-increasing number of drug offender admissions due to the use of methamphetamine and an increase in the number of violent offenders.

In response to a request from Representative Grande, Ms. Little said she would provide the

committee with inmate detail between male and female inmates for calendar year 1998 compared to the current inmate levels, inmate admissions by selected offenses, the average inmate sentence by offense, and the number of inmate admissions by sentence length.

In response to a question from Representative Nottestad, Ms. Little said the department needs to analyze the reasons for the large increase in the number of violent offenders in 2003 and will report its findings at the next committee meeting.

In response to a request from Representative Carlisle, Ms. Little said she would provide information to the committee on the results of the recently implemented aggressive parole process.

In response to a request from Senator Heitkamp, Ms. Little said she would provide the committee with information on the length of sentences for North Dakota's prisoners compared to other midwest area states' length of prison sentences, including Missouri and Wyoming.

Representative Grande requested that the Department of Corrections and Rehabilitation provide the committee with recidivism rates for all the offender types.

Senator Lyson requested that the information on inmate admissions include statistics regarding the number of inmates in prison for committing multiple crimes.

In response to a question from Senator Krauter, Ms. Little said North Dakota's definition of recidivism is any inmate that returns to the Penitentiary on a new crime within three years from the time of their release. She said this definition is the most common definition for recidivism used by other states around the country. She said North Dakota's recidivism rate is around 20 percent.

Ms. Little said the Attorney General's office took the lead in preparing the request for proposals for the housing of the female inmates in the county jails. She said there were two request for proposals--one for a jail to serve as the orientation unit for the women inmates and the second request for proposal was for the general housing and treatment of the women inmates. She said the Class I jails that expressed an interest in receiving a request for proposal included the Southwest Multi-County Correction Center in Dickinson and New England (both orientation and general housing), the Stutsman County Correctional Center in Jamestown (both orientation and general housing), and the Lake Region Correction Center in Devils Lake (general housing only). She said the request for proposals were received on June 6, 2003, and the deadline for responding to the request for proposals is July 7, 2003. She said the request for proposals included a payment structure of \$72.15 (\$67 plus \$5.15 per day for medical) for women that do not require primary treatment and \$84.15 (\$79 plus \$5.15 per day for medical) for women requiring

treatment for a maximum of six weeks. She said the higher rate also applies to the four-week orientation program.

## **SOUTHWEST MULTI-COUNTY CORRECTION CENTER**

Chairman Carlisle called on Mr. Norbert Sickler, Administrator, Southwest Multi-County Correction Center, to present a report on the status of housing state female inmates. Mr. Sickler said Mr. Tim Schuetzle, Director of Prisons Division and Warden of the State Penitentiary, Mr. Don Redmann, Warden of the James River Correctional Center, and Mr. Steve Engen, Jail Inspector, inspected the Southwest Multi-County Correction Center on May 12, 2003, and the center is working with the staff of the Department of Corrections and Rehabilitation in preparation to house state female inmates. He said the results of an inspection by the State Fire Marshal's office indicated the present fire detection system in the medium security area meets the fire code requirements and a sprinkler system is not required in that area. He said installation of a videocamera security system is approximately half complete and additional security is being placed over the windows in the dormitory to be utilized by the medium security inmates.

Mr. Sickler said he has some concerns with taking the maximum security female inmates and that he would like to work out a plan with the Department of Corrections and Rehabilitation for maximum security inmates.

Mr. Sickler said the addiction treatment program is staffed by a well-qualified director who has approximately 20 years of experience working for the state of North Dakota. He said the intensive outpatient treatment would include a minimum of 10 to 12 weeks at a rate of \$79 per day, but the request for proposal received from the Department of Corrections and Rehabilitation indicated that treatment is limited to no more than six weeks. He said he questioned whether the six-week time period is adequate for the treatment of individuals with a lengthy history of drug and alcohol abuse and that he will discuss this concern with the department.

