

NORTH DAKOTA LEGISLATIVE COUNCIL

Minutes of the

BUDGET COMMITTEE ON GOVERNMENT SERVICES

Tuesday, August 29, 2006
Roughrider Room, State Capitol
Bismarck, North Dakota

Representative Al Carlson, Chairman, called the meeting to order at 9:00 a.m.

Members present: Representatives Al Carlson, Randy Boehning, Ron Carlisle, Kari Conrad, Glen Froseth, Eliot Glassheim, Bette B. Grande, James Kerzman, Joe Kroeber, Ralph Metcalf, Darrell D. Nottestad, Dave Weiler, Alon C. Wieland; Senators Aaron Krauter, Ed Kringstad, Elroy N. Lindaas, Stanley W. Lyson

Members absent: Representatives Duane DeKrey, Jeff Delzer, Ken Svedjan, Blair Thoreson; Senators Duaine C. Espeland, Dave Nething

Others present: See attached appendix

Representative Matthew M. Klein, a member of the Legislative Council, was also in attendance.

It was moved by Representative Carlisle, seconded by Representative Grande, and carried on a voice vote that the minutes of the May 16, 2006, committee meeting be approved as distributed.

COMMISSION ON ALTERNATIVES TO INCARCERATION

Representative Kroeber, Chairman, Commission on Alternatives to Incarceration, stated the commission can recommend legislation to the Legislative Council, submit recommendations to the Governor, or request policy statements of support for programs. Representative Kroeber said the commission has not made any recommendations to the Governor. He said the commission will recommend a bill draft to the Legislative Council regarding electronic monitoring for offenders. He said the commission is also discussing the possibility of recommending expansion of the transition center in Fargo and using county jails for transition purposes. He said the commission will also be discussing the needs of people with mental illness who also have a chemical addiction. Representative Kroeber said 2005 House Bill No. 1473 authorizes the commission through the 2007-09 biennium.

Representative Carlisle, commission member, stated he supports the continuation of ShareHouse and Teen Challenge. He said the drug courts in Morton and Burleigh Counties have been successful. He said the commission is working on establishing drug courts in Fargo and the northwestern part of the state. He said the commission also has identified nine items for future consideration, including crisis

intervention teams, prosecutorial diversion, and day reporting.

In response to a question from Representative Carlson, Representative Carlisle said the commission will make recommendations to the Governor regarding alternatives to incarceration and the Governor's office will determine which agency budgets will be affected.

In response to a question from Representative Kerzman, Chairman Carlson said Morton County Social Services and the Department of Human Services will be asked to provide information at the next committee meeting regarding the impact on social services from participants in Teen Challenge.

Senator Lyson said he will contact a representative from Teen Challenge to respond to a claim that Teen Challenge is encouraging program participants to request social services from Morton County.

In response to a question from Representative Kerzman, Representative Kroeber said the judicial system is represented on the commission by a district court judge and a Supreme Court justice.

The committee recessed at 9:30 a.m. to allow committee members to attend the groundbreaking ceremonies for the new Bank of North Dakota building. The committee reconvened at 11:00 a.m.

DEPARTMENT OF CORRECTIONS AND REHABILITATION STRATEGIC PLAN

Mr. Dave Krabbenhoft, Director, Fiscal Affairs, Department of Corrections and Rehabilitation, presented information on the number of inmates by location. Mr. Krabbenhoft said for the 2005-07 biennium to date through August 21, 2006, the number of female inmates has averaged 167 inmates, 24 more than the estimated population of 143. He said for the biennium to date through August 21, 2006, the male inmate population has averaged 1,238 inmates, 11 more than the estimated average population of 1,227. Mr. Krabbenhoft said the male population is at 104 percent of capacity. He said renovation of food pantries into cells at the James River Correctional Center (JRCC) has been completed. He said this has resulted in 20 additional beds. He said there are currently no inmates being housed at the Appleton, Minnesota, facility. He said 33 inmates are currently being housed in county jails. He said the number of inmates housed in county jails is decreasing due to the effectiveness of programs and treatment. He said more inmates are being

paroled or placed in halfway houses. A copy of the information presented is on file in the Legislative Council office.

