

NORTH DAKOTA LEGISLATIVE COUNCIL

Minutes of the

COMMISSION ON ALTERNATIVES TO INCARCERATION

Wednesday, September 6, 2006
Roughrider Room, State Capitol
Bismarck, North Dakota

Representative Joe Kroeber, Chairman, called the meeting to order at 9:00 a.m.

Members present: Representatives Joe Kroeber, Ron Carlisle, Lawrence R. Klemin; Senators Dick Dever, Larry J. Robinson; Citizen Members Leann K. Bertsch, Judge Gail Hagerty, Duane Johnston, John Mahoney, Deborah Ness, Carol K. Olson, Sandi Tabor

Members absent: Senator Thomas L. Trenbeath; Citizen Members Edward Brownshield, Paul Hendrickson, Justice Mary Muehlen Maring, Dr. Gary Rabe

Others present: See attached [appendix](#)

It was moved by Senator Robinson, seconded by Representative Carlisle, and carried on a voice vote that the minutes of the June 20, 2006, meeting be approved as distributed.

Chairman Kroeber said this meeting would likely be the last meeting of the commission before the Legislative Council meets on November 14-15, 2006. Therefore, he said, it is important the commission members consider recommendations that will be included in the report to the Legislative Council. Because this commission continues until June 30, 2009, he said, the commission may meet after the Legislative Council meeting.

Chairman Kroeber called on Ms. JoAnne Hoesel, Department of Human Services, for a presentation regarding an application for a federal Substance Abuse and Mental Health Services Administration strategic prevention framework state incentive grant. Ms. Hoesel submitted a written [summary](#) of her testimony, a copy of which is on file in the Legislative Council office.

In response to a question from Representative Kroeber, Ms. Hoesel said she is hopeful the grant will be awarded since North Dakota is one of only six states that have not received the incentive grant. She said the funds would be used to follow a prevention strategy and enhance the state and community prevention system. She said the grant program is very flexible and allows the use of funds for existing effective programs as well as the implementation of new programs.

In response to a question from Senator Dever, Ms. Hoesel said the grant program would be a community-driven effort using community programs to decrease risk factors and enhance resiliency programs for youth. She said 18 model community prevention programs are now funded and the

department works closely with the Department of Public Instruction. She said the Department of Human Services funds 12 prevention coordinators around the state.

Chairman Kroeber requested Ms. Hoesel to provide information regarding the first eight months of operation of the Robinson Recovery Center program. Ms. Hoesel submitted a written [summary](#), a copy of which is on file in the Legislative Council office. She said the program was initiated as a result of Senate Bill No. 2373 and ShareHouse was awarded the contract pursuant to a request for proposals. In addition to the \$500,000 general fund appropriation for the program, she said, \$286,858 in other funds are being used for the program. These additional funds include, she said, insurance, self-payment, and ShareHouse reserves. She said the daily rate for the Robinson Recovery Center is \$88.

Ms. Andi Johnson, ShareHouse, said the Robinson Recovery Center is interconnected with other operations at the ShareHouse campus. She said the center is one of three residential facilities in the country devoted to methamphetamine treatment. She said the facility is a coed facility, while the other two facilities in the country are segregated by gender. Because the facility is not segregated, she said, some challenges have been encountered. She said treatment for methamphetamine is difficult because of the extreme behaviors and the difficulty of the clients discerning right from wrong. Because treatment for methamphetamine addiction is different from other residential dependency treatment, she said, the Robinson Recovery Center must address discharge issues differently. She said the center is seeing amazing success in its treatment and is attempting to reduce homelessness and produce an environment that fosters recovery.

In response to a question from Representative Carlisle, Ms. Johnson said ShareHouse and an outside entity work together to track the outcomes of Robinson Recovery Center clients. She said clients are tracked up to 12 months after discharge.

In response to a question from Representative Kroeber, Ms. Johnson said, if possible, she would recommend segregating the clients by gender and also segregating counselors and case managers because gender-specific treatment is vital.