Mr. Sickler said another issue that will need to be addressed is the fact that there seems to be a misunderstanding in reference to the medical services which are required for medical needs that could not be taken care of within the facility by the registered nurse staff. He said he understands the rate set aside within the department's budget for all medical services provided outside the facility, such as prescription medications, doctor visits, hospital stays, dental services, and eye examinations and glasses is \$5.15 per day. He said he is comfortable with that rate; however, he is concerned the rate will not cover situations which may involve large medical expenses, such as open heart surgery, and would like to work

out a plan with the department for such catastrophic medical expenses.

Mr. Sickler said the Southwest Multi-County Correction Center has hired approximately 35 employees and three and one-half weeks of training is scheduled to begin on July 7, 2003. He said he is still planning to begin receiving female inmates on August 1, 2003.

Chairman Carlisle requested Mr. Sickler provide the committee with a written copy of his testimony, which was provided and is on file in the Legislative Council office.

### **BISTATE AUTHORITY**

At the request of Chairman Carlisle, the legislative budget analyst and auditor presented a memorandum entitled *Agreements Between North Dakota and South Dakota - Background Memorandum*. The legislative budget analyst and auditor said that pursuant to North Dakota Century Code Section 54-40-01, an agency that is proposing to enter into an agreement to form a bistate authority with an agency of South Dakota must submit the proposed agreement to the Legislative Council if the Legislative Assembly is not in session. The Budget Committee on Government Services has been assigned this responsibility for the 2003-04 interim. The legislative budget analyst and auditor said this is the fourth interim this committee has been assigned this responsibility and in the past, no proposed agreements were submitted to the committee for approval to form a bistate authority with South Dakota.

The legislative budget analyst and auditor said the action plan the committee may wish to use to carry out this responsibility is as follows:

1. Receive any proposed agreement from a state agency to form a bistate authority with an agency of South Dakota.
2. Receive testimony from interested persons on the proposed agreement.
3. Review the proposed agreement regarding costs, effect on services, economic impacts, quality, etc.
4. Approve or disapprove the proposed agreement.
5. Prepare a summary of the committee's study for inclusion in the final report to the Legislative Council.

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

Representative Gulleson requested the Department of Human Services Children and Family Services Division be invited to report to the committee on the effects that the increased methamphetamine-related arrests are having on the foster care and child welfare system. The department's report should include any related increases in services, the

projected related increases in the number of foster children and related costs, and any other impacts.

### **TOUR**

The committee traveled to the State Penitentiary. Mr. Schuetzle conducted a tour of the north unit (orientation unit), the east cellhouse, the segregation unit, and the south unit. Mr. Schuetzle said the State Penitentiary only has one medium security unit and that is the treatment unit.

At the end of the tour, the committee went to the chapel in the Penitentiary where Mr. Schuetzle presented information on the State Penitentiary. A copy of the information presented is on file in the Legislative Council office. He said construction of the east cellhouse was completed around 1912. He said it was originally constructed to house 160 inmates and that it currently has 159 cells after one cell was converted into a janitor's closet. He said the cells are approximately 52 square feet, with 22 square feet of unencumbered space. He said this is considered to be a very small cell by today's prison standards and the size does not meet the minimum requirements to pass the standards set forth by the American Correctional Association, which, for new prison cells, is a minimum of 80 square feet with 35 square feet of unencumbered space. He said present concerns with the east cellhouse include: the plumbing is 30 years old and water is leaking in the chaseway; building and fire code violations cannot be corrected; the building is not energy efficient and does not have air-conditioning; and a large number of staff is required for each shift because of "blind" spots caused by the design of the building.

In response to a question from Representative Nottestad, Mr. Schuetzle said a new addition to the Penitentiary would be more for the replacement of the east cellhouse than an expansion of the whole prison.

In response to questions from committee members, Ms. Little said she would e-mail committee members copies of the requests for proposals that were sent to the county jails.

The committee adjourned subject to the call of the chair at 4:00 p.m.

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Stephanie A. Johnson  
Fiscal Analyst

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Jim W. Smith  
Legislative Budget Analyst and Auditor

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