In response to a question from Representative Conrad, Mr. Krabbenhoft said inmates are being double-bunked at JRCC to accommodate the 54 inmates over capacity at that facility.

In response to a question from Representative Carlson, Mr. Krabbenhoft said the Department of Human Services could be impacted when offenders are released from prison because these offenders may be seeking treatment and aftercare services.

In response to a question from Representative Boehning, Mr. Krabbenhoft said the Department of Corrections and Rehabilitation has avoided \$865,000 in contract housing costs through August 21, 2006, by not having inmates at the Appleton facility. He said that this does not reflect a direct savings to the department, as other costs have increased.

Mr. Krabbenhoft provided information relating to the Department of Corrections and Rehabilitation's projected deficiency through June 30, 2006. He said the total estimated adult services deficiency is approximately \$4.43 million. A copy of the information presented is on file in the Legislative Council office.

Mr. Krabbenhoft provided information relating to the cost per day per inmate for fiscal year 2006 for the three facilities in the Prisons Division--the State Penitentiary, the James River Correctional Center, and the Missouri River Correctional Center. A copy of the information presented is on file in the Legislative Council office.

In response to a question from Senator Krauter, Mr. Krabbenhoft said the per day cost for security at JRCC is higher than the other facilities due to the facility design and the need for additional security officers in the special assistance unit.

In response to a question from Representative Kerzman, Mr. Krabbenhoft said there are 38.42 full-time equivalent (FTE) positions for treatment staff at the three facilities and all positions are filled. He said the Department of Corrections and Rehabilitation may be requesting additional FTE positions for treatment in the 2007-09 budget request.

In response to a question from Representative Boehning, Mr. Krabbenhoft said the Department of Corrections and Rehabilitation receives approximately \$1.1 million per biennium to provide food services to the State Hospital in Jamestown.

Mr. Krabbenhoft provided information relating to medical costs for the Prisons Division for the period July 1, 2005, through August 21, 2006. Mr. Krabbenhoft said there were 19 inmates who had medical claims of \$10,000 or more during this time period. He said the average cost per female inmate is higher than the average cost per male for medical treatment. A copy of the information presented is on file in the Legislative Council office.

Mr. Krabbenhoft provided a draft copy of the inmate management plan for the 2007-09 biennium. He said the Department of Corrections and

Rehabilitation would like to increase the number of transition beds for females by 45 beds. He said the department has not determined where the additional beds will be located. Mr. Krabbenhoft said the Dakota Women's Correctional and Rehabilitation Center (DWCRC) is expected to be at capacity for the entire 2007-09 biennium. He said the department may need to access county jails for female inmates in the latter part of the biennium. A copy of the information presented is on file in the Legislative Council office.

In response to a question from Representative Carlisle, Mr. Krabbenhoft said the North Central Correctional and Rehabilitation Center in Rugby will provide 25 treatment beds for the Department of Corrections and Rehabilitation beginning in September 2006.

Mr. Krabbenhoft said the Department of Corrections and Rehabilitation's 2007-09 budget request will include a request for approximately \$3.1 million for salary equity and approximately \$40 million for the facility expansion/renovation project at the State Penitentiary.

Chairman Carlson requested Mr. Krabbenhoft provide information relating to the department's 2007-09 budget request at the next committee meeting.

The committee recessed for lunch at 12:15 p.m. and reconvened at 1:00 p.m.

Mr. Patrick W. Foley, Director, Research and Program Evaluation, Department of Corrections and Rehabilitation, provided information regarding parole rates by category of offense, revocation rates, types of technical violations for parole and probation, and ShareHouse and Teen Challenge statistics.

Mr. Foley said there were 68 paroles granted and 31 paroles denied in August 2006. He said the parole revocation rate is approximately 18.5 percent and the probation revocation rate is approximately 42.3 percent.

Mr. Foley said 38 drug court participants have entered treatment at ShareHouse since October 1, 2005. He said eight drug court participants have successfully completed treatment at ShareHouse as of August 1, 2006. He said four participants were terminated from treatment.