In response to a question from Representative Carlisle, Ms. Hoesel said the Robinson Recovery Center has added a case manager and a nurse to its

staff. She said the Department of Human Services will have the final budget amounts for the first year of operation of the center within a few months. She said the base budget amount of \$500,000 will likely be included in the proposed budget for the Department of Human Services for the 2007-09 biennium.

In response to a question from Senator Robinson, Ms. Johnson said a methamphetamine addict is in need of therapeutic intervention. She said an addict often engages in criminal conduct and treatment is needed to offer the individual the potential to succeed therapeutically. She said a number of referrals to the center have been denied admission due to laws requiring mandatory minimum sentences. However, she said, it is vital to intervene before sending the addict to prison because the prison environment is not conducive to therapeutic intervention. She said ShareHouse works with drug courts and she has seen amazing outcomes when residential treatment has been combined with drug court.

Judge Hagerty said a change in the mandatory minimum sentencing for driving under the influence (DUI) offenders allows for sentences to be completed while successfully completing drug court sessions.

In response to a question from Ms. Ness, Ms. Johnson said although the Robinson Recovery Center only provides treatment services and does not address prevention components, she frequently speaks to groups to attempt to raise awareness regarding the program.

In response to a question from Mr. Mahoney, Ms. Johnson said successful completion of the treatment program involves a minimum of four months in the program. She said an individual is not moved out of the program to aftercare until the individual is ready. She said most of the individuals completing the program have continued meeting with counselors and using ShareHouse aftercare programs. She said the program will keep individuals in treatment as long as necessary, which may be up to one year. She said 95 percent of the individuals in the treatment program have been diagnosed with mental disorders, which complicates treatment and aftercare.

In response to a question from Ms. Olson, Ms. Johnson said the addition of a case manager for the program may assist with the treatment of an individual diagnosed with a mental disorder by educating the individual's probation officer regarding the individual's problems. She said the addition of a nurse to the program helps with the medication management for the individual being treated. Because a mental disorder creates special challenges, she said, it is important to make the client aware of those problems and the potential distractions from recovery. She said an individual with a dual diagnosis of a mental illness and an addiction continues to require maintenance to reduce the potential for relapse.

In response to a question from Senator Robinson, Ms. Olson said the Department of Human Services has not submitted its budget proposal for the next

biennium to the Office of Management and Budget. She said the department has requested a third extension on the submission. She said the base budget likely will include continued funding for the Robinson Recovery Center in the amount of \$500,000. However, she said, during this biennium, that amount has not met the full needs of the center. She said capacity issues at the State Hospital and all regional human service centers must be addressed. She said it is the priority of the department to support additional funding for treatment and prevention programs. She said there is a culture in this state that makes prevention programs important. In addition, she said, treatment options need more funding.

Ms. Bertsch said the Department of Corrections and Rehabilitation also will be seeking an extension on the submission of its budget. She said the department's offender management plan is the spine of the department's budget and the department's main priority is a comprehensive plan to address staffing, equity pay, a building project, and maintenance and implementation of transition pieces. When the department does a good job of addressing an inmate's problems in prison, she said, better results will be seen in the long term. She said the programs of the Field Services Division are vital.

Representative Kroeber said he anticipates considerable discussion during the next legislative session regarding funding for the Department of Corrections and Rehabilitation and the deficits in the funding for the department during the current biennium.

Chairman Kroeber requested each member of the commission to identify priorities and proposals for recommendations of the commission.

Representative Klemin said he would like to see the commission issue a statement of support regarding technology-related programs pursued by the Department of Corrections and Rehabilitation and support for proper staffing and training for administration of electronic monitoring programs. He said the use of technology can help keep people out of prison, especially with respect to the use of electronic monitoring by the Sex Offender Containment Task Force. He said he would like to see the Governor include in his budget sufficient funds for those programs and for the expansion of the secure continuous remote alcohol monitoring program. In addition, he said, private initiatives, such as the RSVP of North Dakota program that provides mentors for children of incarcerated individuals, should be encouraged and supported.

Ms. Ness says she favors a recommendation to enhance drug court programs for juveniles and adults and to further support prevention programs. She said she also would like to see support for monitoring of sex offenders and expanding access to the criminal justice information sharing system. Another item that merits support, she said, is recommending to the Governor that the Department of Corrections and Rehabilitation receive adequate funding for

addressing staffing and pay equity issues. She said she is concerned with the denial of referrals to the Robinson Recovery Center due to mandatory minimum sentencing. She said problems on Indian reservations, particularly with respect to methamphetamine addiction, must be addressed.

Judge Hagerty said she supports expansion of the Robinson Recovery Center and segregation of the clients by gender. Because of the need for treatment services, she said, funding may need to be doubled for the center. She said the Legislative Assembly may need to consider revising the mandatory minimum sentencing laws to allow offenders to participate in drug court and residential treatment for methamphetamine addiction. She said she would support a recommendation from the commission to include in the executive budget funding for community service programs and treatment funding for adult drug courts.

In response to a question from Ms. Tabor, Judge Hagerty said if the mandatory minimum sentencing law were revised to allow participation in drug court and residential treatment, an offender could be moved from drug court and residential treatment to supervised probation after successful completion of drug court and residential treatment.

Ms. Tabor said the judiciary needs flexibility to provide for alternative sentencing, such as drug court and residential treatment.

In response to a question from Representative Carlisle, Judge Hagerty said the ability to use incarceration as a sanction is an important tool in drug court.

In response to a question from Senator Robinson, Ms. Brenda Weisz, Department of Human Services, said the funding in the Department of Human Services budget for drug courts reflects a percentage of time devoted to that purpose for certain individuals. She said the ability to provide staffing for drug court is an issue in certain areas. She said the budget for one full-time addiction counselor would be approximately \$96,000 per biennium. She said the department would need an additional full-time position in Bismarck, Fargo, and Grand Forks and may need a position in Minot.

Mr. Dave Krabbenhoft, Department of Corrections and Rehabilitation, said expansion of drug courts would require an additional full-time position for a parole officer in Grand Forks and in Minot. He said treatment is provided in Fargo through a contract between the Department of Corrections and Rehabilitation and ShareHouse.

In response to a question from Ms. Tabor, Judge Hagerty said a judge will typically spend three to four hours each week on drug court-related duties.

In response to a question from Ms. Tabor, Ms. Marilyn Moe, Supreme Court, said a juvenile drug court will be implemented in Minot next year. In addition, she said, individuals in Williston have indicated an interest in implementing a drug court.

Senator Dever said more information must be provided to parents regarding the use of drugs and alcohol, suicide, mental health issues, and other risk factors. With that information, he said, there must be a greater emphasis on parental involvement in addressing those problems. He said drug education and awareness must be provided for students and parents.

Representative Carlisle said the Teen Challenge program has been successful and funding for a faith-based program, such as the Teen Challenge program, could be doubled to \$300,000 for the next biennium. However, he said, it is important that information be provided that substantiates the success of such a program.

In response to a question from Representative Carlisle, Ms. Hoesel said a workgroup has been formed to address issues relating to reciprocity and initial licensure of addiction counselors. As a result of the work of that group, she said, a bill will likely be introduced during the next legislative session to provide some flexibility and allow for administrative rule changes.

Representative Carlisle said the commission should consider recommending to the Governor that appropriations be increased for drug courts and for the Robinson Recovery Center so the number of beds at the center can be doubled. In addition, he said, funds should be provided to expand transition centers, including a center in Fargo. He said he would also like to see funding provided to explore the use of crisis intervention teams and to expand effective aftercare programs.

Ms. Olson said expansion of treatment, such as that provided by the Robinson Recovery Center, is the correct approach to the methamphetamine problem. She said drug courts are also an effective tool. She said she is concerned with the denial of admissions to the Robinson Recovery Center due to the mandatory minimum sentencing laws.

In response to a question from Ms. Tabor, Ms. Hoesel said individuals with addiction problems and mental health problems can be treated through one of three approaches. She said treatment can be based upon a determination of which problem came first, with separate referrals for treatments being made. Second, she said, dual-treatment options are available. A third option, she said, is to integrate services and cross-train staff and have both types of professionals involved in the treatment.