In response to a question from Representative Klein, Mr. Krabbenhoft said the collection rate for supervision fees is approximately 60 to 70 percent. He said the fees are used for activities and programs in the Field Services Division.

The Legislative Council staff presented a memorandum entitled [*Meth Prisons in Other States*](#). The Legislative Council staff said a meth prison for this purpose is a facility or unit at a facility used exclusively for treatment of inmates addicted to methamphetamine. The Legislative Council staff said there are three states that have established or will soon be establishing meth prisons--Illinois, Indiana, and Montana.

The Legislative Council staff presented a memorandum entitled [*Montana Department of*](#)

Corrections Information. The Legislative Council staff said most treatment services provided by the Montana State Prison are also provided by the privately owned correctional facility in Shelby, Montana. The Legislative Council staff said the Shelby facility has one intensive treatment unit for chemical dependency and the Montana State Prison has four intensive treatment units. The Legislative Council staff said 88 percent of the Montana corrections budget is from the general fund.

The Legislative Council staff presented a memorandum entitled Availability of State School Land. The Legislative Council staff said the Land Department identified a 602-acre plot of land northeast of the State Penitentiary that could be available for the Department of Corrections and Rehabilitation facility needs.

In response to a question from Representative Carlson, the legislative budget analyst and auditor said a bill could be introduced to the 2007 Legislative Assembly to provide for a transfer of the land to the Department of Corrections and Rehabilitation. He said the state would pay the appraised value of the land and the revenue from the sale would be deposited in the common schools trust fund.

In response to a question from Representative Weiler, the legislative budget analyst and auditor said the committee could recommend a bill to the 2007 Legislative Assembly regarding an appraisal of the current State Penitentiary site.

The Legislative Council staff presented a memorandum entitled Financing Options - Correctional Facilities. The Legislative Council staff said the Office of Management and Budget August 2006 revenue forecast will allow for an increase to the general fund limit for bond payments from \$20.3 million to \$22.7 million. The Legislative Council staff said this will increase the amount of bonding that may be approved by the 2007 Legislative Assembly, while remaining within the bonding limit guideline, from \$37.5 million to \$46.6 million with a two-year interest capitalization or \$51.2 million with a three-year interest capitalization.

In response to a question from Senator Krauter, Ms. Karlene Fine, Secretary, Industrial Commission, said due to the costs incurred for bond issuances and the low interest rates achieved for bond issuances, it is more economical to invest the funds or keep the funds at the Bank of North Dakota to earn interest rather than using the funds to pay off a bond issuance early. She said most bond issuances must be held for a specified time period, usually 10 years, before being paid off to avoid a penalty.

The Legislative Council staff presented a memorandum entitled North Dakota Correctional Facility Alternatives. The Legislative Council staff said four alternatives have been identified for consideration by the committee in addressing the Department of Corrections and Rehabilitation future facility needs. The alternatives include the department's renovation and expansion plan, privatization, a new facility at a

new location, and a new facility adjacent to the current State Penitentiary site.

In response to a question from Representative Wieland, Mr. Krabbenhoft said the Department of Corrections and Rehabilitation used a local architect firm, Ritterbush-Ellig-Hulsing, P.C., to develop plans for the facility renovation project. He said the firm also had a partner in Chicago, Illinois, who has expertise in designing correctional facilities.

COMMITTEE DISCUSSION REGARDING NORTH DAKOTA CORRECTIONAL FACILITY NEEDS

Senator Krauter said the inmate management plan is becoming more effective and useful. He said it appears the number of male inmates is beginning to plateau.

Chairman Carlson told the committee the renovation plan presented by the Department of Corrections and Rehabilitation will be brought before the 2007 Legislative Assembly regardless of any decision made by the committee. He said he would like the committee to recommend a bill draft that reflects the committee's legislative opinion on how to address the facility needs and how to pay for any project.

Representative Conrad said she supports the Department of Corrections and Rehabilitation plan for renovation and expansion.