Ms. Tabor said because aftercare structure in communities varies throughout the state, it is important to identify gaps in recovery support systems. She encouraged representatives of the Department of Human Services to work with treatment providers to identify those gaps.

Ms. Bertsch said areas of future emphasis should include making expanded treatment options available to an individual before the individual is incarcerated. She said mental health treatment options must be available through the Department of Corrections and

Rehabilitation and other agencies. Other programs worthy of support, she said, include drug courts and ShareHouse. She said it is important to examine the effectiveness of pilot programs and expand transition tools. To continue expansion of electronic monitoring, she said, the Department of Corrections and Rehabilitation needs additional staff so that there is 24-hour supervision and response capability available.

Mr. Johnston said an education curriculum in schools to address drug abuse issues early is important. He said he would like to see continued support of ShareHouse and an appropriation in the executive budget to fund the community service programs.

Senator Robinson said it is clear there are too few individuals in treatment and too many incarcerated. He expressed support for education and awareness programs. Because methamphetamine addicts often do not have parents or families for support and the drug touches all types of families, he said, there is a need for active partnerships between government and families. He said he would support funding for the Robinson Recovery Center to provide for additional staff and at least double the number of beds. In addition, he said, something must be done to provide flexibility for admitting an individual for treatment rather than incarcerating the individual. He said there must be a focus on mental health issues, such as that proposed by the Cass County Jail Intervention Coordinating Committee. Because effective aftercare is critical, he said, there must be a reduction in the workload of caseworkers. He said he supports drug courts and expansion of the transition centers. In addition, he said, the community service programs should be adequately funded and consideration should be given to expansion of the Tompkins Rehabilitation and Correctional Center. He said the state needs treatment options available at the earliest time possible and options for aftercare.

Mr. Mahoney said incarceration is not always the answer and early intervention can save lives. Therefore, he said, it is vital to fund appropriate treatment facilities and deal with issues that cause crimes. He said there should be a continuing study to monitor the cost-effectiveness of various treatment options. He said it is important to not get locked into the use of old technology with respect to electronic monitoring and to put electronic monitoring systems in place at the local levels which work with existing systems.

Representative Kroeber said the use of transition programs should be expanded as well as programs that address mental health issues and relapse problems. Because keeping adolescents in school is the most important preventative tool with respect to at-risk behaviors, he said, the use of alternative schools should be encouraged.

It was moved by Representative Carlisle, seconded by Senator Dever, and carried on a roll call vote that the commission express its support for an appropriate level of funding, staffing, and

training for electronic monitoring programs, continued use and expansion of the secure continuous remote alcohol monitoring program, and provision of adequate funding for mental health and substance abuse programs; that the Department of Human Services be encouraged to work with treatment providers to identify gaps in recovery support services and to assist in the implementation of programs to provide early mental health screenings; and that school districts be encouraged to operate alternative schools to assist in keeping adolescents in school. Representatives Kroeber, Carlisle, and Klemin; Senators Dever and Robinson; and Citizen Members Bertsch, Mahoney, Ness, and Olson voted "aye." No negative votes were cast.

It was moved by Senator Dever, seconded by Representative Klemin, and carried on a roll call vote that the commission express support and encouragement for private initiatives, such as the RSVP of North Dakota program, that provides mentors for children of incarcerated individuals; encourage continued study of the effectiveness of substance abuse treatment programs; and encourage additional emphasis by state agencies and other entities on education and awareness of substance abuse issues and express support for the work of the Prevention Council appointed by the Governor, including the identification of methods for strengthening families and healthy communities. Representatives Kroeber, Carlisle, and Klemin; Senators Dever and Robinson; and Citizen Members Bertsch, Mahoney, Ness, and Olson voted "aye." No negative votes were cast.

In response to a question from Representative Kroeber, Ms. Johnson said ShareHouse has provided a significant amount of ancillary services to the Robinson Recovery Center and has funded the addition of a case manager and nurse. To segregate clients by gender, she said, would require an additional facility.

It was moved by Representative Carlisle, seconded by Mr. Mahoney, and carried on a roll call vote that the commission recommend to the Governor inclusion of up to \$1.2 million in funding in the executive budget for the expansion of the Robinson Recovery Center. Representatives Kroeber, Carlisle, and Klemin; Senators Dever and Robinson; and Citizen Members Mahoney, Ness, and Olson voted "aye." No negative votes were cast.

It was moved by Senator Dever, seconded by Representative Robinson, and carried on a roll call vote that the commission recommend to the Governor inclusion of \$300,000 in the executive budget for room and board expenses for individuals admitted to a faith-based program to address addiction problems. Representatives Kroeber, Carlisle, and Klemin; Senators Dever and Robinson; and Citizen Members Bertsch, Mahoney, Ness, and Olson voted "aye." No negative votes were cast.

It was moved by Senator Robinson, seconded by Mr. Mahoney, and carried on a roll call vote that the commission recommend to the Governor inclusion of approximately \$600,000 in the executive budget for the addition of two full-time equivalent (FTE) positions for the Department of Corrections and Rehabilitation and four FTE positions for the Department of Human Services to assist in the expansion of drug courts. Representatives Kroeber, Carlisle, and Klemin; Senators Dever and Robinson; and Citizen Members Bertsch, Mahoney, Ness, and Olson voted "aye." No negative votes were cast.

Mr. Mahoney said the community service programs are important and assist in teaching young people responsibility. He said the programs need state support and should not have been pushed to the counties.

In response to a question from Representative Klemin, Ms. Bertsch said funding of the community service programs should be administered on a matching basis. She said the programs benefit local correctional facilities and rarely keep individuals out of prison because the individuals placed in the programs are generally referred as a result of minor in possession offenses, DUI offenses, and driving under suspension offenses. She said the Department of Corrections and Rehabilitation assisted in starting the programs 14 years ago with the idea that local governments would eventually assume responsibility for the programs. She said there are some strong programs in communities that generate operating funds and the programs should not be designed to pass local responsibility to the state.

Ms. Ness said the community service programs could be administered on a cost-share basis. She said a collaborative effort for a special operations team reimbursement fund may be a good model upon which to base the funding of the community service programs.

It was moved by Mr. Mahoney, seconded by Representative Klemin, and carried on a roll call vote that the commission recommend to the Governor inclusion of \$200,000 in the executive budget to be administered on a cost-share basis with local governments for the operation of community service organizations. Representatives Kroeber, Carlisle, and Klemin; Senators Dever and Robinson; and Citizen Members Bertsch, Mahoney, Ness, and Olson voted "aye." No negative votes were cast.

It was moved by Representative Klemin, seconded by Representative Carlisle, and carried on a roll call vote that the commission recommend to the Governor inclusion of \$582,000 in the executive budget to assist in implementing the Cass County Jail Intervention Coordinating Committee mental health project, to be contingent on the receipt of a federal grant for the implementation of the project. Representatives Kroeber, Carlisle, and Klemin; Senators Dever and Robinson; and Citizen Members Bertsch, Mahoney, Ness, and Olson voted "aye." No negative votes were cast.

It was moved by Senator Robinson, seconded by Representative Carlisle, and carried on a roll call vote that the commission encourage the Governor to assess the need for reducing caseloads for licensed addiction counselors, case managers for individuals with serious mental illnesses, and parole and probation officers to attempt to achieve industry caseload standards. Representatives Kroeber, Carlisle, and Klemin; Senators Dever and Robinson; and Citizen Members Bertsch, Mahoney, Ness, and Olson voted "aye." No negative votes were cast.

Chairman Kroeber said more research needs to be done with respect to addressing the concerns with denials for admission to the Robinson Recovery Center due to mandatory minimum sentencing laws.

Representative Carlisle said he would like to hear the opinions of the Attorney General and of law enforcement officials regarding the need to address mandatory minimum sentencing requirements.

It was moved by Representative Klemin, seconded by Mr. Mahoney, and carried that the chairman and the staff of the Legislative Council be requested to prepare a report and the bill drafts recommended by the commission and to present the report and recommended bill drafts to the Legislative Council.

There being no further business, Chairman Kroeber adjourned the meeting at 3:20 p.m.

John Bjornson
Commission Counsel

[ATTACH:1](#)