Representative Metcalf said he would like to see more information to be able to compare costs and outcomes.

Representative Nottestad said the east cellhouse needs to be replaced. He said the Department of Corrections and Rehabilitation's plan will only solve problems for the next 10 or 15 years. He said a land purchase should include enough acreage to support future expansion plans. He said he supports Representative Wieland's plan for a new facility at a new location.

Representative Carlisle said he agrees with Representative Wieland's proposal with some modifications for future expansion. He said there is enough state land available for a new location.

In response to a question from Representative Glassheim, the legislative budget analyst and auditor said a bill drafted by the Legislative Council staff needs only to be considered at one meeting.

In response to a question from Representative Froseth, Chairman Carlson said he would like to see two or three bill draft options for the committee to consider at the next meeting.

In response to a question from Representative Carlisle, Chairman Carlson said even though the Department of Corrections and Rehabilitation will submit its renovation plan in its 2007-09 budget request, the committee can also draft a bill regarding the plan. He said there may be a difference in how the department and the committee expect to fund the project.

Representative Wieland said the current facility is not safe for the Department of Corrections and Rehabilitation employees. He said \$40 million is a lot of money for a net gain of 244 beds. He said a new facility would allow for future expansions. He said a consultant should be hired to assist with plans that allow for future needs.

Representative Weiler said construction of a new facility would be a good financial move. He said consideration needs to be given to the efficiencies a new facility will achieve.

In response to a question from Representative Weiler, Chairman Carlson said he would like all committee members who agree on the same alternative to work with the legislative budget analyst and auditor to develop a bill draft for review at the next committee meeting. He said the bill draft should include plans for the Missouri River Correctional Center site and address how the proposed project will be funded.

Representative Kerzman said he supports the Department of Corrections and Rehabilitation's renovation plan. He questioned if a new location would require Roughrider Industries to be relocated even though the building is up to date.

Representative Froseth said he would like to see a compilation of all county beds that will be available to the state for housing inmates.

Representative Carlisle said he would like to continue the use of the James River Correctional Center and the Dakota Women's Correctional and Rehabilitation Center even if a new facility is constructed.

Representative Carlson said he would like to see the State Penitentiary, the Missouri River Correctional Center, and Roughrider Industries all on one campus.

Representative Glasheim said Representative Wieland's plan does not allow for a gain in beds but may cost more than the Department of Corrections and Rehabilitation's plan. He said programs are in place to reduce the number of inmates so there is no need to plan for 100 years.

Representative Boehning said he is not in favor of a new location. He said he would like to see a new facility constructed adjacent to the current Penitentiary. He said construction would be less costly if not done inside the prison. He said the Department of Corrections and Rehabilitation should develop a new master site plan.

Senator Kringstad said a new facility should allow for at least the same net gain in beds as the Department of Corrections and Rehabilitation's renovation plan. He said a new facility at a new location could take 10 to 12 years to complete. He said he supports a new facility at the current Penitentiary site.

Representative Klein said renovating buildings is not the best plan. He said he supports a new facility at the existing site.

Representative Carlson said consideration must be given to the net gain of selling the land at the current site if demolition has to occur. He said preparing the site for sale could be expensive unless the purchaser could use the buildings.

Senator Lyson said consideration must be given to the workload of the staff at the Department of Corrections and Rehabilitation when deciding where to build and whether it should be a renovation or new facility. He said a new Penitentiary would be more cost-efficient from a staffing standpoint.

COMMITTEE DISCUSSION AND STAFF DIRECTIVES

Representative Grande presented additional information regarding Teen Challenge participants accessing social services. She said there are five participants at Teen Challenge receiving medical assistance and all are disabled. She said not all of the five were originally residents of Morton County.

Chairman Carlson announced the next meeting is tentatively scheduled for Thursday, October 5, 2006, in Bismarck.

The committee adjourned subject to the call of the chair at 2:40 p.m.

Becky Keller
Fiscal Analyst

Jim W. Smith
Legislative Budget Analyst and Auditor

[ATTACH:1](#)